# 3 Institutions involved in regulatory impact analysis

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| Key points |
| * All government agencies, ministerial councils and national standard setting bodies which make or amend regulation are subject to regulatory impact analysis (RIA) requirements. * The principal role of ministers in the RIA process is to decide how to address the relevant policy issue, given the information generated by RIA on potential options and their likely impacts. In some jurisdictions, ministers also certify completed regulation impact statement (RIS) documents to indicate that RIA requirements have been satisfied and they may also approve RIS exemptions. * Agencies assess the need for a RIS in five of the ten jurisdictions, often with the advice of the jurisdictional regulatory oversight body. Agencies in Tasmania also make such an assessment, but only for proposals related to subordinate legislation. * Consistent with best practice, all Australian jurisdictions have a body tasked with oversighting the RIA process. * Most jurisdictional oversight bodies reside within departments at the centre of government. The only exceptions are the Victorian Competition and Efficiency Commission and the newly established Queensland Office of Best Practice Regulation. * In South Australia and the Northern Territory, several departments contribute to the regulatory oversight function. * Oversight body functions vary between jurisdictions, but can include: deciding whether regulatory proposals require a RIS; providing advice and training on the RIA process; examining and advising on the adequacy of RIS documents; and reporting annually on agency compliance with the RIA process. * Information on compliance with RIA requirements is reported annually only in three jurisdictions — the Commonwealth, COAG and Victoria. * In five jurisdictions, Cabinet offices have a role verifying that proposals have satisfied RIA requirements before they proceed to Cabinet or its sub-committees. * All jurisdictions have parliamentary scrutiny committees which examine legislation that has proceeded to parliament to determine whether legislative principles and procedures have been followed. In five jurisdictions these committees have an explicit mandate to consider whether RIA requirements have been met. |
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This chapter describes the roles and activities of institutions which are involved in RIA processes, as at January 2012, with changes made after this point noted where relevant. Discussion of the appropriateness of these roles and the performance of these institutions is left to other chapters.

RIA requirements apply to institutions that create, amend or review regulations. These include government departments and agencies, ministerial councils and national standard setting bodies (NSSBs) — hereafter, when these are referred to collectively, they will be termed ‘agencies’. In addition to these agencies, there are a number of other bodies with jurisdiction-wide responsibility for ensuring RIA requirements are satisfied, including:

* regulatory oversight bodies with a role of ensuring that adequate analysis has been undertaken prior to consideration of proposals by decision makers
* Cabinet offices, which may have a role verifying that appropriate RIA information is attached to Cabinet submissions or, in some cases, preventing proposals that have not met RIA requirements proceeding to decision makers
* parliamentary scrutiny committees which examine regulation that has proceeded to parliament and, in some cases, have an explicit mandate to consider RIA requirements.

## 3.1 Institutions subject to RIA requirements

### Government departments and agencies

All government departments and agencies which create or amend regulation are subject to their jurisdictional RIA requirements, regardless of whether these agencies are established administratively or by statute. When agencies engage with RIA, this can involve:

* contacting the jurisdictional oversight body to seek advice early in the policy development process
* either deciding if a RIS is required for a proposal or, in some jurisdictions, providing relevant information to the jurisdictional oversight body which makes this decision (see section 3.2)
* undertaking the steps to prepare a RIS (including engaging with stakeholders)
* ensuring that relevant internal staff are sufficiently trained in RIA processes
* publishing RISs or approving their publication on a central RIS register.

In practice, the majority of agencies undertake no more than one or two RISs in a given year, with many producing none. A small number of agencies undertake around five to ten RISs each year — although often several of these RISs stem from a single reform pursued by the agency. In recent years, agencies with the most RIS activity have been in areas such as finance, primary industry, environment and transport. The number of RISs produced by individual agencies varies over time depending on policy and regulatory priorities.

#### Coordination of RIA within and between agencies

Some agencies have established centralised RIA units to coordinate implementation of RIA requirements. In these agencies, the relevant policy branch is generally responsible for completing the RIA process but is provided with guidance and technical assistance by the centralised unit. Around half of agency survey respondents indicated that their agency had a centralised unit which assisted in undertaking the RIA process (PC RIA Survey 2012). A centralised unit was more common in agencies that undertook a comparatively large number of RISs or had significant regulatory responsibilities. Such a unit may not be cost effective for smaller agencies and those that engage with the RIA process infrequently.

Some jurisdictions have also established regulatory coordinators in agencies, have had them in the past or intend to introduce them (box 3.1). Such coordinators can be a mechanism for sharing experiences and transferring knowledge between agencies.

### Ministerial councils and national standard setting bodies

Ministerial councils — consisting of standing councils, select councils and legislative and governance fora — are an integral part of the Council of Australian Governments (COAG) structure. They are comprised of representative ministers from the Commonwealth and all of the states and territories from the particular policy or reform area. The role of ministerial councils is to develop reform proposals to be considered by COAG and to oversee the implementation of reforms agreed by COAG. Often these reform proposals relate to implementation of broad goals set out in intergovernmental agreements, such as those made as a part of the *Seamless National Economy Partnership* (Victorian Department of Premier and Cabinet, sub. DR32). All ministerial councils are subject to the COAG RIA requirements when they make decisions of a regulatory nature.

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| Box 3.1 Regulatory coordinators |
| Commonwealth/COAG  The Best Practice Regulation Coordinators were established in Australian Government agencies in 2007 and in agencies subject to COAG RIA requirements in 2009-10 (Office of Best Practice Regulation (OBPR) 2010). Their role varies across agencies, with many acting as a first point of contact for policy officers undertaking RIA. The Commission understands that the role of these coordinators has now been supplemented by OBPR outpost officers (section 3.2).  Victoria  In its recent review of the Victorian regulatory system, the Victorian Competition and Efficiency Commission (VCEC) proposed regulator networks as an avenue to improve understanding of the available tools and share lessons from experience (VCEC 2011b). This recommendation was supported by the Victorian Government (Victorian Government 2012).  Queensland  In 2010, the Queensland Government established and funded ‘Regulatory Reform Champions’ for 18 months to assist in establishing the RIA system within their agencies. These were instrumental in setting up the RIA process and providing advice, assistance and guidance on RIA and the application of best practice principles (Queensland Treasury, pers. comm., August 2012).  Western Australia  The RIA working group was established in 2010, comprising representatives from various agencies. This enabled agencies to provide feedback, to work with the oversight body on RIA implementation and to make recommendations on changes to RIA (Western Australian Government, sub. 24). |
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During consultations, the Commission found that responsibility for implementing COAG RIA requirements varied between ministerial councils and across different proposals. In some cases, the regulatory proposal was presented by one jurisdiction and the agency supporting the proponent minister was responsible for preparing the RIS. In other cases, the agency which was supporting the minister chairing the ministerial council had responsibility for preparing the RIS.

