Title: Duty for regulators to have regard to growth **IA No:** BIS013(F)-16-BRE **RPC Reference No:** RPC-3145(2)-BIS **Lead department or agency:** Department for Business Innovation and Skills /Cabinet Office **Other departments or agencies:**	Impact Assessment (IA) **Date:** 13/06/2016 **Stage:** Final **Source of intervention:** Domestic **Type of measure:** Secondary legislation **Contact for enquiries:** Lynsey Pooler 0114 207 5221

Summary: Intervention and Options

RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANDCB in 2014 prices)	**One-In, Three-Out**	**Business Impact Target Status**
£-2.92m	£-1.43m	£0.2m	In scope	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?

Evidence suggests that: (1) some regulators fail to take sufficient account of the economic consequences of their actions, and place unnecessary burdens on business in the exercise of their regulatory functions; (2) businesses believe that regulation is impacting negatively on business growth; and crucially for this measure (3) some regulators think they are unable to take account of growth as they do not have a statutory requirement to do so and/or their statutory objectives do not refer to growth. This duty will provide a framework for regulators explicitly to factor growth into their decision-making where they have not previously felt able to do so, enabling businesses to hold regulators accountable for their actions, and giving them the confidence to invest and grow.

What are the policy objectives and the intended effects?

The duty is part of a package of legislative and non-legislative measures that together will enable regulators to play their part in creating a business environment that promotes growth and enterprise. The overall aim is to foster an evolution in regulators' attitudes and purpose in relation to businesses. This specific measure - the growth duty - is intended to ensure that economic growth can form part of regulators' decision-making and purpose, thus supporting the change in behaviour being sought.

In practice, this will mean regulators will have regard to the economic consequences of their actions when dealing with individual businesses, or when considering more strategic approaches towards industry sectors**,** be more proportionate in the exercise of their regulatory functions.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1 - Do nothing. This would involve relying on the advice in the statutory Regulators' Code. A revised version was published in 2014. However, the Code only operates at the policy making level and not at the level of operational decision making. The previous iteration of the code has been in place since April 2008 and is felt to have made little difference to regulator behaviour because the regulators' code is overridden by their statutory duties.

Option 2 - A statutory duty on regulators in respect of the exercise of specified regulatory functions to have regard to economic growth. The duty applies to operational decision making as well as at the policy making level and will be designed to improve the manner in which existing duties are carried out.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 10/2019

Does implementation go beyond minimum EU requirements?	N/A			
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)	**Traded:**		**Non-traded:**	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: Margot James ***Date*** 25.11.2016

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -26.05	**High:** -1.68	**Best Estimate:** -2.85

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.3		0.2	**1.7**
High	3.0		2.9	**26.0**
Best Estimate	0.4		0.3	**2.9**

Description and scale of key monetised costs by 'main affected groups'

Regulators - One-off impacts of £0.2m (cost of training, updating guidance, IT and operational procedures) and Annual Costs £0.2m (ongoing costs).

Businesses – One-off impacts of £0.2m and annual costs of £0.2m as a result of cost recovery by regulators.

Other key non-monetised costs by 'main affected groups'

Regulators - There may be annual costs associated with increased business engagement and the administration of procedures to demonstrate regard for the growth duty. We do not currently have information to quantify these costs. It is possible that these costs may be partially passed through to businesses.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups'

There are not expected to be any monetised positive benefits for regulators and businesses.

Other key non-monetised benefits by 'main affected groups'

The duty will create greater awareness of the economic impacts of regulators and support growth by causing regulators to: 1) Keep the burden on business productivity to a minimum; 2) Be proportionate in their decision-making; 3) Understand the business environment. Non-monetised benefits for business will include improved advice and guidance, business engagement and reduced delays in decision making.

Key assumptions/sensitivities/risks | **Discount rate (%)** | 3.5%

Proportion of regulators who will have additional costs, number of people needing training and the time needed to train them, costs of updating guidance, revising strategy and operational procedures, and the profile of annual costs over time.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 0.2	**Benefits:** 0.0	**Net:** -0.2	1.0

Evidence Base (for summary sheets)

1. The growth duty is one of a suite of measures being taken forward following an announcement in the Autumn Statement 2012 (the 'Better Enforcement Programme' which is being driven forward by BIS[1]). The evidence base for this package rests primarily on the Focus on Enforcement reviews[2] and the post-implementation review of the Regulators' Compliance Code[3], which identify common, recurrent issues around regulators' treatment of growth across a range of sectors.

