# 10 Improving integration

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| Key points |
| * Regulatory impact analysis (RIA) requirements will be fully integrated into policy development when key RIA aspects — such as considering and evaluating a range of regulatory and non‑regulatory options — occur routinely as part of the process. * Despite jurisdictions requiring RIA to commence at the start of the policy development process, RIA is often an afterthought or ‘add‑on’ to regulatory development. * Identifying where integration has occurred is not easy but there are indications that some national standard setting bodies, COAG ministerial councils, certain independent Commonwealth regulators, and selected agencies in particular states have more fully embraced RIA. * Successful integration of RIA can be hampered by a number of significant barriers including a lack of political commitment, a lack of skills to undertake RIA and the RIA process being administratively burdensome. * The following aspects of RIA system design can be improved to better integrate RIA processes in all jurisdictions: * greater ministerial transparency, through statements to parliament regarding compliance with the RIA process, will not only help political commitment but have a cascading effect on the commitment of senior managers and agencies more generally * implementing a multi‑stage process to assist with early integration of RIA into the policy development cycle * publication of oversight body adequacy assessments with explanations, the requirement to complete a post‑implementation review (PIR) for non‑compliant and exempted regulatory proposals and annual reporting of agency compliance information * giving agencies responsibility for deciding if a regulation impact statement (RIS) is required and streamlining preliminary impact assessment (PIA) requirements. * For agencies which undertake RISs regularly, oversight bodies should consider establishing a memorandum of understanding to clarify expectations on what regulations need a RIS and the standard of the RIS documentation, as well as communication and dispute resolution procedures. * Improving the evidentiary base on the performance of RIA would also enhance the integration of RIA requirements into policy development and the resulting regulatory outcomes for the community. Victoria has made substantial progress developing and publishing research in this field. |
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## 10.1 What is integration?

Integration of RIA occurs when implementation of RIA requirements (such as considering and evaluating regulatory and non‑regulatory alternatives) is embedded within the policy making process. To achieve this, integration requires two key elements: the skills and capacity — both within regulatory agencies and by decisions makers — to make use of RIA and the appropriate incentives to undertake a comprehensive RIA process. Governments and individual agencies can take steps aimed at improving integration but these steps will generally need to be combined with capacity and commitment for integration to fully occur.

It is not always clear when there is integration, but it is evident that integration has not occurred when policy is developed without the use of RIA, for example, with a RIS completed either after a policy decision has been made or not at all. Without integration, RIA’s benefits of informing decision makers on the impacts of different policy options, providing consistent approaches to stakeholder engagement and transparency in policy development will not be realised.

Fundamental to its objectives, RIA processes need to be started early — once a problem has been identified that might need a regulatory solution. When RIA is commenced at this early stage of policy development, there is a real possibility of it being adopted as an integral part of the policy process. Jacobs (2006) suggests that starting RIA early in policy development is the most important determinant of how well the assessment of options is done — perhaps more important than the design of the RIA system.

The importance of the timing of the RIA process has long been highlighted, with the OECD’s 1997 RIA best practices stating that it is necessary to ‘integrate RIA with the policy‑making process, beginning as early as possible’ (OECD 1997, p. 8). And more recently the *Recommendation of the OECD Council on Regulatory Policy and Governance* re‑emphasised the need to ‘integrate RIA into the early stages of the policy process for the formulation of new regulatory proposals’ (OECD 2012a, p. 4).

This chapter examines the extent to which Australian jurisdictions, including COAG, have successfully adopted RIA into the policy development process. The chapter first focusses on the evidence of, and barriers to, integration and then proceeds to draw upon leading practices, some of which are canvassed in earlier chapters of this report, to suggest ways in which integration can be improved. In doing so, the chapter draws upon the Commission’s surveys of agencies and regulatory oversight bodies, submissions and stakeholder consultations.

### The difficulty of achieving integration

Most OECD member countries find the integration of RIA in the policy development process to be one of the most significant challenges and Australia is no exception (Jacobs 2006). In its review of regulatory reform in Australia, the OECD concluded that early integration of RIA continues to be an issue, despite Australia’s well developed and detailed RIA processes (OECD 2010a).

Integration of the RIA process takes time and goes through a number of phases. This progression is unlikely to be straightforward — rather, there are likely to be ebbs and flows over time in RIA acceptance and integration. However, with sufficient support, ongoing evaluation of the efficacy of, and appropriate refinement to, RIA processes by governments, the degree of integration of RIA should increase over the longer term. As noted by the OECD:

… the integration of RIA should be seen as a long‑term policy goal. All countries, even those with many years of experience with undertaking RIA and with very advanced RIA systems in place still experience problems with the quality and timeliness of RIA documentation. There is an ongoing need to provide support for public officials responsible for RIA and to improve the way that RIA is prepared. (OECD 2009b, p. 18)

The Commission identified, based on Jacobs (2006), four broad phases for implementing RIA and achieving integration of RIA over time (box 10.1). Moving through these phases of integration assumes there are deliberate steps (such as those discussed later in this chapter) successfully taken to aid integration. Without such steps, adoption of RIA will occur only for some policy processes or in some agencies.

Each jurisdiction will have a unique integration path and may not move through each phase sequentially. A jurisdiction may, for example, experience a setback in the integration of RIA if there are significant changes to the system or a change of government which reduces political commitment to RIA. Nor will a jurisdiction achieve the highest level of integration with the mere passage of time. For example, in the United Kingdom, despite RIA operating for close to 30 years, a recent review found that organisation change was ‘slow’ and that ‘some policy teams still varied in their engagement with Impact Assessments at appropriate points in policy development’ (National Audit Office 2010a, p. 33). Similarly, Borthwick and Milliner (2012) reported that while the Australia Government RIA process has existed in some form since 1985, there was a ‘vast gap between what the RIA Framework required and the practices too often followed’ (p. 10).