NSSBs can be either Commonwealth bodies subject to Australian government RIA requirements or intergovernmental bodies subject to COAG RIA requirements. Commonly, NSSBs reach broad level agreement on standards which are then to be given force through regulation. It is this resulting regulation which triggers the need for early consideration of RIA requirements.

Similar to government agencies, individual ministerial councils and NSSBs have limited engagement with the RIA process, with many producing no RISs in a given year. The ministerial councils and some examples of NSSBs are listed in table 3.1.

Table 3.1 Ministerial councils and national standard setting bodies

|  |  |  |  |
| --- | --- | --- | --- |
| **Ministerial councils**a | | | |
| Standing councils | Select councils | | Legislative and governance fora |
| Community, Housing and Disability Services  Energy and Resources  Environment and Water  Federal Financial Relations  Health  Law and Justice  Police and Emergency Management  Primary Industries  Regional Australia  Schools, Education and Early Childhood  Tertiary Education, Skills and Employment  Transport and Infrastructure | Climate Change  Disability Reform  Gambling Reform  Homelessness  Immigration and Settlement  Women’s Issues  Workplace Relations | | Consumer Affairs  Corporations  Food Regulation  Gene Technology  Murray-Darling Basin |
| ***National standard setting bodies***b | | | |
| Commonwealth | | Intergovernmental (COAG) | |
| Auditing and Assurance Standards Board  Australian Accounting Standards Board  Australian Communication and Media Authority  Australian Competition and Consumer Commission  Australian Fisheries Management Authority  Australian Maritime Safety Authority  Australian Pesticides and Veterinary Medicines Authority  Australian Prudential Regulation Authority  Australian Radiation Protection and Nuclear Safety Agency  Australian Safeguards and Non-Proliferation Office  Australian Securities and Investments Commission  Civil Aviation Safety Authority  Department of Families, Housing, Community Services and Indigenous Affairs (Child Care Standards)  Department of Health and Ageing (Aged Care Standards)  Office of the Gene Technology Regulator  Office of Chemical Safety  Private Health Insurance Administration Council  Therapeutic Goods Administration | | Australian Building Codes Board  Australian Commission on Safety and Quality in Health Care  Environment Protection and Heritage Council  Financial Reporting Council  Food Standards Australia New Zealand  Fuel Standards Consultative Committee  National Health and Medical Research Council  National Industrial Chemicals Notification and Assessment Scheme  National Marine Safety Committee  National Pathology Accreditation Advisory Council  National Plumbing Regulators Forum  Nuclear Safety Committee  National Transport Commission  Security Sensitive Biological Agents Regulatory Scheme | |

a This new COAG Council System was established in February 2011 subsequent to the Hawke review (COAG 2011). *Standing Councils* pursue and monitor priority issues of national significance which require sustained, collaborative effort and address key areas of shared Commonwealth and state responsibility and funding. *Select Councils* undertake time-limited work in areas of shared Commonwealth and state responsibility. *Legislative and Governance Fora* oversee significant collective responsibilities which are set out in governing instruments but are outside the scope of Standing Councils. b This list was compiled by the Commission and is not complete as there is no systematic record of these bodies (pers. comm., Department of Prime Minister and Cabinet, August 2012 and OBPR, May 2012).

*Sources*: COAG (2011); Department of Health and Ageing, pers. comm., November 2011; PC assessment.

The Commission was unable to find a full listing of NSSBs. Neither the Office of Best Practice Regulation (the oversight body that monitors NSSB compliance with RIA requirements), nor the Department of Prime Minister and Cabinet (which had an important role in developing the COAG RIA guidelines), keep a complete record of these bodies (pers. comm., Department of Prime Minister and Cabinet, August 2012 and OBPR, May 2012). The compilation of a comprehensive list of NSSBs would ensure clarity about which bodies are subject to RIA requirements.

### Role of ministers in the RIA process

The principal role for ministers in the RIA process is to decide how to address the relevant policy issue, given the information generated by RIA on potential options and their likely impacts.

In several jurisdictions, RIA guidelines outline other roles for ministers in the RIA process. In some jurisdictions this includes deciding whether proposals require a RIS (chapter 4) and applying for exemptions (chapter 5). The Australian Government RIA guidelines also (uniquely) allow ministers to constrain the options considered in a RIS:

… agencies may be given direction regarding which options to analyse in a RIS for the Cabinet or a committee of the Cabinet. This would require the sponsoring minister to write to the Prime Minister or the Cabinet Secretary, copied to the Treasurer and the Minister for Finance and Deregulation. (Australian Government 2010a, p. 15)

At the end of the RIA process, ministers in a number of jurisdictions must certify completed RIS documents to indicate that they have satisfied RIA requirements. Requiring the responsible minister to endorse the RIS is intended to provide accountability and quality assurance. In Victoria and Queensland this requirement is outlined in RIA guidelines, with responsible ministers required to sign certificates before the proposal proceeds to the decision making stage in order to indicate compliance with RIA requirements. In New South Wales, Victoria and Tasmania, this requirement is outlined in the jurisdictional subordinate legislation Act (see box 1.2). In the Commonwealth, the RIA guidelines require the departmental secretary or deputy secretary (or the relevant agency head or deputy head) to certify the RIS prior to final assessment by the OBPR (Australian Government 2010a).

In other states and territories, although there is no separate requirement to certify RIS documents, ministers are still required, by Cabinet or ministerial handbooks, to certify their Cabinet submissions. A Cabinet submission will generally include the RIS as an attachment for regulatory proposals with significant impacts.

The COAG guidelines (COAG 2007a) do not outline any requirement for ministers to certify completed RIS documents. The guidelines do, however, make a unique provision for ministerial council members to trigger an appeal of the RIA process if they consider it unsatisfactory:

Where a Minister is dissatisfied with the outcome of the impact assessment process, the Minister may seek the agreement of his/her Head of Government to request an independent review of the assessment process. (COAG 2007a, p. 16)

### Cost of RIA: institutions subject to RIA requirements

There is limited information available on agency costs associated with RIA; the Commission surveyed agencies in all jurisdictions with a view to building knowledge in this area (PC RIA Survey 2012).

