

FSB Response to BEIS Consultation on the Reforming Regulation Initiative

The Federation of Small Businesses (FSB) welcomes the opportunity to respond to the Government's consultation on the Reforming Regulation Initiative (RRI).

The Federation of Small Businesses (FSB) is the UK's leading business organisation. Established over 40 years ago to help our members succeed in business, we are a non-profit making and non-party political organisation that's led by our members, for our members. Our mission is to help smaller businesses achieve their ambitions. As experts in business, we offer our members a wide range of vital business services, including legal advice, financial expertise, access to finance, support, and a powerful voice in government. FSB is the UK's leading business campaigner, focused on delivering change which supports smaller businesses to grow and succeed. Our lobbying arm starts with the work of our team in Westminster, which focuses on UK and English policy issues. Further to this, our expert teams in Glasgow, Cardiff and Belfast work with governments, elected members and decision-makers in Scotland, Wales and Northern Ireland.

Regulatory barriers

Small businesses are acutely aware of the benefits of regulation, such as increased trust within supply chains and among consumers. However, disproportionate and burdensome regulation can have negative effects on smaller businesses including hindering innovation and expansion and reducing productivity. FSB research shows that two-thirds of small businesses believe that the burden on regulation outweighs its benefits. Smaller businesses do not generally oppose the objectives of these rules, some of which may have positive reputational and financial impacts, their objection is against the quantity and quality of these regulations as well as the methods of implementation and enforcement undertaken by regulators.

FSB data shows that these views are consistent amongst smaller businesses across the UK, although the significance tended to differ jurisdictionally and by sector. Across all sectors 62% of respondents felt that the burden of regulation outweighed the benefits, with manufacturing businesses feeling distinctly burdened at 73%. Conversely, 37% of businesses in the arts, entertainment and recreation sector believe that the burden of regulation outweighs the benefits.

Nine in 10 (88%) FSB members identified some aspect of regulation to be a barrier. Of those that did, almost half (43%) highlighted the overall quantity, over a quarter (28%) cited poor design and 23% cited complexity and inconsistent language. The primary barriers associated with implementation include monitoring, recording and reporting requirements. Given the complexity of several of these regulations, cost of advice was a primary concern for the largest proportion of small businesses. This is further exacerbated through 'blue plating' by regulatory experts seeking to justify their services. Simpler regulation and regulatory requirements will help to mitigate this.

British Columbia Model

Smaller businesses most frequently report the overall quantity (the 'cumulative burden') of regulation as the greatest barrier to their business. FSB endorse the

British Columbia Model (BC Model) of regulatory reform as a means of addressing the cumulative burden of regulation.

In 2001, the newly elected government of the Canadian province of British Columbia commenced a programme of regulatory reform which resulted in a sustained long-term improvement in the regulatory environment for business. The outcome was a forty-nine per cent reduction in regulatory requirements between 2001 and 2018. The core characteristics of this model were strong political leadership, simple, clear yet robust metrics on which to base implementation, transparency and accountability. The model is, by-far, the most successful attempt in an OECD country at dealing with the 'cumulative burden' of regulation. As such the UK should be open to learning from the successes of this project.

FSB survey results found that complaints differed between the various kinds of regulation, all of which are addressed in the BC Model. With regard to consumer regulations smaller businesses cited poor design, complexity and inconsistency and cost of advice as the principal barriers. For data protection businesses complained that these were badly drafted, unduly complex and that the monitoring and reporting requirements were particularly burdensome. Businesses felt that adhering to employment and environmental regulations was costly, poorly designed and necessitated disproportionate monitoring and reporting requirements. The same was said for Health and Safety regulations, whilst businesses complained that food and hygiene regulations were poorly designed and had challenging inspection and enforcement procedures.

The BC model requires the Government to assess the quality, quantity and proportionality of regulatory requirements, allowing them to remediate several of the aforementioned issues. British Columbia met their one third target figure in three years and exceeded it within five. A one third reduction in the regulatory requirements on UK businesses is doable.

Administrative Burden

FSB research identified that small business owners and staff spend up to four times more of their time undertaking administration in order to comply with a range of legal obligations than they do on business development. Further, an FSB member survey found that reducing red tape was the issue cited most frequently as the problem they wanted the Government to prioritise tackling. These businesses spend, typically, around 34 hours a month on compliance. The annual cost of administration is around £10,080 per business. The total cost of administrative activities to the UK's SME community is approximately £55 billion a year. Administrative costs are thought to be around 30 per cent of the total costs of regulation faced by businesses, with 70% being associated with compliance costs.

BITs and RIAs

Business Impact Targets (BITs) and Regulatory Impact Assessments (RIAs) as they stand significantly underestimate the cost to business of proposed measures. RIAs also fail to take account of the cumulative cost of regulation to smaller businesses. FSB has previously supported the Government's approach to regulatory reform. However, these wrongly focused on using a monetary cost metric of regulatory burden, the large number of exemptions to the rule and the inaccurate estimates of

the cost of regulation are frequently evident in RIAs. While the one-third reduction plan is being implemented in the UK the flow of new regulatory requirements needs to be controlled.

We are conscious that the BC model cannot merely be transposed into our domestic framework, however we have outlined four key recommendations, focusing on the elements which the Government can adopt.

Recommendations

Making regulatory reform a strategic priority: The Government should make regulatory reform a strategic priority. The Minister for Cabinet Office and the Cabinet Office should be tasked with improving the regulatory environment for small businesses and with overseeing and implementing the BC model in the UK.

Specific target of reducing the quantity of regulatory requirements: In line with the BC model, the Government should perform an assessment of the current regulatory framework with a view to setting a specific target for reducing the quantum of regulatory requirements in legislation, administrative rules, guidance, policies and regulatory practices. We recommend an initial target of one third.

Business Impact Targets: Government should count the number of regulatory requirements placed upon business by the law and regulators and use this metric as the basis for reducing the quantity of regulatory requirements which small businesses have to comply with. This is a much simpler, transparent and granular means of assessment. A reduction of a third of the regulatory requirements placed upon small business over a five-year Parliament should be the target for Government.

Business Stakeholder Group: A formal business stakeholder group should be formed, chaired by the Minister for Cabinet Office. The group would be an external 'check' on adherence to the policy, on ensuring progress was sustained and objectives met. Formal quarterly progress reporting by departments to the Prime Minister, MCO and full Cabinet are essential to make sure the policy is fully implemented, and targets hit.

Next Steps

The Government should feed these recommendations into its next Business Impact Target review and ongoing reform initiatives. FSB will continue to lobby for a more conducive regulatory environment for smaller businesses, characterised by proportionate regulatory requirements of the appropriate quality and quantity.

Thank you for considering our response to this consultation. If you would like to discuss any of the points further, please contact me via my colleague Damilola Ojuri, Senior Policy Advisor, on 0207 592 8127 or Damilola.Ojuri@fsb.org.uk.

Yours sincerely,

Ian O'Donnell

A handwritten signature in black ink, appearing to read 'Ian O'Donnell', with a stylized, sweeping flourish at the end.

Policy Chair, Regulation

Federation of Small Businesses