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| Box 10.1 Phases of RIA integration |
| Implementation phase  Following its introduction, agencies start to accumulate experience with RIA but may also encounter implementation problems, making it difficult to see the benefits of RIA. The general acceptance of RIA tends to fall as: the framework may not be fully understood, particularly when it should be applied; agencies may not believe they have the skills to undertake the required analysis; and agencies may view the introduction of RIA as a criticism of existing policy development capabilities.  Phases of RIA integration. This figure shows the integration of RIA from implementation to consolidation of efforts.  Refinement phase  During this phase, integration of RIA into agency culture is generally at a lower level than other phases. Agency staff can often be quite sceptical of the overarching benefits as their initial experience may have been problematic. The aim is to minimise the time spent in this phase by recognising system design faults and other barriers to integrating RIA (such as lack of political support), implementing changes promptly, and by publishing positive examples of RIA impacts on regulatory outcomes.  Building success phase  Through this phase, there is increasing acceptance of RIA. Agencies potentially have completed a number of proposals using the RIA process, giving them more certainty about the required steps and the benefits of the process. Agency staff may also have more developed support mechanisms such as comprehensive and detailed guidance material, training courses and advice from oversight bodies as well as strong political support from ministers.  Consolidation of efforts phase  In the final stage, the benefits from the system design and the support mechanisms in place are fully achieved. |
| Source: Adapted from Jacobs (2006). |
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## 10.2 Jurisdiction progress on integration

Many Australian jurisdictions are in the ‘implementation or refinement phase’ of RIA integration — particularly those jurisdictions with relatively new RIA processes, such as Western Australia and South Australia. The Western Australian Government acknowledged the obstacles to integration when implementing RIA:

Although significant training had been delivered by the RGU [Regulatory Gatekeeping Unit], the introduction of such a large, ambitious program was always going to have its detractors. (Western Australia Government, sub. 24, p. 2)

While a few jurisdictions, such as Victoria, may have begun ‘building on the success’ of previous efforts, the Commission considers that no Australian jurisdiction has reached the level of integration whereby there is a ‘consolidation of efforts’.

### Lack of integration is widespread

Despite OECD principles of integrating RIA into the early stages of policy making being embedded in RIA guidelines, there are substantial gaps between the requirements and actual practice in all jurisdictions. Stakeholders provided the Commission with numerous examples of RIA not being integrated into the policy process or started only after a minister had decided on the regulatory approach to be taken (see discussion below — ‘top down policy development tension with RIA’) (box 10.2).

Compared with other jurisdictions, the Tasmanian RIA process for primary legislation starts considerably later in the policy development cycle*.* Under this process, ‘the Cabinet decision on the policy objective is almost always made before the preparation of the RIS’ (Tasmanian Department of Treasury and Finance, sub. 22, p. 2). In addition, analysis of the impacts of subordinate legislation in Tasmania is not required until after the policy decision has been made by the relevant minister and the legislation drafted. The Tasmanian Department of Treasury and Finance advised that the early stages of policy development usually involve steps that may typically be embodied within a RIA process — such as defining and scoping of the problem, analysing alternative options, undertaking consultation and analysing costs and benefits (sub. 22). However, the late start in the formal RIA process is potentially indicative of an overall lack of integration of RIA into policy development.

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| Box 10.2 Stakeholder claims of tension with Ministerial decision making and a lack of integration with RIA processes |
| The Construction Materials Processors Association (CMPA) claimed it had ‘seen no evidence that the RIA process has been effectively integrated into policy development’ (sub. 9, p. 2).  The Australian Food and Grocery Council stated that the RIA process ‘is short cut or not carried out at all’ (sub. 5, p. 8).  The Centre for International Economics identified that the main problem it encountered, as a consultant, was the tendency for agencies to either progress to drafting a RIS document or deciding on the desired regulatory option, before defining the nature and size of the problem (sub. 14).  A number of submissions outlined the view that the RIA process is used to justify the proposed regulatory response:  … once a proposed policy or regulatory response has been established, the RIA is used as an additional procedural requirement to justify the merits of the policy, rather than a process to carefully examine the proposed regulatory actions and its policy alternatives. (Australian Chamber of Commerce and Industry, sub. 2, p. 1)  CropLife has concerns that some regulatory impact analyses tend to be used by regulators to justify decisions that have already been taken by regulators and to support preferred regulatory options. (CropLife Australia, sub. 7, p. 1)  There is also a concern that a RIA is only developed as an after-thought, once the decision has essentially been formulated. How effective can a RIA be if it is not included in the policymaking process from the beginning? (WA Local Government Association, sub. 6, p. 1)  Likewise, the Australia Financial Markets Association (AFMA) noted its concern that there is ‘not always sufficient commitment politically and at the agency level to following the principles embedded in the RIA approach in good faith’ (sub. 11, page 2).  Even some agencies acknowledged that the RIS process is not always integrated into the start of the policy development process. For example, the officers undertaking RIA in the Victorian transport portfolio noted:  … contributions of the RIA can be limited as sometimes the policy decision has been made before the RIA is undertaken (either through a strategic plan or Ministerial announcement). The RIA process then is viewed as a costly and burdensome “add on” prior to implementation. (sub. 17, p. 2)  The Victorian Government noted:  COAG RIA are often initiated well after decisions are made about the reform, meaning that they become a document that advocates for a particular option rather than being a decision making tool. (sub. DR32, p. 1)  The Western Australian Department of Transport highlighted the friction between early integration of RIA process and having ministerial approval to proceed:  … the challenge for agencies is in exercising discretion in deciding when to commit resources to a RIA prior to obtaining ministerial mandate to progress with the proposal. (sub. 12, p. 2) |
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### Isolated examples of integration

The Commission found some instances of agencies integrating RIA early in the policy development process. For the most part, demonstration of integration relies on subjective assessments and agency self‑reporting.

Around 40 per cent of agencies responding to the Commission’s RIA survey reported that they generally engaged with their oversight body at the start of the policy development process — indicating the RIS document (or equivalent) was more likely to be developed in conjunction with the policy process (figure 10.1). A further 15 per cent of agency survey responses indicated that the first engagement with the oversight body varied depending on the particular policy initiative.

Figure 10.1 Agency first engagement with oversight body**a**

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| **Figure 10.1 Agency first engagement with oversight body. This figure shows the proportion of agencies that engage with their oversight body for the first time at different stages of the policy development process.** |

a Based on 58 survey responses.

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

The Commission found some agencies which viewed RIA as integral to informing the policy development process. These agencies were typically in jurisdictions which have had RIA in place for several years and have some noted successes from its use, such as Victoria. The officers undertaking RIA in the Victorian transport portfolio, for example, stated:

The officers most frequently involved in undertaking RIA believe that the type of discipline promoted through RIA requirements is essential to achieving good regulatory outcomes. It is also agreed that RIA should be integrated into review and policy development processes so far as is possible. (sub. 17, p. 2)

Integration was also evident in some instances where longer term regulatory reforms were planned and there was time to embrace RIA, such as the development of a single Biosecurity Act to consolidate seven existing Acts in Queensland. The Australian Government Attorney‑General’s Department cited the COAG reform process to regulate chemicals to prevent the use of homemade explosives as an example of early integration of RIA, stating:

… the need to consider the RIA process under the COAG RIA guidelines was acknowledged early in the policy development process and factored into the work program. The clarity of the COAG RIA guidelines meant that AGD [Attorney‑General’s Department] did not consider the RIA process as an ‘add on’ to the policy development cycle. (sub. 4, p. 5)

During discussions with some of the national standard setting bodies (such as the Australian Building Codes Board, Australian Transport Commission, and Food Standards Australia New Zealand) and independent Commonwealth agencies (for example, Australian Securities and Investments Commission), the Commission gained the strong impression that the essential elements of RIA are firmly embedded in their regulation development processes.