In the survey, respondents were asked to estimate the cost of the RIA process to their agency above ‘business as usual costs’ for the financial year 2010-11. Many respondents were unable to provide an estimate — perhaps due to low RIA activity, lack of record-keeping or the difficulty of separately identifying costs associated with RIA from other agency costs. For those agencies that did provide an estimate, the values varied substantially, ranging from $1200 to $3 million for the year. At the lower end, the state agency reporting costs of $1200 had no RIS activity and undertook only preliminary assessments in 2010-11. At the higher end, one state agency reported a total cost of $1.5 million, having completed eight RISs. The agency attributed this figure to engaging new in-house staff with the required analytical skills to complete RISs. The difference in reported costs was not entirely attributable to differing levels of RIS activity because individual RIS costs vary greatly. Box 3.2 provides a summary of information gathered by the Commission about the cost of completing a single RIS.

From box 3.2, it is evident that consultant input can be a significant contributor to RIS costs. In the survey, 38 per cent of respondents reported that they had used consultants for some aspect of the RIA process. Approximately 80 per cent of these had outsourced cost–benefit analysis to consultants while 50 per cent had outsourced completion of the entire RIS (figure 3.1). Where consultants had been engaged to complete the entire RIS, a significant percentage of agency RIA costs, for 2010-11, was still attributed to internal staff costs.[[1]](#footnote-1)

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| Box 3.2 Information on the cost of completing a RIS |
| *PC RIA Survey 2012 responses*   * Estimates for the cost of a single RIS ranged between $2500 and $450 000. * The agency that reported completing a RIS for $2500 stated this was at the lower end of typical RIS costs in recent years. * Two agencies each reported a recent RIS with a cost of around $450 000 — one agency prepared a COAG RIS, paying $240 000 to a consultant for cost–benefit analysis and $200 000 for internal staff time. The other agency prepared a state RIS paying $150 000 for consultant input, with the remainder comprising internal costs. * Other respondents reported consultant costs of $30 000 to $35 000 for a RIS, but did not provide the total cost for these RISs. * Two respondents from Commonwealth agencies described the cost of a RIS in terms of staff time: * One agency reported an average RIS required 6 weeks work by a middle-level manager. Proposals which require more complex cost–benefit analysis and more extensive consultation were reported by that agency to take 15 to 20 weeks, while more straightforward proposals could take 2 to 4 weeks. * Another agency reported that, depending on its size and complexity, a RIS could take between 50 and 145 hours, involving a range of staff levels.   *Study submission*  The Australian Government Attorney General’s Department provided the following cost estimates associated with a COAG RIA process currently being undertaken:   * approximately $300 000 for external consultants to conduct focus groups and prepare the consultation and final RISs * approximately $50 000 in staff costs to undertake the procurement process to engage external consultants, and * approximately $90 000 in advertising costs associated with the release of the consultation RIS to ensure adequate coverage of stakeholders, particularly small to medium enterprises (sub. 4).   *Office**of**Regulation**Review**estimate*  In 2005-06, the Office of Regulation Review (ORR), predecessor to the OBPR as regulatory oversight body for Commonwealth and COAG, asked Australian Government agencies to estimate the number of person days taken to prepare a RIS. It found, on average, that it took nearly 15 person days to prepare a RIS. The ORR estimated that this translated to an average cost of around $5200 (approximately $6000 in current prices). This estimate was based on labour costs alone, other costs such as overheads, capital costs and consultant fees were not included (PC 2006). |
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The median cost of RIA for 2010-11 was approximately $37 000 higher for agencies that indicated they had used consultants relative to those that had not. For one survey respondent, this difference was explained by high consultant fees relative to internal costs:

From the tender process, a typical RIS on a major topic would cost around $100 000 with some tenders at $120 000 and $150 000. In-house cost of a similar RIS would be $75 000. (PC RIA Survey 2012)

Alternatively, the cost difference may be due to agencies seeking assistance from consultants on more complex proposals. It may also relate to an underestimate of the internal cost of RISs relative to consultant costs, if overhead costs of RISs prepared internally are difficult to measure.

Figure 3.1 For what part of the RIA process were consultants used?

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a Based on 23 agencies which indicated they had used consultants for RIA. This question related to use of consultants in general, rather than for a particular RIS. As such, agencies were able to select multiple options.

*Data source*: PC RIA Survey (2012).

## 3.2 Regulatory oversight bodies

Consistent with best practice, all Australian jurisdictions have a regulatory oversight body which administers and promotes the RIA process. The key functions of oversight bodies can include:

* deciding whether proposals require RISs
* providing training and advice on the RIA process
* examining and advising on adequacy of RISs
* reporting annually on agency compliance with the RIA process.

These functions may be performed by a single office or several agencies. Oversight bodies may also have other functions related to RIA, such as maintaining RIA guidance material and publishing RIS documents and adequacy assessments. They can also have roles which are not directly related to RIA, such as reviewing existing regulation, reducing red tape and conducting inquiries on behalf of government.

### Who are the regulatory oversight bodies in Australia?

The regulatory oversight function in each jurisdiction was generally established with the introduction of RIA requirements (table 3.2). The Australian Government introduced RIA requirements and an oversight body in 1985 (OECD 2010b). That body, now called the Office of Best Practice Regulation (OBPR), was also made responsible for oversight of the COAG RIA process in 1995. Victoria and New South Wales were the first states to establish regulatory oversight in the mid to late 1980s. Other jurisdictions introduced regulatory oversight more recently, with Western Australia establishing a RIA process for the first time in 2009.

Australia’s regulatory oversight bodies tend to reside at the centre of executive governments, typically in the jurisdiction’s Department of Treasury or Department of Premier and Cabinet. The exceptions to this are:

* the Victorian Competition and Efficiency Commission (VCEC) which is an independent advisory body established under the *State Owned Enterprises Act 1992* (Vic)
* the Queensland Office of Best Practice Regulation (QOBPR) which was established in July 2012 within the Queensland Competition Authority — an independent statutory authority.

The relative merits of different locations for the regulatory oversight function are discussed in chapter 8 in the context of accountability and quality control of RIA processes.