2. In relation to the growth duty, views from stakeholders showed that although the Regulators' Compliance Code created high level principles which support economic progress, there was also a need for a more explicit growth duty because:

   a. Some regulators believe that they are unable to take account of growth as they do not have a statutory requirement to do so; and
   b. In spite of the high level principles set out in the Regulators' Compliance Code, regulators often do not take account of impacts on growth;
   c. Although commitments to supporting economic progress exist at a policy level, there is a lack of accountability for decision-making at an operational level and the impact of those decisions on business growth; and
   d. The principles set out in the Regulators' Code are subordinate to other statutory duties, and some regulators perceive their primary duties of protection to be incompatible with economic considerations.

3. The growth duty is designed to be complementary to the existing Better Regulation Principles[4], including those set out in the now revised Regulators' Code. The growth duty applies to persons undertaking regulatory functions, i.e. regulators. It removes uncertainty about whether regulators are able to respond to economic concerns and requires regulators to "have regard" to the desirability of promoting economic growth by, for example, taking action only when it is needed.

4. The growth duty complements the Regulators' Code and includes a provision for regulators to consider economic growth in their decision making. It will deliver this by placing the consideration of growth on the same statutory footing as existing duties of protection; this is different to the duty to have regard to the Regulators' Code, which is subordinate to all other duties. The growth duty specifically applies at all levels at which regulators exercise their specified regulatory functions, from organisational policies to the enforcement activity of officers.

5. The duty stipulates that regulators must have regard to economic growth and consider this within their decision making. However, as described in the draft guidance for the growth duty, "its purpose is not to achieve or pursue economic growth at the expense of necessary protections. The purpose is to ensure that appropriate consideration is given by specified regulators to the potential impact of their activities and their decisions of economic growth,

[1] The package which was announced in December 2012 comprises of: Accountability for Regulator Impact; revision of the Regulators' Compliance Code; Growth Duty; Focus on Enforcement Appeals Review; and Fees and Charges.

[2] www.discuss.bis.gov.uk/focusonenforcement/published-reviews-and-closed-focus-areas

[3] A summary of the post-implementation review of the Regulator's Compliance Code can be found in the Consultation Paper on Amending the Regulator's Compliance Code: http://www.bis.gov.uk/assets/brdo/docs/publications-2013/13-685-rcc-consultation.pdf

[4] Section 21 of the Legislative and Regulatory Reform Act 2006

both for individual businesses and, more widely for sectors or groups that they regulate, alongside their consideration of their statutory duties."[5]

6. In practice, how the growth duty is applied will depend on each regulator's scope, powers and range of interactions with business. However, regulators can demonstrate regard for economic growth in three primary ways:

   a. **Ensure that they understand the business environment**. In particular regulators should understand their own business community and the individual businesses that they regulate, so that they can consider the likely impact of their activities on those businesses, particularly in respect of growth.

   b. **Apply their understanding of the business environment and their business community to their risk-based approach**, ensuring that they are acting only where needed and not impinging on economic growth unnecessarily.

   c. **Apply their understanding of their business community and individual businesses they regulate to ensure that their actions are proportionate** and not overly burdensome.

7. The Enterprise Act 2016 contains provisions that will require regulators to produce an annual performance report setting out the effect the Growth Duty (and Regulators' Code) has had on the way that they have exercised their functions. Regulators will also be required to obtain the views of business on the effect the Growth Duty has had and include a summary of those views in the performance report. In addition, regulators will be required to provide any additional information requested by Ministers relating to how the Growth Duty has had an effect on the way they exercise their functions or the views of affected businesses. The costs imposed on regulators by this reporting duty are not included within this impact assessment as they will be estimated in a separate impact assessment supporting the implementation of the reporting duty[6].

8. There are examples of existing regulator behaviour that create disproportionate costs or do not factor in economic considerations (see further details in the evidence of benefits to businesses below):

   a. The enforcement of HACCP (Hazard Analysis and Critical Control Points) sometimes adopted a 'tick box' approach which could lead to extending controls more widely than necessary;

   b. In the chemical sector, some businesses are encouraged to limit their trading to avoid growing large enough to trigger additional regulatory requirements; and

   c. Many businesses require multiple permits from the Environment Agency, many of which require the same information.[7]

9. However, there are also examples of good practice in regulators and of regulators who already seek to promote growth in their activities; the growth duty will support practices such as these and help them to become more widespread[8];

   a. The new fee structure implemented by the Gambling Commission was designed to reduce the burden and to recover the costs of regulation more equitably. It also makes it

[5] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/498638/bis-16-94a-growth-duty-draft-guidance.pdf

[6] This future IA will cover both the Growth Duty and the Regulator's Code reporting duty.

[7] It should be noted that the Environment Agency also has a number of good practices including a business forum and sector strategies.

[8] The intention is for the Growth Duty to be supported by guidance which can highlight good practice.

easier for operators to move between bands as their businesses grow, thereby removing the risk of a significant increase in fees for a small number of extra premises.

b. The Health and Safety Executive has worked with a number of trade associations and local authorities to create sector or topic specific guidance, consistent advice for industry and clarity on the requirements from regulation.