These agencies that have shown indications of integrating RIA typically undertake a number of RISs each year and generally have comparatively high compliance rates with RIA processes compared with the overall average over recent years (PC 2006b, OBPR 2007, 2008a, 2009, 2010, 2011a, 2012a).

The Commission was also encouraged to see some examples of COAG ministerial councils embracing the RIA process instead of announcing regulatory options prior to a full and comprehensive impact analysis. In October 2012, for example, COAG’s Standing Council on Primary Industries announced that the Australian Government would prepare a RIS to assist the council to make a decision concerning the implementation of an electronic national livestock identification system.

Similarly, in July 2010, COAG’s Environment Protection and Heritage Council (EPHC) (now the Standing Council on Environment and Water) agreed to undertake a consultation RIS to consider the problem of increasing use of landfill and on‑going litter from packaging waste. In its communique, the Council stated:

Ministers agreed that a RIS will consider not only [container deposit legislation] CDL, but also a limited number of options which may have a positive cost benefit and a tangible impact on recovery rates and litter reduction. The RIS process will be transparent and consultative and the scope and approach will be the subject of early engagement with key stakeholders (EPHC 2010, p. 3).

This announcement was made in an atmosphere of strong pressure for governments to appear decisive and regulate a container deposit scheme. For example, Senator Ludlum (2010) stated:

Instead of seeing action, we’re seeing more promises of studies and reviews and statements rather than just putting a foot forward and getting a national container deposit scheme up and running.

## 10.3 Barriers to integration

Drawing together the evidence presented to the Commission, the use of RIA to better inform policy development is most often hampered by: a lack of political commitment; lack of skills and data; and the administrative burden of the overall process.

### Lack of political commitment

The OECD has long emphasised the importance of political commitment to improving the quality of regulatory policies. Endorsement of RIA ‘at the highest political level’ was one of the ten best practices used by the OECD for many years as the basis for assessing country RIA systems (OECD 1997). The OECD (2010b) noted that political commitment is needed to counter the various incentives of government agencies to not undertake RIA:

Because of its capacity to prevent rent seeking and promote the highest social benefit in regulation, RIA has many potential opponents. Departments may have an incentive to evade the requirements of RIA, either because of resource demands or because it precludes a favoured use of regulatory powers … To overcome opposition to RIA and assist it to be effective and useful in supporting reform it should be endorsed at the highest levels of government. (OECD 2010b, p. 44)

In its latest Recommendation on Regulatory Policy and Governance, the OECD reaffirmed the importance of high level political commitment to quality regulatory outcomes (OECD 2012a).

#### Top‑down policy development tension with RIA

RIA is largely based on the notion that policy is developed from the bottom‑up: an issue is identified and agencies proceed to use the RIA framework to assist in investigating, consulting, considering alternatives and then developing a document with information for decision makers.

In reality, policy solutions are regularly framed by the minister, government or COAG before the RIA process starts (that is, it is often a top‑down process). This may occur for a variety of reasons, including a policy being announced as an election commitment (potentially while in opposition), the perceived need to respond promptly to an issue or desire to expedite high profile policies. Against this backdrop, Ministers often desire to have RIS documents that promote the preferred regulatory option, choosing not to have contrary or negative stakeholder comments included. Australian jurisdictions are not unique in this regard. The OECD noted that in all member countries, ‘use of RIA does not trump politics’ (OECD 2010a, p. 112).

The Commission has heard numerous anecdotes from agencies of how policies have been pre‑decided by the responsible minister and either the agency was then required to prepare a RIS to support the announced policy or an exemption was granted. Over 60 per cent of responses to the Commission survey indicated that ‘policy already decided by minister’ was one of the main barriers to using RIA processes to better inform policy development (figure 10.2).

Figure 10.2 Main barriers to using RIA processes to better inform policy development**a**

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a Based on survey answers from 56 respondents (4 respondents answered that there were ‘no barriers’). Survey respondents were able to select multiple answers.

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

Ministers bypassing the RIA process brings into question whether there is genuine political commitment to the process. If ministers saw value in the RIA process they would view it as a useful tool to inform their decision making and would request impact analysis prior to making decisions — especially for proposals with significant or uncertain impacts. After consulting with eight ministers, Borthwick and Milliner (2012) noted a lack of ministerial commitment to the Australian Government RIA:

Significantly, none of the ministers consulted saw that RISs had any real relevance to their, or Cabinet’s, decision making … (p. 38)

Political and agency commitment is seen by some stakeholders to be key to integrating RIA into policy development. For example, Queensland Treasury stated:

It’s less about changing the process and more about getting ‘buy in’ from Ministers and agencies so that regulatory best practice principles and RIA become embedded within the policy development process as a fundamental part of that process that informs and influences decision-making. (PC RIA Survey 2012)

More generally, the integration of RIA into the policy development process of agencies is diminished when policy options have been determined, narrowed or ruled out.

* Agencies may come to see the process as a *compliance exercise*. Some or all of the RIA steps may appear redundant, impacting on the perceived value of the process. For example, if a regulatory option has already been decided on, there may be little benefit in outlining a range of options that will not be genuinely considered.
* Agencies may see the process as *unnecessary* and not of value. Some ministers may simply not expect or provide opportunity for their agency to complete RIA processes (when required), instead seeking an exemption or circumventing the gatekeeper by ‘walking’ the regulatory proposal into Cabinet.
* If ministers are not allowing opportunity for agency staff to undertake high quality RIA or do not value the process, agencies will under–invest in staff RIA training and data development strategies.

### Lack of skills

In its design, it was envisaged that RIA should be completed by public servants in policy agencies. The RIA process draws on expertise and information that resides in the proponent agency, with those developing policy also responsible for undertaking RIA (OECD 2009b). This concept is fundamental to integrating RIA into general policy development.