In the majority of jurisdictions, oversight functions are performed by a single office, with the exception of the Northern Territory and South Australia. In the Northern Territory, the Regulation Impact Unit in the Department of Treasury and Finance advises agencies and provides administrative support to the Regulation Impact Committee, which assesses and certifies the adequacy of RISs. In South Australia, the Cabinet Office signs off RISs for submission to Cabinet under the advisement of four ‘impact assessment agencies’ which need to indicate they are satisfied that the RIS meets an appropriate standard in their area in order for a proposal to be signed off by Cabinet Office (SA DPC and DTF 2011).

Table 3.2 Regulatory oversight bodies

As at January 2012

|  |  |  |  |
| --- | --- | --- | --- |
|  | Regulatory oversight body | Location in government | Introduced |
| Cwlth | Office of Best Practice Regulation (OBPR) | Department of Finance and Deregulation (DFD) | 1985 a |
| COAG | OBPR | DFD | 1995 |
| NSW | Better Regulation Office (BRO) | Department of Premier and Cabinet | 1989 |
| Vic | Victorian Competition and Efficiency   Commission (VCEC) | Independent state body — Department of Treasury and Finance Portfolio | 1985 b |
| Qld | Regulatory Review Branch (RRB) | Department of Treasury | 1990 c |
| WA | Regulatory Gatekeeping Unit (RGU) | Department of Treasury | 2009 |
| SA | Cabinet Office (RIS sign off)  Impact assessment agencies  Department of Treasury and Finance  (cost–benefit analysis)  Department for Manufacturing, Innovation,  Trade, Resources & Energy  (business & regional impacts)  Department for Communities & Social  Inclusion (family and societal impacts)  Department of Environment, Water & Natural Resources (environmental impacts) | Department of the Premier and Cabinet | 2003 d |
| Tas | Economic Reform Unit (ERU) | Department of Treasury and Finance | 1995 |
| NT | Regulation Impact Unit (RIU)  Regulation Impact Committee (RIC)  Department of Treasury and Finance (chair)  Department of the Chief Minister  Department of the Attorney-General and Justice  Department of Business | Department of Treasury and Finance | 2003 |
| ACT | Microeconomic Policy Unit | Department of Treasury | 2000 |

a The Business Regulation Review Unit (BRRU) was established in the Department of Industry, Science and Technology in 1985. In 1989 the BRRU was renamed the Office of Regulation Review (ORR) and moved into the statutorily independent Industry Commission. In 2006 the ORR was renamed the OBPR and subsequently moved to DFD in 2007. b Prior to the establishment of the VCEC in 2004, oversight functions were undertaken by the Victorian Office of Regulation Reform which was located within the Department of State and Regional Development. c The RRB was preceded by the Queensland Office of Regulatory Efficiency which also resided in the Department of Treasury. In July 2012, some oversight functions were relocated to the Queensland Office of Best Practice Regulation which was established in the Queensland Competition Authority. d Cabinet Office and three assessment agencies have performed an oversight role since 2003. The new *Better Regulation Handbook* (SA DPC and DTF 2011) introduced the Department of Treasury and Finance as a fourth impact assessment agency.

Three jurisdictions have an additional unit (residing in a separate agency to the oversight body) tasked with ensuring small business impacts are addressed appropriately during the RIA process. The functions and activities of these small business units are summarised in box 3.3.

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| Box 3.2 Separate units that focus on small business impacts |
| Commonwealth  The Small Business Advisory Committee (SBAC) is a panel of small business experts established in June 2010. Its role in RIA is to advise on proposals that are likely to have a significant impact on small businesses. For these proposals, the agency contacts the SBAC Secretariat, located within the Department of Innovation, Industry, Science, Research and Tertiary Education. The Secretariat assists the agency in determining whether the RIS would benefit from referral to the SBAC, taking into account the availability of committee members and timing issues (Australian Government 2010a). Since its establishment, SBAC has provided advice on only two RISs. Agencies have sought to make use of SBAC on multiple occasions; however, due to timing or other constraints SBAC has not been in a position to provide advice (SBAC Secretariat, pers. comm., July 2012).[[2]](#footnote-2)  Victoria  Small Business Victoria (SBV), in the Department of Business and Innovation, published a *Small Business: Regulatory Impact Assessment Manual* (Victorian Government 2007) which provides practical assistance for agencies undertaking RIA. The Victorian RIA guidelines (Victorian DTF 2011a) recommend consultation with SBV early in the RIA process for assistance with proposals that may have a significant impact on small businesses but this has rarely occurred in practice (SBV, pers. comm., August 2012).  Western Australia  The independent Small Business Development Corporation (SBDC) has two key roles:   * reviewing preliminary impact assessments (PIAs) and RISs in order to provide comments to the oversight body, from a small business perspective, on the regulatory proposals * providing direct assistance to agencies in assessing the significance of negative impacts on small businesses.   Since 2009, when the Western Australian RIA system was introduced, the SBDC has reviewed 129 PIAs and provided assistance to numerous agencies to complete RIA documents. The SBDC has also prepared submissions to consultation RISs (sub. 25). |
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### Comparing roles of regulatory oversight bodies

In all jurisdictions, oversight bodies examine and advise on the adequacy of RISs and provide some form of advice and/or training to agencies. Oversight bodies report annually on compliance in three jurisdictions (table 3.3). The manner in which oversight functions are performed can vary significantly between jurisdictions — this is discussed below for each oversight function.

Table 3.3 Summary of oversight body functions

As at January 2012

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Jurisdiction | Cwlth | COAG | NSW | Vic | Qld | WA | SA | Tas | ACT | NT |
| Decide whether proposals require RISs | ✓ | ✓ | 🗶 | 🗶 | 🗶 | ✓ | 🗶 | ✓**a** | 🗶 | ✓ |
| Provide advice and/or training on the RIA process | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Examine and advise on adequacy of RISs | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Report annually on compliance with the RIA process | ✓ | ✓ | 🗶 | ✓ | 🗶**b** | 🗶**c** | 🗶 | 🗶 | 🗶 | 🗶 |

**a** In Tasmania the oversight body determines if a RIS is required for proposed primary legislation based on a ‘statement of intent’ provided by the agency, while agencies self-assess the need for a RIS for proposed subordinate legislation. **b** The newly established Queensland Office of Best Practice Regulation will be required to report annually on compliance with the RIA process (Queensland Competition Authority (QCA 2012). **c** The Western Australian Regulatory Gatekeeping Unit (RGU) has not yet published an annual compliance report, despite its guidelines. The RGU Compliance Assessment Notice is published, along with the relevant RIS, on agency websites (and RGU provides a central link to these sites). However, this does not appear to occur systematically for all RISs.