10. In practice, the expectation is that regulators should think about how to support businesses to be compliant at every stage of the regulatory process so that businesses can focus on their core operations as far as possible. The growth duty is therefore expected to result in the following practical examples of changes in regulator behaviour at a strategic level:

    a. Reducing administrative burdens by streamlining application processes and minimising data requirements.

    b. Engaging with business groups to understand the issues facing businesses and sectors.

    c. Ensuring guidance is provided in clear and accessible language, making a clear distinction between what is required by law and what is good practice.

11. The growth duty is expected to impose some implementation costs on regulators. These costs were estimated based on responses to a questionnaire that was circulated to the regulators in scope of the duty both in 2013 and 2014 at the primary legislation stage and in 2016 in advance of the secondary legislation. Where the regulator had submitted a response to both surveys we used their response to the most recent survey as we felt this was most likely to reflect the changes they are planning to make as they will have had the benefit of additional information such as the draft guidance in developing their response. The most recent survey had a significant fall in the proportion of regulators anticipating costs. However, there is not a lot of overlap between respondents to each questionnaire making it difficult to interpret whether this was due to regulators having a better understanding of their future costs or differences between regulators.

12. 35 regulators responded to the questionnaire on costs in 2013 and 2014 or in 2016. Responses indicate that 63% of regulators expect extra costs in the short term, while 37% do not expect any. Those that did not expect any costs felt that the growth duty was already embedded in their existing procedures and that there was no existing barrier to their promoting growth. Those that do expect to see one-off costs referred to staff training and changes to guidance, procedures and strategy. 33% of regulators also expected to see potential annual costs; all of these regulators thought the change would not be significant. A more detailed calculation of the estimated costs to regulators is set out below.

13. At this stage no monetised benefits to regulators have been identified, although it is possible that, as regulators look to reduce administrative burdens on business in response to the growth duty, there could be some reduction in the regulator resource required to deal with administrative processes. There may also be some reduction in enforcement costs if regulators respond to the duty by amending their enforcement policies in favour of a more proportionate approach where action is taken only when it is needed.

14. The following table summarises the costs to regulators. Both the one-off and annual costs on regulators are estimated to be between £0.1m and £1.5m with a best estimate of £0.2m.

Table 1 – Summary of costs on Regulators (£M)

	Year 0 – one off cost	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
low	0.132	0.092	0.092	0.092	0.092	0.092	0.092	0.092	0.092	0.092
best	0.219	0.167	0.167	0.167	0.167	0.167	0.167	0.167	0.167	0.167
high	1.501	1.501	1.501	1.501	1.501	1.501	1.501	1.501	1.501	1.501

15. The previous Impact Assessment conducted at the time of the Primary legislation (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/277417/growth-duty-impact-assessment.pdf) assumed that there were no direct costs to business with all costs incurred by the regulators. As a result the primary legislation Impact Assessment was considered out of scope by the Regulatory Policy Committee. Since then the department has further developed its understanding of the funding of the regulators and their ability to cost recover for various functions. As a result we think that some of the costs incurred by regulators could be passed through and impose a direct cost on businesses, creating a small 'IN'. In line with previous impact assessments (Small Business Appeals Champions and the Business Impact Target) we assume that 50.4% of the costs are passed through to businesses. This is calculated in this Impact Assessment for the secondary legislation.

16. The secondary legislation is the correct place to score the 'IN' as the measure cannot be implemented until the secondary legislation lists all the regulators in scope. As a result we do not intend to revise the primary legislation impact assessment as the correct EANCB would have been zero which was the recorded impact at the time.

17. As regulators implement the growth duty, we expect there to be future benefits to business arising from reduced administrative burdens, reduced inspection costs and less reliance on external contractors. Any changes to regulators' policies and procedures in these areas, however, are likely to be qualifying regulatory provisions (QRPs) for the new Business Impact Target and will require an estimate of the net cost to business to be produced and validated by the Regulatory Policy Committee (RPC). Although we describe and provide some indicative estimates of these benefits, we do not include them in the NPV, Business NPV or EANDCB in this impact assessment to avoid any double counting with future QRP assessments.