Despite the range of capacity building mechanisms in place (chapter 3), consultants are used in the RIA process because agencies sometimes lack the skills set, particularly for cost‑benefit analysis, needed to complete RISs and to improve regulatory quality. Of those who engaged consultants, over 70 per cent of agencies indicated it was because of a lack of in‑house skills to undertake cost‑benefit analysis (figure 10.3). Other skills‑based reasons were also given as motivations for employing consultants (such as to improve the quality of the RIS and to transfer knowledge from the consultants to agency staff). Borthwick and Milliner (2012) found that in the Australian Government ‘all too often agencies have resorted to employing consultants’ to make up for ‘perceived shortcomings in capacity and capability’ (p. 53).

Figure 10.3 Reasons consultants are engaged**a**

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| Figure 10.3 Reasons consultants are engaged. Of those agencies that engaged consultants, the following reasons were selected: • lack of skills in CBA (over 70 per cent) • time constraints (around 50 per cent) • to improve the RIS quality (over 40 per cent)  • to improve the objectivity of the RIS (around 30 per cent)  • lack of in-house skills (other) (approximately 15 per cent)  • cost effective (over 10 per cent)  • to transfer skills to the agency (almost 10 per cent) |

a Survey respondents were able to select multiple answers. Based on answers from 22 respondents (out of a possible 23) that indicated they had used consultants.

Data source: PC RIA Survey (2012).

Some stakeholders considered claims of lack of skills to be puzzling as the skills set required for RIA is not exceptional and should be core skills for public servants in policy agencies (see, for example, CMPA sub. 9). Borthwick and Milliner (2012, p. 53) also found this claim ‘extraordinary’ stating that the seven elements required of a RIS ‘should hardly be onerous to an agency which should know its business’. Even within the public sector, some officials were critical of the general skill level of agency staff, stating that it is ‘not so much a lack of [RIA] skills but a lack of policy skills’ (PC RIA Survey 2012). Concerns regarding the decline in analytical skills in the public service and its ability to conduct work in‑house or manage consultancies were raised in a previous Commission study (PC 2011).

### Lack of data

Throughout this study, stakeholders have stressed the lack of objective data as a main barrier to completing RIA. Aggregated responses from the Commission’s RIA survey highlights lack of data as the most cited barrier to using RIA to better inform policy development (figure 10.2).

Data gathering can be costly and much of the data required are held by the regulated sector and not known to government agencies. Industry can also be reluctant to provide data owing to concerns that commercially important data may be disclosed to competitors. AFMA highlighted costs and the sensitive nature of data as barriers to releasing data for regulatory impact analysis (sub. 11). The CMPA claimed that the lack of data was because consultation periods did not allow sufficient time for stakeholders to provide the necessary data:

Policy developers must recognise that the required level of analysis takes considerable time and needs substantial input from the industry and community affected by the policy. It is unrealistic to require this detailed data to be provided in a response to a RIS within a 4‑6 week consultation period. (sub. 9, p. 18)

The Queensland Consumer Association noted in its submission that, unlike other stakeholders, it does not have enough resources to be able to provide ‘objective evidence about likely costs and benefits’ (sub. DR28, p. 3). The officers undertaking RIA in the Victorian transport portfolio noted that the lack of data can influence the regulatory outcome:

Sometimes the requirements of RIA can be too onerous (for example data is not available or the time to obtain and cost of data is prohibitive) which then can influence the design and outcome of the regulatory measure. (sub. 17, p. 4)

The Commission found that these difficulties in collecting data may have flowed through to the comprehensiveness of RIS documents. Extensive quantification of costs and benefits was limited to a small proportion of RISs, with nearly half containing a solely qualitative discussion of benefits (chapter 6).

### Administrative burden of RIA

Almost 60 per cent of responses to the Commission’s RIA survey indicated that the administrative burden of the RIA process is one of the main barriers to integrating RIA into policy development (figure 10.2). Burden on agencies can arise from:

* the design of the RIA process
* poor application by the agency (such as preparing a RIS too late)
* the way that RIA requirements are implemented by the oversight body in the relevant jurisdiction.

Agencies have raised concerns that they are often committing scare resources to a process that has become purely a compliance exercise and unlikely to inform decision making. A number of agencies have also suggested that the process of drafting a RIS can involve numerous iterations of the RIS document with the oversight body, making the RIA process unnecessarily administratively burdensome. For example, the Commonwealth Department of Climate Change and Energy Efficiency (DCCEE) noted:

Recent experience has shown that multiple iterations of draft RISs, each identifying new issues, can create the impression of ‘shifting goal posts’ and add to the resource intensiveness of the process. It is recognised that multiple iterations may be needed to arrive at a final decision, but this process is more efficiently managed where all the relevant issues have already been identified (DCCEE 2012, p. 3).

The re-drafting burden seems to arise, in part, because some of the issues related to a policy problem are often not fully known at the outset. When an agency contacts its regulatory oversight body at an early stage, an initial assessment is often made about the relative significance of the proposal, based on partial information. However, once more information is gathered and conveyed to the oversight body — potentially revealing the full and significant impact of a regulatory response — the regulatory oversight body may appropriately change their advice on the required level of detail in the RIS.

#### Multiple RIA processes

The operation of parallel RIA processes for different types of regulation (chapter 1) can lead to differing objectives, requirements and potentially unnecessary burden on agencies when applying the different systems. This is potentially an issue in New South Wales, Victoria, Tasmania and the ACT (and was also, until recently, an issue in Queensland). Several jurisdictions are cognisant of the potential burden this may create and are examining other options.

In New South Wales, for example, the two RIA processes capture a different but overlapping set of regulatory instruments. The Better Regulation Office (BRO) noted that this ‘causes uncertainty for agencies about what processes must be followed and the impact analysis required’ (BRO 2011, p. 15). The BRO has proposed that New South Wales should have one consistent approach to RIA (BRO 2011).

In its review of the Victorian regulatory framework, the VCEC (2011b) highlighted that Victoria has ‘different approaches to impact assessment of primary and subordinate legislation, for reasons that are not clear’ (p. XXXVII). In making its recommendations to strengthen RIA in Victoria, the VCEC has reduced the number of discrepancies between RISs (for subordinate legislation) and Business Impact Assessments (for primary legislation). The Victorian Government is currently reviewing these recommendations (Victorian Government 2012).

Queensland has now created one RIA system with recent amendments to the *Statutory Instruments Act 1992 (Qld)* and *Legislative Standards Act 1992 (Qld),* including repealing the RIA requirements for subordinate legislation. Following the proclamation of these changes in November 2012, all RIA requirements will be outlined in a single set of guidelines to be approved by the Treasurer.