*Source*: Jurisdictional guidance material (appendix B).

#### Deciding whether proposals require RISs

Thresholds for triggering RIS requirements are somewhat subjective, which means proposals need to be interpreted on a case-by-case basis (discussed further in chapter 4). In four jurisdictions, the oversight body is responsible, based on information provided by the agency, for deciding whether a RIS is required for a proposal. Additionally, the oversight body in Tasmania assesses the need for a RIS, but only in relation to proposals for primary legislation.

In the remaining jurisdictions, it is the role of the agency or responsible minister to decide whether a RIS is required. This is often termed agency ‘self-assessment’. In practice in these jurisdictions, the oversight body is still involved to some extent in advising agencies early in the process. Survey respondents in jurisdictions with self-assessment were equally likely to contact the oversight body early in the policy development process as those in jurisdictions with formal oversight body assessment. In both cases, agencies most commonly reported (in approximately 40 per cent of responses) that they first engaged with the oversight body at the start of policy development (PC RIA Survey 2012).

In some jurisdictions with self-assessment, an agency assessment may be challenged by the oversight body prior to a proposal reaching the decision making stage (chapter 4).

#### Providing guidance, advice and training on the RIA process

##### Guidance material

All jurisdictions have published RIA guidance material, which, in most cases has been written and is maintained by the regulatory oversight body. The guidance material covers the steps in the RIA process as well as, to varying extent, detailed information on how to complete a RIS. All guidance material has been updated in recent years with the exception of that of the Australian Capital Territory, which has not updated its guidelines since 2003.

In addition to RIA-specific guidance material, most jurisdictional Cabinet handbooks or drafting guides for Cabinet submissions include information on RIA requirements. For COAG, RIA requirements are reinforced in the *Handbook for COAG Councils* (COAG 2011).

##### Advice and training

All Australian oversight bodies provide some form of advice and/or training to agencies in their jurisdictions. In particular, the oversight body in each jurisdiction offers technical assistance and ad hoc advice to agencies, whether they are making general enquiries about the applicability of RIA or seeking assistance in drafting a particular RIS (including guidance on cost–benefit analysis).

Most oversight bodies also offer formal training programs (table 3.4). These programs generally take the form of workshops or seminars providing participants with a general overview of the RIA process, information on the main steps in a RIS and on the resources available to assist with undertaking the process. The OBPR also provides workshop training slides on its website for the Commonwealth and COAG RIA processes. In Queensland, ongoing training is provided via web-based training modules. At the time these modules were introduced in 2010, all existing government officers involved in the development or review of regulation were required to complete them (PC RIA Survey 2012).

Table 3.4 Oversight body training

2010-11

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Jurisdiction | Cwlth/COAG**a** | NSW**b** | Vic | Qld | WA | SA | Tas | ACT | NT |
| Formal general training | ✓ | ✓ | ✓ | ✓**c** | ✓ | ✓ | 🗶 | 🗶 | 🗶**d** |
| Web-based modules | 🗶 | 🗶 | 🗶 | ✓ | 🗶 | 🗶 | 🗶 | 🗶 | 🗶 |
| Formal CBA training | ✓ | 🗶 | ✓ | 🗶 | 🗶 | ✓**e** | 🗶 | 🗶 | 🗶 |
| Formal training tailored to agency needs | ✓ | 🗶 | ✓ | ✓ | ✓ | ✓ | .. | .. | .. |
| Course length for formal training (in hours) | 2-4 | 1.5 | full day | 1-3 | 1-3 | 1-4 | .. | .. | .. |
| Total number of courses 2010-11 | 28 | 11 | 9 | 33 | 9 | 15 | .. | .. | .. |
| Approximate total number of staff trained 2010-11 | 404 | 140 | 171 | 460**f** | 425 | 180 | .. | .. | .. |

**a** Training for agencies which undertake RIA under either the Commonwealth or COAG process is provided by the OBPR. **b** NSW data relate to 2011-12. No training was undertaken in 2010-11 because a change of government resulted in revisions to policies and training material. **c** Mainly associated with the introduction of the new RAS system in 2010, rather than on-going training. **d** Has been provided prior to 2010-11. Recently the RIU has favoured providing assistance on specific proposals, rather than general training. **e** Initial workshops associated with the introduction of the new system, no further workshops are planned at this stage. **f** Including 160 staff trained in using the Compliance Cost Calculator .. not applicable

*Sources*: PC RIA Survey (2012) and PC information requests to jurisdictions.

In a number of jurisdictions, there is an increasing focus on training tailored to address agency–specific issues. Tailored training can involve examining RISs previously completed by the agency or workshopping current and upcoming proposals. Some jurisdictions also offer more in-depth training in cost–benefit analysis (CBA).

No formal on-going training is offered by oversight bodies in Tasmania, the Australian Capital Territory and the Northern Territory. For Tasmania and the Northern Territory, the comparatively small number of RISs (chapter 4) may mean that provision of oversight body advice, on request, is more cost effective than formal training.

In addition to advice and training, the OBPR introduced an ‘outpost officer’ program in late 2011 (OBPR 2011b). Under this program, an OBPR officer is assigned to an agency preparing a Commonwealth or COAG RIS, for a period of several weeks to months, to assist the agency in developing the RIS. This can include:

* a short term engagement to develop an outline of the RIS and provide instructions for its preparation
* a longer term engagement to coordinate agency-wide input into the RIS
* a long term engagement to write the RIS drawing on best practice consultation processes already undertaken. (OBPR 2011b, p. 1)

There have been up to six outpost officers across various agencies at any one time, though there is no set limit on the number that can be outposted. The fees for services are charged on a cost recovery basis, and were around $800 to $900 per day (depending on the nature of service provided) in January 2012 (OBPR 2011c, sub. DR35). They have since risen to around $940 to $1400 per day (OBPR, pers. comm. November 2012).

#### Examining and advising on adequacy of RISs

In all Australian jurisdictions the oversight body examines RISs to determine whether they satisfy the relevant adequacy criteria. This can involve seeking information, explanation and justification from agencies on the contents of RISs. Hence, it is sometimes referred to as the ‘challenge function’.