## 10.4 Better integration of RIA into policy development

The full potential of RIA and its integration into the policy development process are more likely to be realised when the implementation of the process accords with best practice principles. While RIA processes across Australia all have a reasonably high degree of consistency with OECD and COAG guiding principles, the Commission found system design aspects in all jurisdictions that could improve RIA integration. The Commission considers that there also needs to be greater focus on ensuring existing requirements are implemented well in practice.

In the rest of this section, the Commission draws on the leading practices, some of which are identified in the preceding chapters, to make a number of suggestions that may enhance the integration of RIA requirements into policy development, and thereby improve the effectiveness and efficiency of RIA processes (figure 10.4). The main mechanisms relate to:

* improving the implementation and effectiveness of RIA through enhanced transparency and accountability mechanisms
* better targeting of RIA resources
* building capacity in agencies to undertake high quality RISs
* improving the evidentiary base on the performance of RIA to enhance the capacity of governments to identify strengths and weaknesses in RIA processes and to make considered improvements.

Figure 10.4 Improving policy outcomes through better integration of RIA

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| Figure 10.4 Improving policy outcomes through better integration of RIA. A flow diagram demonstrating how RIA design and implementation improvements can lead to better integration of RIA and improve policy outcomes. |

### Improving the implementation of RIA through transparency and accountability measures

The incentive for agencies to conduct high quality RIA is driven to a large extent by perceptions of what governments and individual ministers expect. The Commission considers that effective transparency and accountability measures can create the pressures and incentives that motivate governments, ministers and agencies to fully embrace RIA. The primary impact of key transparency and accountability measures discussed below are summarised in table 10.1. A number of jurisdictions already have some of these measures in place. However, most have no measures in place to ensure accountability of their oversight body (chapter 8).

Table 10.1 Primary impact of transparency and accountability measures

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| Transparency and accountability measure | Agency | Oversight body | Minister |
| Exemptions are made public |  |  |  |
| Ministerial statement to parliament outlining reasons for progression of exempt proposals |  |  |  |
| Publication of agency assessment of determinations of the need for a RIS |  |  |  |
| Public consultation RIS |  |  |  |
| Public final RIS |  |  |  |
| Publication of adequacy assessment with reasons/qualifications |  |  |  |
| Ministerial statement to parliament outlining reasons for progression of non‑compliant proposals |  |  |  |
| Post implementation review undertaken through a public and independent process for all non‑compliant and highly significant exempt proposals |  |  |  |
| Periodic audit of agency assessment on need for a RIS |  |  |  |
| Public performance audit of oversight body |  |  |  |
| Published annual compliance reporting |  |  |  |

#### Multi-stage RIA to enhance transparency

Multi‑stage RIA processes, including a two‑stage RIS, can improve transparency of the policy development process for stakeholders. They have also been put forward by stakeholders and academics as a method of fostering a culture of starting RIA early and, therefore, better integrating RIA into the policy development (for example, Jacobs 2006, AFMA sub. 11, Chi-X Australia sub. 13, The Centre for International Economics sub. 14). Such an approach generally requires agencies to put deliberate thought into the process of policy development and assemble relevant evidence early in the process.

Current leading practices in this area identified by the Commission include: the two‑stage RIS approach (COAG, Western Australia); and clear guidelines and streamlined processes for preliminary impact assessment (such as Queensland’s Regulatory Principles Checklist which is commenced at the beginning of the policy development process and continues to be updated at key stages throughout).

#### Increasing awareness and commitment through transparency

Leading practices in transparency identified by the Commission which would enhance RIA commitment include: publication of exemptions, including reasons ; the publication of agency assessments of the need for a RIS; ministerial statements to explain departures from the RIA process; the publication of final RISs that relate to decisions (Commonwealth, COAG and Western Australia); timely publication of oversight body adequacy assessments and reasons/qualifications for these assessments; and oversight bodies reporting annually on agency compliance with RIA requirements (Commonwealth, COAG and Victoria) and with required reviews.

Requiring ministers to outline, in parliament, whether the legislative proposal they are introducing was assessed in accordance with RIA principles and their reasons for departing from the process (if applicable) would not only increase transparency (see chapter 7) but may also provide a number of other benefits for RIA integration, including:

* greater commitment to RIA from senior managers and increasing the likelihood that RIA will be followed (and to a better standard)
* reducing the likelihood that RIA processes will be bypassed by ministers (and agencies) as they will have to outline reasons for their actions in parliament
* better informing parliamentary debate about the impacts of the regulatory proposal
* promoting greater awareness amongst parliamentarians (and the wider community) of the features of good quality regulatory impact analysis.

The transparency created by this action would enable key stakeholders, parliamentarians, the media and the broader community to become powerful advocates of RIA, creating additional pressure on politicians and agencies to ensure good processes are followed.

#### Accountability measures to encourage greater RIA compliance

Appropriate sanctions for non‑compliance and the publication of compliance information also play a role in encouraging agencies and Ministers to meet RIA requirements. In relation to accountability and quality control measures for agencies, current leading practices highlighted by the Commission which would enhance RIA commitment include: oversight body assessment of the adequacy of all RISs and of compliance with the RIA process for all regulatory proposals; a requirement to complete a post implementation review (PIR) for all non‑compliant and exempted regulatory proposals (under various circumstances, this requirement is currently adopted in the Commonwealth, Queensland and Western Australia); oversight body sign‑off of PIR terms of reference (as in the Commonwealth); and a higher level of autonomy of oversight body functions (as in Victoria and, more recently, Queensland).

Although not currently adopted in any Australian jurisdiction, the Commission also considers that, as a stronger sanction for non‑compliance, it should be a requirement that PIRs be conducted through an independent process. This will provide strong incentives for agencies to deliver high quality impact analysis when the policy is first being developed (chapters 8 and 9).

To support these measures, the Commission has identified a number of other accountability measures based either on RIA practices overseas or widely accepted good practices in public administration. These include, for example, instigation of basic auditing practices — of agencies by the oversight bodies, and of oversight bodies by an independent third party (such as the jurisdictional audit office). There may also be merit in having the jurisdictional audit office assess how RIA is being implemented within government more generally. This may increase the support for RIA and not leave the regulatory oversight body as the sole champion of the process (chapter 8).

To improve accountability and enhance integration, a number of jurisdictions require senior agency officials or ministers to sign off or certify that the RIA process has been adequately followed in preparing the RIS document (chapter 3). The aim of this process is to reinforce that the agency is responsible for the quality of the RIS document and by raising awareness of that responsibility to the highest level, it will have a feedback effect that senior officials and ministers value and expect the RIA process to be followed and integrated into policy development. While certification may be useful as one of a number of measures to improve accountability and integration of the RIA process, it is unclear how effective, on its own, it has been in achieving this aim.