When the agency determines the RIS is ready to proceed to the decision making stage (or to be published in the case of a *consultation* RIS), the oversight body will examine the RIS. In every jurisdiction, a RIS found to be adequate by the oversight body will proceed to the decision maker (or, in the case of a *consultation* RIS, to publication). Where a *final* RIS is found to be inadequate, the proposal may (depending on the jurisdiction and often also whether the proposal relates to primary or other regulation) either:

* proceed to the decision maker, in some cases with comments attached from the oversight body outlining its concerns with the RIS, or
* be returned to the agency for further development.

In practice, what occurs can vary from proposal to proposal within a jurisdiction. Progression of a proposal can also depend on whether a jurisdiction’s Cabinet office has a RIA ‘gatekeeping’ role (section 3.3).

Of all the functions performed by oversight bodies, the challenge function is perhaps the most important contributor to RIA quality control (chapter 8). The OECD considers it to be a vital mechanism for ensuring regulatory quality:

A central pillar of regulatory policy is the concept of an independent body that can assess the substantive quality of new regulation and work to ensure that ministries achieve the goals embodied in the assessment criteria … To be effective, the oversight body must be able to question the quality of RIA and regulatory proposals. (OECD 2008, p. 37)

#### Annual reporting on agency compliance with the RIA process

The majority of oversight bodies do not publicly report on compliance with RIA requirements — only the OBPR and the VCEC publish RIS adequacy or compliance information annually. The importance of public compliance reporting for transparency of RIA processes is discussed in detail in chapter 7.

##### Compliance reporting in Commonwealth and COAG

The OBPR publishes compliance information for Commonwealth and COAG in its annual *Best Practice Regulation Report* including aggregated RIS compliance rates and RIS compliance by individual agency and proposal(see for example, OBPR 2011a). The annual report also includes information on compliance with requirements to write and publish annual regulatory plans and post implementation reviews (discussed in chapters 7 and 9 respectively). In addition, the OBPR publishes compliance information online on a central RIS register when each regulatory decision is announced. A summary of recent RIS compliance rates is reproduced in table 3.5. In the Commonwealth process, compliance is reported for two stages:

* the ‘decision making stage’ requires a RIS assessed as adequate by the OBPR to be presented to the decision maker(s) at the time the decision is made
* the ‘transparency stage’ requires this RIS be published as soon as practicable after the regulatory announcement.

Table 3.5 Australian Government and COAG RIS compliance**a**

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | 2007-08 | | 2008-09 | | 2009-10 | | 2010-11 | | 2011-12 | |
| ratio | % | ratio | % | ratio | % | ratio | % | ratio | % |
| **Commonwealth** |  |  |  |  |  |  |  |  |  |  |
| Decision making stage | 43/48 | 90 | 45/53 | 85 | 63/75 | 84 | 47/63 | 75 | 69/78 | 88 |
| Transparency stageb | 41/45 | 91 | 41/49 | 84 | 59/74 | 80 | 45/63 | 71 | 70/78 | 90 |
| **COAG** |  | |  | |  | |  | |  | |
| Consultation stage | 26/27 | 96 | 22/25 | 88 | 29/41 | 71 | 8/9 | 89 | 13/16 | 81 |
| Decision stage | 25/27 | 93 | 24/25 | 96 | 32/41 | 78 | 9/10 | 90 | 13/16 | 81 |

a The compliance rate is the number of proposals where RIS requirements were met divided by the total number of proposals which required a RIS as determined by the OBPR. b There are sometimes fewer RISs at the transparency stage because some proposals have multiple decision stages and, as a result, require more than one decision RIS.

*Sources*: OBPR (2011a, 2012a).

The COAG process involves two RIS documents, one for the consultation stage and another for the decision stage. Compliance is reported separately for each of these stages, and requires the RIS to be assessed as adequate by the OBPR and published as soon as practicable after the regulatory announcement.

Compliance levels for Commonwealth and COAG have generally been high at both RIS stages over recent years. Lower compliance in some years is largely based on a higher number of proposals with no RIS (where a RIS was required), rather than more proposals where a RIS has been assessed as inadequate by the OBPR. In other words, where a RIS is completed, it is usually assessed as adequate.

##### Compliance reporting in Victoria

The VCEC reports on compliance in its annual report, stating the number of RISs and business impact assessments (BIAs) assessed and specifying where these were assessed as inadequate (table 3.6). The VCEC does not monitor or report on whether the responsible minister appropriately assessed the need for a RIS/BIA.[[3]](#footnote-3)

Table 3.6 Victorian RIS and BIA compliance**a**

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | 2007-08 | | 2008-09 | | 2009-10 | | 2010-11 | | 2011-12 | |
| ratio | % | ratio | % | ratio | % | ratio | % | ratio | % |
| RIS | 29/29 | 100**b** | 27/28 | 96 | 29/29 | 100**b** | 11/11 | 100**b** | 13/13 | 100**b** |
| BIA | 7/8 | 87.5 | 12/13 | 92 | 14/15 | 93 | 2/2 | 100**b** | 2/2 | 100**b** |

a The compliance rate is the number of RISs or BIAs assessed as adequate divided by the total number of RISs or BIAs assessed by the VCEC. b Full compliance is implied but not explicitly stated in the VCEC annual reports.

*Sources*: VCEC (2008, 2009, 2010, 2011a, 2012).

Compliance rates for both RISs and BIAs have been high in recent years. As for Commonwealth and COAG, where a RIS or BIA is completed in Victoria it is usually assessed as adequate. Only one published RIS has been assessed as inadequate since the VCEC was established in 2004. In its annual report, the VCEC provided explicit reasons for its assessment in that case:

The Commission’s assessment was based on the fact that the level of analysis in key components of the RIS did not meet the requirements of section 10(3) of the Subordinate Legislation Act 1994 … did not provide sufficient or clear analysis of whether the benefits arising from this element of the proposed Regulations exceeded the estimated costs of $70 million per year, or whether it provided the best overall outcomes for the community compared with other feasible approaches … The analysis of the fees imposed through the Regulations also was not sufficiently robust. (VCEC 2009, p. 69)

There have been a small number of BIAs assessed as inadequate in recent years. Where this occurs, the VCEC does not individually identify the proposal or report reasons for its assessment because BIAs are cabinet-in-confidence documents and are not publicly released.