#### Legislating RIA processes for greater commitment

The OECD recommends that any broadly–based RIA process should be established via a decree or decision from government (OECD 2009b). Australian RIA processes for primary legislation are typically an administrative requirement outlined in RIA guidelines and supported by other procedural documents such as Cabinet handbooks (chapter 3). In New South Wales, Victoria, Tasmania and the ACT, RIA processes for subordinate legislation have been formalised in legislation (chapter 1). In other countries, the legal or policy basis upon which the RIA requirement is established varies substantially (box 10.3).

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| Box 10.3 Formal authority for RIA in OECD countries |
| The OECD has identified four basic forms of authority for RIA:   * established by law * Czech Republic, Republic of Korea and Mexico * based on a Presidential order or decree * United States * based on a prime ministerial decree, or guidelines of the Prime Minister * Austria, France, Italy and the Netherlands. * based on a directive or resolution of the Cabinet or the government * Canada, Denmark, Finland, Germany, Ireland, Japan, New Zealand, Norway, Poland, Portugal, Sweden, and the United Kingdom. |
| *Source:* OECD (2009b). |
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|  |

In some ways, legislating RIA processes is akin to mandating commitment to RIA. However, whether this results in the early integration of RIA into policy development or alternatively, to greater use of legitimate RIA ‘escape’ options such as exemptions, is uncertain. The key question is whether legislating the RIA process necessarily bestows a greater degree of authority or political commitment and therefore assists in maximising the degree of integration and compliance.

Embedding RIA processes in legislation can have both advantages and disadvantages. Legislating RIA could, in principle, promote transparency and signal the importance that the government places on the processes, which in turn could contribute to a higher level of commitment by ministers and government officials. However, there appears to be little, if any, evidence to support this notion, particularly given the limited number of OECD countries that have chosen to embed their RIA processes in legislation.

The parliamentary debate and delays typically associated with making legislative amendments may make legislated RIA requirements less susceptible to being removed or watered down. However, making worthwhile refinements to the RIA requirements could also become more difficult.

Finally, legislating RIA processes allows jurisdictions to potentially access a different set of consequences and sanctions (such as financial penalties) for lack of compliance with RIA that would not be available when RIA processes are determined by guidelines.

Based on experiences in Australian jurisdictions, it is not clear to the Commission that legislating RIA requirements is necessary for RIA to be integrated into policy development. While Borthwick and Milliner (2012) acknowledge that they have not undertaken a comprehensive analysis of the way RIA can be established, they recommended that RIA not be mandated by legislative backing unless the Australian Government determines that the current process cannot be made to work effectively and consistently. The Australian Government’s preliminary response stated that legislating ‘was not necessary to ensure effective regulatory impact analysis’, highlighting that such an arrangement could ‘limit flexibility’ in responding to stakeholder concerns (Australian Government 2012b). Some evidence of the usefulness or otherwise of legislating RIA may be available in the future with the Queensland Government considering the merits of legislating the requirement for its RIA process for both primary and subordinate legislation.

### Better targeting of RIA resources

Better targeting of RIA efforts in some jurisdictions — for both new and amended regulation and reviews of existing regulations — may reduce the administrative burden of RIA processes for agencies as well as helping to ensure a level of scrutiny for regulation that is commensurate with its likely impacts. The Commission has identified the following key targeting measures for *new and amended* regulations:

* a threshold significance test for determining whether a RIS is required that is defined broadly and considers both positive and negative impacts on the community or part of the community (chapter 4)
* agencies responsible, with the assistance of their regulatory oversight body if the agency so chooses, for deciding if the significance threshold has been triggered and a RIS is therefore required (chapter 4)
* streamlining of preliminary assessment processes (chapter 4), including ensuring minimal resources are devoted to proposals that are excluded from RIA (chapter 5)
* minimising inefficient duplication of previous consultation and impact analysis such as that provided through discussion papers, ‘green papers’ or comprehensive reviews conducted as a basis for a regulatory proposal (chapter 2).

To improve the efficiency of resources allocated to *review* of existing regulations, the Commission has noted the following targeting measures that jurisdictions could consider (chapter 9):

* effective ‘triage’ processes to ensure that resources are targeted at regulations that impose highly significant or uncertain impacts
* grouping of sunsetting regulations for review either thematically and/or in conjunction with their overarching primary legislation.

#### Clearer expectations to help target resources

Some departments have also suggested that oversight bodies should provide more information on their expectations regarding the required level of detail and quality of RISs, in particularly by highlighting past examples of ‘good’ RIS documents or at least making ‘good’ RISs more accessible. For example, the Australian Government Attorney‑General’s Department suggested:

An improved search tool to hone in on specific details of RIS documents previously assessed as ‘adequate’ by OBPR would assist agencies to better understand OBPR expectations and improve accessibility to relevant precedents. (sub. 4, p. 6)

A leading practice that would assist in defining expectations for RIS content and adequacy assessment is ready access (via the internet) to a central RIS register. Not only does such a register increase transparency of the process but also encourages knowledge transfer as the register can act, for agencies, as a source of ‘good’ RIS examples — providing an indication of the level of analysis required (chapter 7). The Commonwealth and COAG RIA processes are generally the most transparent, timely and accessible, with RISs added to a central on-line register at the time of regulatory announcement (Commonwealth) or as soon as possible after the compliance assessment (COAG)

In some instances, targeting of RIA resources could be enhanced through greater discipline in the provision of oversight body comments on RISs and ensuring expectations are made clear to the agency earlier in the RIA process. One agency survey respondent stated that the drafting process could be improved through ‘more strategic/thematic comments from the oversight body, with a narrowing of the field of issues in subsequent iterations, and a process moving towards conclusion’ (PC RIA Survey 2012).

To this end, agencies could consider establishing with the oversight body at the outset, expectations for RIS content including broad timeframes for submission of draft and final RISs to the oversight body for assessment and/or specification of the number of drafts to be considered by the oversight body before the RIS is assessed. Having an agreed framework aims to reinforce that the agency is responsible for the quality of the RIS document while better targeting the provision of guidance and feedback on drafts. This may better enable agencies to develop the policy (and accompanying RIS) to the necessary standard within the desired period.

For agencies that regularly undertake RISs, a memorandum of understanding (MOU) between the oversight body and agency could be established to:

* provide greater clarification of the guidelines regarding which agency specific regulatory instruments do not need a RIS (‘carve outs’ in the Australian Government)
* clarify what other documentation or processes are already generated by the agency which could effectively satisfy elements of the RIA process
* establish dispute resolution mechanisms.

The OBPR and Commonwealth Treasury are current negotiating an MOU in regard to a number of PIRs scheduled in the coming year:

At the moment we are in the process of negotiating a memorandum of understanding with the Treasury essentially on how to operate the post-implementation review schedule for that portfolio.

… We are in discussions with them about what they need to do and essentially what we are trying to get out of the memoranda of understanding are ongoing communication, to try to set out when they have to do something by and what they can do in particular time frames. (Senate 2012b , pp. 36–37)

An MOU provides documented evidence of the agreed framework that will withstand staff turnover in agencies and the oversight body. For transparency, MOUs should be published.

Leading practice 10.1

For those agencies which undertake RISs regularly, oversight bodies should consider establishing a memorandum of understanding (which would be published) to:

* clarify interpretation of guidelines on what needs a RIS (specific to the instruments or activity of the particular agency)
* outline what sort of documentation generated by the agency would, in part, satisfy RIA requirements (such as consultation documents)
* lay out an approach for dealing with disputes between the agency and the oversight body.

### Improving agency capacities

For agencies to integrate RIA into their policy development, they need the necessary information on RIA requirements, the skills to undertake key steps of the process and an understanding of the value of RIA in contributing to better quality regulation. RIA processes should be supported by a range of capacity building tools, such as written guidance material, training programs, advice from regulatory oversight bodies, regulatory networks and secondments/outposts (chapter 3).

#### Formal training

The Commonwealth, COAG and Victoria represent leading practices in RIA training in Australia by offering regular ongoing training sessions for agencies that are well-advertised and flexible to agency needs (chapter 3).

Jurisdictions might also consider the merits of extending RIA training to ministers’ offices and ensuring training is undertaken by more senior managers. Without training of more senior managers and ministerial advisers on the importance of RIA, the capacity of formal training programs to bring about integration may be limited, with junior officers relied upon to convey the ‘message up the line’.

The Commission recognises that in some smaller jurisdictions, where in a typical year very few RISs are prepared, it may not be cost effective for the oversight body to provide extensive formal RIA training. Tasmania and the Northern Territory, for example, have found that offering more intensive ‘coaching’ for individual officers undertaking RIA is a more targeted and efficient approach.

#### Better data collection strategies

Agencies tend to view the problem of lack of data as an external problem — something outside their control. However, lack of data often indicates a lack of skills and strategies within agencies for collecting information about their own policy area. While agencies such as the Australian Bureau of Statistics have high quality data collections and can be a useful source of information, they will not always have the information needed for a specific proposal. In most circumstances, agencies need to develop their own data collection strategies for RISs. Some jurisdictional guidance material provides strategies for data collection which should be drawn upon more widely. Greater access to RISs (through a central internet register, which exists for the Commonwealth and COAG) would also provide agencies with scope to learn from strategies employed by others. Agencies should have data collections for ongoing policy analysis which should also be useful in completing RISs.

Better use by agencies of the consultation requirements in the RIA process may assist the collection of data from industry stakeholders, although this would need to be validated against other sources (chapter 7). Publication of a consultation RIS would allow stakeholders to comment on data used or provide alternative data.

The Commission recognises that it is not always possible to quantify all impacts of regulatory proposals, but considers that even some quantification alongside qualitative evidence improves the usefulness of a RIS in informing decision making. In the event that data sources are extremely limited, agencies (as well as industry and consumer stakeholder groups) should develop strategies and data collection methods at the regulatory design and implementation phase to ensure data will be available when the regulation is subsequently reviewed and evaluated.

#### Using consultants effectively

Using consultants may fill a ‘skills gap’ but agencies need to have some capacity in RIA, including cost‑benefit analysis, to evaluate work provided by consultants, as RIS quality remains the responsibility of the proponent agency in all jurisdictions.

Systematically outsourcing the entire RIA process or RIS document is unlikely to facilitate integration of RIA into agency culture. Outsourcing without the skills to manage the contract or understand the product delivered may lead to documents that are not as useful to decision makers as they would otherwise be, for example, because they are overly technical, too long or focus on too many issues.

However, the use of consultants can assist agencies to build the skills necessary to undertake RIA and support the integration of RIA into agency culture. To successfully use consultants to achieve this end, ideally the nature of the policy problem needs to be clearly defined prior to employing a consultant and a senior manager needs to work closely with the consultant to refine the choice of policy options and provide necessary information to facilitate the consultant’s analysis.

Regulatory oversight bodies may consider the merits of developing short guidance material to advise agencies on how to get maximum value from RIA consultancy arrangements. The Victorian Department of Primary Industry have developed a guidance note on engaging consultants (Victorian DPI 2011). This guide highlights that knowledge transfers should occur as a result of engaging a consultant, suggesting the agency should ultimately obtain from the consultant all relevant material, including important contacts developed (not just the RIS), and require an internal seminar. Such tools provide agencies with the guidance to manage the consultancy, develop in‑house skills and deliver a document that is useful for decision makers.

#### Written guidance material

All jurisdictions publish RIA guidance material; most are sound, incorporating the seven key elements identified in COAG *Best Practice Regulation Guide* (COAG 2007a). While there are specific areas for improvement, the Commission concluded that more detailed guidance material is unlikely to substantially improve RIS quality (chapter 6).

The amount of detail on key analytical requirements for RIA provided in guidance material, however, differs substantially across Australian jurisdictions. Striking the right balance on the level of detail is not straightforward. Guidance material can be drafted at a high level, omitting more technical information, but it will be less able to support higher analytical standards required in some RIS documents (OECD 2009b). On the other hand, long and comprehensive guidance material may be impenetrable for the general user. One potential solution is to develop brief and non‑technical guidance material that is supported by a number of more detailed and technical documents. Internationally, RIA written guidance in the United Kingdom caters for the different needs of users and appears to be a leading practice in this regard. Some Australian jurisdictions have adopted a similar approach, including the Commonwealth, COAG, New South Wales, Queensland, Western Australia and South Australia.