### Cost of RIA: regulatory oversight bodies

Costs and staff levels associated with RIA related activities vary substantially between oversight bodies, due mainly to variations in oversight functions (table 3.7) and RIA activity (chapter 4) between jurisdictions. The cost and staffing figures do not represent total budgets or employee numbers, since some oversight bodies have functions which do not relate to RIA. For example, the Tasmanian ERU has seven staff members undertaking RIA related activities as part of their broader duties, resulting in a RIA full time equivalent (FTE) estimate of only two staff.

Table 3.7 Oversight body costs and staff for RIA activities

2010-11

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Jurisdiction | Costs ($) | | Full-time equivalent staff | |
| Cwltha | 2 660 000 |  | 18.9 |  |
| COAGa | 1 140 000 |  | 8.1 |  |
| NSW | 500 000 | b | 2-3 |  |
| Vic | 880 000 | c | 5.4 |  |
| Qld | 975 000 | d | 2-3 |  |
| WA | na |  | 6-8 |  |
| SA | na |  | 1.1 | e |
| Tas | 220 000 |  | 2 |  |
| ACT | na |  | <2 |  |
| NT | 100 000 |  | 1.8 |  |

a Commonwealth and COAG values are reported for 2012-13 based on a total OBPR budget of $3.8 million and 27 FTEs, OBPR was not able to provide a budget for earlier years. The budget includes $651 000 of cost recovery revenue and approximately six FTEs (hired since November 2011) associated with the new outposting program. The OBPR estimated the ratio of resource usage between Commonwealth and COAG to be 70:30. The OBPR does not receive separate funding for its COAG work. b This is an ‘under normal circumstances’ estimate; actual cost may have differed during some of 2010-11, which was an atypical year because of the NSW State Election. c This value is lower than normal (the VCEC budget is usually around $1 000 000) possibly due to lower RIS activity in 2010-11 than recent years. d This value is higher than normal due to the introduction of a new RIA system which involved engaging extra staff for training. In recent years the figure has been closer to $600 000. e This figure is for 2011-12. na not available.

*Sources*: PC RIA Survey (2012) and PC information requests to jurisdictions.

The distribution of total oversight body RIA costs between functions was provided in survey responses for seven jurisdictions (table 3.8). Key features are listed below.

* In jurisdictions with a formal preliminary assessment stage (Queensland and Western Australia), a large proportion of oversight body costs relate to this stage of the RIA process. In these jurisdictions, and in Tasmania — where the ERU advises whether a RIS is required based on a ‘Statement of Intent’ provided by the agency — RIS activity is also relatively low (chapter 4), which further explains the relatively high proportion of oversight body effort at the preliminary assessment stage.
* The oversight bodies for Commonwealth, COAG and the Northern Territory spend a large proportion of their costs on assisting agencies to prepare RISs. This is consistent with their survey responses, which flagged a shift from general training to assistance based on agency needs. More generally, most oversight bodies tend to spend more on assisting agencies with RISs than on training, with the Queensland RRB being the only exception.
* Compliance monitoring and reporting, including in those jurisdictions that report annually on compliance, represents a small proportion of oversight body expenditure.

Table 3.8 Distribution of oversight body costs**a**

2010-11

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Activity | Cwlth | COAG | Vic | Qldb | WA | Tas | NT |
|  | % | % | % | % | % | % | % |
| Advising whether a RIS is required | 10 | 10 | 20 | 68 (80) | 10 | 90 | 30 |
| Assistance preparing RIS | 40 | 40 | 15 | 2 (2) | 15 | 4 | 30 |
| Assessing RIS adequacy | 35 | 35 | 50 | 7 (7) | 10 | 4 | 40 |
| Compliance monitoring and reporting | 10 | 10 | 5 | 6 (5) | 20 | 1 | 0 |
| Training | 5 | 5 | 5 | 17 (6) | 5 | 1 | 0 |
| Other | 0 | 0 | 5 | 0 (0) | 40c | 0 | 0 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 | 100 |

a NSW, SA and ACT oversight bodies were unable to provide estimates. b This distribution for 2010-11 was reported as being atypical because of implementation training relating to the new RIA system. A more typical distribution from previous years is shown in brackets. c Other costs include assessing the adequacy of Preliminary Impact Assessments and assistance provided to agencies on how to apply RIA to the various stages of policy development.

*Source*: PC RIA Survey (2012).

## 3.3 Cabinet offices with a formal RIA gatekeeping role

In five jurisdictions, Cabinet offices have a role verifying that proposals have satisfied RIA requirements before they proceed to Cabinet or its sub-committees (table 3.9). This role is formalised in RIA guidance material or other documents such as Cabinet or ministerial handbooks. It is often termed a RIA ‘gatekeeping’ role as, in principle, it involves preventing proposals from proceeding to decision makers where the oversight body has advised that RIA requirements have not been met.

This is distinct from Cabinet offices in other jurisdictions which have an information facilitation role ensuring that the RIS (where submitted by the agency) and oversight body comments are attached to proposals regardless of whether RIA requirements have been met. This does not comprise a RIA ‘gatekeeping’ role because proposals which have not complied with RIA requirements still proceed to the decision maker.

Table 3.9 Formal RIA gatekeeping roles

As at January 2012

|  |  |  |  |
| --- | --- | --- | --- |
|  | Formal RIA gatekeeping role? | Who performs  the role? | What should happen if a proposal does not satisfy  RIA requirements? |
| Cwlth | Yes | Cabinet Secretariat | The Cabinet Secretariat will not circulate final Cabinet submissions or memoranda or other Cabinet papers |
| COAG | na |  |  |
| NSW | Yes | Premiera | The Premier can exclude proposal from Cabinet Agenda or not forward Executive Council Minutes for consideration by the Governor-in-Council based on advice from the Department of Premier and Cabinet |
| Vic | No |  |  |
| Qld | No |  |  |
| WA | Yes | Cabinet Services Branch | Cabinet Services Branch may return the Cabinet submission to the Minister |
| SA | Yes | Cabinet Office | Cabinet Office will not sign-off on the RIS, meaning it cannot proceed for consideration by Cabinet |
| Tas | No |  |  |
| ACT | No |  |  |
| NT | Yes | Cabinet Office | The Cabinet Office will not proceed with the proposal |

a Performing the role of the Minister for Regulatory Reform as outlined in the NSW guidelines. na not applicable.

*Source*: Jurisdictional guidance material (appendix B).