#### *Coordinating units promote integration*

Some agencies have established centralised regulatory units to implement RIA requirements, among other regulatory functions (chapter 3). In these agencies, the relevant policy area is generally responsible for completing the process but is assisted by the centralised unit for RIA guidance and technical assistance. Integration is more likely to be fostered in agencies with centralised units as:

* internal RIA processes are established and refined over time
* staff within the unit are committed to undertaking and complying with the RIA process as it is one of their principal responsibilities — the process is not viewed simply as an additional administrative task or a distraction from their core work
* the RIA capacity of staff within the unit is developed over time with ongoing exposure to the process and other staff value this experience and knowledge.

Around half of the agency survey respondents indicated that their agency had a centralised unit that assisted in undertaking the RIA process (PC RIA Survey 2012). A centralised unit was more common in agencies that undertake a comparatively larger number of RISs or have significant regulatory responsibilities. The Victorian DPI, which has had a regulatory unit since 2007, argues that its unit supports and challenges policy teams and portfolio regulators to embed better regulation principles into policy development and enforcement (Victorian DPI 2010). However, smaller agencies and those that engage with RIA processes only a few times each year may not find it cost effective to establish a centralised unit. The Australian Government Attorney‑General’s Department highlighted this point:

… it may not be cost effective for an agency to maintain staff with expertise on a range of matters (including subject matter expertise) to complete RIS documents on an ad‑hoc basis. While maintaining a section of experts purely for that purpose would be desirable, it would be difficult to justify under the current economic environment. (sub. 4, p. 5)

#### Network of coordinators can aid integration

Some jurisdictions have established regulatory network coordinators (or had them at some stage) so these representatives can come together to share experiences and ideas, learn from others and transfer knowledge between agencies (chapter 3).

The success of such arrangements is mixed. Some networks of coordinators have operated for a limited period or been in infrequent contact with other agencies, some operate in name only with minimal influence, while others are reported to be useful in sharing experiences and improving the operation of the RIA process. For example, in Western Australia, the RIA working group appears to be pivotal in providing agencies with a forum to discuss the implementation of RIA and suggest improvements (Western Australian Government, sub. 24)

#### Outposting initiative

The OBPR introduced an outposting initiative in late 2011 (chapter 3). While only a small proportion of agencies have used the initiative to date, it appears to be reasonably successful in delivering on its objective of assisting the host agency to meet RIA requirements. The Commonwealth DCCEE has had an outpost officer primarily dealing with ongoing COAG regulatory work. Its experience has been ‘very positive’ with perceived benefits to the Department and OBPR, including improving integration of RIA:

Not only has it worked to lift expertise in regulation analysis in the Division but also seems to have contributed to an understanding within OBPR of the type of issues that we face when trying to complete a RIS. From our perspective, it has helped accelerate an understanding among our staff that regulatory analysis is part of the everyday tool kit … (DCCEE 2012, p. 3)

These benefits come at a cost to the agency as they pay the OBPR for the services of the outpost officer (chapter 3). The Australian Government Attorney‑General’s Department has called for these services to be made easily accessible to ensure ‘cost effectiveness for agencies’ (sub. 4, p. 4). An agency survey respondent also noted benefits of this model but noted that costs are a barrier for a small agency:

OBPR should be complimented for its recently introduced initiative to outsource staff to agencies to assist in RIS development and this might be a useful model for the future to assist in building expertise in smaller agencies and meeting OBPR expectations. However they should review the total cost arrangement which is very expensive for a small agency (PC RIA Survey 2012).

Despite generally positive feedback, Borthwick and Milliner (2012) found mixed support from agencies regarding the outpost officer initiative and they themselves have not put their full support behind this initiative. Their reservations rest with the possibility that the outpost officer could become a substitute for agencies accepting responsibility for the RIA process — work that the review felt should be ‘core business’ for agencies (p. 53). As with use of consultants, agencies need to utilise the skills of the outpost officer to build up the skills of agency staff. An outpost officer completing a RIA process in isolation is unlikely to encourage greater integration and does risk becoming a substitute for the agency staff engaging with the RIA requirements.

Another potential risk of an outpost officer scheme is that the officer will become ‘caught up’ in the agenda of the host agency and be subsequently less objective in their oversight functions on return to the regulatory oversight body. Such an outcome would be more likely the longer an oversight body officer is outposted, although OBPR has taken steps to minimise the risks through its MOU on outposting with agencies (OBPR 2011c).

### Improving the evidentiary base

As discussed in chapter 2, concrete evidence on the performance of the RIA process is fairly limited. Improved monitoring and review are essential to providing information on the efficiency and quality of RIA systems and on practices that work well or are less effective. This can then inform refinements and improvements to systems over time and assist integration of the RIA process into the policy development cycle.

The Commission considers that systematic ex post evaluation of RIA processes and performance monitoring would provide greater transparency and accountability and would also potentially build an evidentiary basis for future reviews of RIA. In addition to other reporting and accountability measures, jurisdictions could consider the following:

* more systematic monitoring and reporting of the implementation of RIA requirements (including in relation to consultation, quantification of impacts in RISs, and consideration of alternatives) — such as building on the RIS analysis undertaken in this report (appendix E).
* systematic comparison of estimates of regulatory impacts in a sample of RISs (perhaps concentrating on those regulations with the most significant ex ante impacts) with those impacts that emerged as a result of regulatory implementation — this can help to reveal systemic errors in RIS methodologies and lead to more accurate estimates over time
* tracking and recording of changes to proposals as a result of RIA, including instances where proposals that were under consideration were amended, withdrawn or improved — this would raise stakeholder and political awareness of the benefits of RIA and facilitate refinements to individual RIA components (such as improvements in consultation practices or impact analysis)
* better recording of the costs associated with RIA — this information (including agency resources devoted to preparation of RISs and the costs of oversight body functions related to RIA) is necessary to assess the cost effectiveness and efficiency of RIA.

The VCEC already collects and reports on some of this information, including via a survey of policy officials after they have completed a RIS (chapter 2). Their approach could be a starting point for other jurisdictions.

The Commission recognises, however, that the collection of such information imposes costs on agencies so consideration would need to be given to the frequency and scope of collections. For example, the information could perhaps be gathered for selected periods or for only a sample of agencies. However, as RIA becomes more integrated into policy development processes, this information will become more difficult to isolate and collect.

Ultimately, improving the evidentiary base on the performance of RIA (along with improving transparency and accountability; better targeting of RIA resources; and capacity building in agencies to undertake quality RISs) will enhance the integration of RIA requirements into policy development and the resulting policy outcomes for the community.

Leading practice 10.2

Published evidence of the usefulness of RIA in improving the quality of regulatory outcomes — including which key aspects are instrumental in achieving this objective — would help inform refinements and improvements to RIA processes over time. Victoria has made substantial progress developing and publishing research in this field.