Where there is formal RIA gatekeeping, this does not cover decisions made outside Cabinet and its sub-committees. In such cases, and in jurisdictions with no formal RIA gatekeeping, the minister responsible for a proposal is typically charged with ensuring RIA requirements have been satisfied before the decision making stage.

In New South Wales and South Australia, the regulatory oversight body is located in the same agency as the RIA gatekeeping role — the Department of Premier and Cabinet (DPC). In New South Wales, the DPC reported that the BRO:

… assessed 132 Cabinet Minutes and 409 Executive Council proposals against the Government’s better regulation principles, including 24 significant proposals that required either a Better Regulation Statement or a Regulatory Impact Statement. (NSW DPC 2011, p. 24)

These represent a subset of the Cabinet Minutes and Executive Council proposals for the year, since only regulatory proposals are assessed by the BRO. For Executive Council proposals, the NSW Cabinet Secretariat refers instruments which appear regulatory in nature to the BRO. For Cabinet Minutes, it is up to policy branches in DPC to determine whether a proposal requires comment from the BRO, and refer the Minute to the BRO for ‘consideration and advice’. For proposals that will go to full Cabinet (rather than a Cabinet Committee), BRO receives a copy of the proposal during the initial distribution to policy branches. This can allow it to initiate assessment of a proposal without waiting for referral from a policy branch (NSW DPC, pers. comm., July 2012).

South Australia and the Northern Territory are the only jurisdictions which outline, in the RIA guidelines, formal alternative approaches to bringing a proposal to Cabinet. In South Australia, there is a formal appeal process for the decision made by the Cabinet Office:[[4]](#footnote-4)

Where Cabinet Office sign-off is not gained and the agency does not revise the RIS, the agency may access an appeal mechanism. If deemed appropriate, the Minister for Industry and Trade, in his capacity as Chair of the Competitiveness Council, can override the Cabinet Office assessment. The proponent Minister should submit the appeal to the Minister for Industry and Trade. (SA DPC and DTF 2011, p. 10)

In the Northern Territory, proposals without an adequate RIS can proceed to decision makers with approval from the proponent minister:

The Cabinet Office will not proceed with regulatory proposals in the absence of certification from the Regulatory Impact Committee. Ministerial approval is required if regulation is to proceed to Cabinet or Executive Council in the absence of RIS certification or with certification indicating that the regulation does not comply with regulation-making principles. (NT Treasury 2007a, p. 16)

However, while not reflected in the Northern Territory guidelines, the proponent minister also needs to obtain the Chief Minister’s approval for such a proposal to proceed to Cabinet (NT Department of Treasury and Finance, sub. DR30).

It is important to also note that in jurisdictions with a formal RIA gatekeeping arrangement, there are also informal avenues for circumventing this process. The effectiveness and limitations of formal RIA gatekeeping are discussed in chapter 8.

## 3.4 Parliamentary scrutiny committees

The Commonwealth and all states and territories have parliamentary scrutiny committees which examine legislation that has proceeded to parliament (table 3.10). The mandates of these committees vary, and can include considering whether appropriate procedures and principles have been followed in areas such as human rights, parliamentary propriety and delegation of legislative powers.

Table 3.10 Parliamentary scrutiny committees

As at January 2012

|  |  |  |
| --- | --- | --- |
|  | Parliamentary scrutiny committees | Is there an explicit mandate related to RIA? |
| Cwlth | Scrutiny of Bills Committee  Regulations and Ordinances Committee | No  No |
| NSW | Legislative Review Committee | Yesa |
| Vic | Scrutiny of Acts and Regulations Committee | Yes |
| Qld | Scrutiny of Legislation Committeeb | Yes |
| WA | Legislation Committee  Delegated Legislation Committee  Uniform legislation and Statutes Review Committee | No  No  No |
| SA | Legislative Review Committee | No |
| Tas | Standing Committee on Subordinate Legislation | Yes |
| ACT | Standing Committee on Justice and Community Safetyc | Yes |
| NT | Subordinate Legislation and Publications | No |

a Scrutinises subordinate legislation with an explicit mandate to consider RIA, also scrutinises Bills but with no explicit requirement to consider RIA. Can recommend disallowance of subordinate legislation (not Bills).b This committee ceased to exist on 30 June 2011. Its role has been replaced, under a new committee system established in May 2012, by seven separate portfolio committees, each scrutinising regulation in its respective portfolio area. c Performing the duties of the Scrutiny of Bills and Subordinate Legislation Committee.

*Source*: Jurisdictional parliamentary committee websites.

In five jurisdictions, parliamentary scrutiny committees have an explicit mandate to examine procedural compliance with RIA requirements. These are the same jurisdictions in which RIA requirements are mandated for subordinate legislation (see box 1.2). The functions of scrutiny committees with a RIA mandate can include:

* examining whether relevant documents contain appropriate information and are signed by ministers
* considering whether consultation undertaken was adequate
* verifying that the RIS is adequate.

If the committee considers that RIA processes have not been appropriately followed, it can correspond with the responsible minister or departmental official to seek clarification or amendment, report to parliament to inform decision making or recommend disallowance of the instrument to parliament.[[5]](#footnote-5) In practice, scrutiny committees have generally favoured the first two options and have not been active in recommending disallowance based on an inadequate RIA process. The effectiveness of these parliamentary scrutiny committees in supporting the accountability of RIA processes is discussed further in chapter 8.

1. Note that responses relating to the use of consultants are not directly comparable to reported costs because the question about consultants was not time-specific, while the cost question related only to 2010-11. [↑](#footnote-ref-1)
2. The role of SBAC has recently been expanded to include providing broader advice to the Government and an internal evaluation of the future role of SBAC is planned. [↑](#footnote-ref-2)
3. The Scrutiny of Acts and Regulations Committee verifies that agencies decided appropriately on the need for a RIS for each proposal that proceeded to Parliament. [↑](#footnote-ref-3)
4. There have been no formal appeals to the Minister on decisions made by Cabinet Office. As at 1 July 2012, the Competitiveness Council no longer exists; a review of the appeal process will be undertaken in the near future (SA Cabinet Office, pers. comm., July 2012). [↑](#footnote-ref-4)
5. Recommending disallowance is distinct from a ‘disallowance motion’ which can be made by any member of parliament and leads to a vote on the instrument. When a scrutiny committee recommends disallowance, this will not lead directly to a vote until a disallowance motion has been made. [↑](#footnote-ref-5)