Table 2 – Summary of costs to business (£M)

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
low	0.134	0.093	0.093	0.093	0.093	0.093	0.093	0.093	0.093	0.093
best	0.223	0.159	0.159	0.159	0.159	0.159	0.159	0.159	0.159	0.159
high	1.525	1.525	1.525	1.525	1.525	1.525	1.525	1.525	1.525	1.525

18. The table below sets out the assumptions undertaken in the analysis.

Table 3 – Assumptions used in the analysis

Assumptions	Figures used in analysis	Evidence
Discount rate	3.5%	HMT Green Book
Regulators in scope of the measure	57	Current policy advice
Regulators expecting one -off costs	63%	Survey of regulators undertaken at time of primary legislation consultation (2013/14 & 2016)
Regulators expecting one off costs for training staff	54%	Survey of regulators undertaken at time of primary legislation consultation (2013/14 & 2016)
Hours of training per full time equivalent member of staff	0.37	Median response from survey of regulators
Average number of staff at regulators in scope	469 Full time equivalents	Focus on Enforcement data
Hourly wage for regulators	£ 20.89	ASHE survey 2015
Non-wage labour costs	20.2%	Eurostat
Median Costs for updating guidance, strategies and procedures	£ 8,551	Survey of regulators undertaken at time of primary legislation consultation (2013/14 & 2016)
Cost recovery rate for regulators	50.4%	Small Business Appeals Champions Impact Assessment
Regulators expecting annual costs	43%	Survey of regulators undertaken at time of primary legislation consultation (2013/14 & 2016)
Number of business with 5+ employees	495,215	Business Population Estimates 2015
Businesses collecting data for regulatory purposes	36%	Regulatory Burdens Survey 2013
Average staff hours for collecting data	15 hours	Regulatory Burdens Survey 2013
Additional number of hours spent by those experiencing duplication	4	Regulatory Burdens Survey 2013
Hourly wage for senior managers	£26.10	ASHE survey 2015
Proportion of businesses sending the same information to the same regulator for different purposes	19%	Regulatory Burdens Survey 2013
Proportion of businesses inspected in any one year	22%	Regulatory Burdens Survey 2013
Time spent preparing for inspections by businesses	17.68 hours	Regulatory Burdens Survey 2013
Weighted average hourly wage for external agents	£ 22.91	Analysis of ASHE survey 2015
Proportion of businesses using external advice for 1-4 hours a month	69%	Regulatory Burdens Survey 2013
Proportion of businesses using external advice for 5-8 hours a month	9%	Regulatory Burdens Survey 2013

Problem under consideration

19. Over half (51%) of businesses see regulation as an obstacle to their success and smaller businesses are particularly likely to see regulation as an obstacle[9] . For around one in ten (11%) of businesses, complying with regulations is seen as the greatest challenge to running their business[10] and businesses noted that the impact of regulatory changes largely depends on the way in which they are communicated and delivered on the ground[11] .

[9] Source: Business Perceptions Survey 2014, BRE, BRDO and NAO. https://www.nao.org.uk/report/business-perceptions-survey-2014/

[10] Source: Business Perceptions Survey 2014.

[11] From the Business End of the Telescope (2010) www.bis.gov.uk/assets/brdo/docs/publications-2010/10-1396-business-end-of-the-telescope.pdf

20. Furthermore, 26% of businesses feel that regulators have impacted on their growth or expansion while 41% think that regulators' actions will have a bearing on their future plans[12].

21. Evidence (primarily from the Focus on Enforcement reviews and the post-implementation review of the Regulators' Compliance Code) showed that although the Regulators' Compliance Code creates high level principles which support economic progress, there was also a need for a more explicit growth duty to support economic growth as illustrated in paragraph 2.

Rationale for intervention

22. It has been recognised by the World Bank that the regulatory framework has a material impact on the willingness of businesses to invest. More specifically, evidence demonstrates that the manner in which regulation is enforced can also have an impact on business productivity. This can give rise to the negative perception of regulatory "burden".[13]

23. However, Lord Heseltine's report, *No Stone Unturned in Pursuit of Growth*[14], recognised that good regulation can actually encourage growth, and highlighted the importance of non-economic regulators' taking account of the economic consequences of their decisions.

24. Regulators are already subject to various duties, including the Regulators' Code, to take account of the economic consequences of their actions and carry out their existing duties in a proportionate manner. However, in spite of this, there is evidence, mainly case studies from Focus on Enforcement reviews and from the review of the Regulators' Compliance Code[15], which suggests that certain regulators are not consistently achieving both protection and prosperity in the way they operate.

25. The Focus on Enforcement[16] initiative has provided case study evidence through a series of sector-based reviews into how regulatory enforcement is experienced by industry. These reviews identified the following problems consistently across all sectors:

    a. inconsistent enforcement decisions;
    b. a lack of availability of clear, consistent advice;
    c. regulators lacking knowledge of the businesses/sectors they regulate;
    d. regulators failing to see businesses as stakeholders; and
    e. regulators failing to consider the impact of their decisions in terms of growth.

26. Evidence from the post-implementation review of the Regulators' Compliance Code showed that in spite of the high level principles set out in the Regulators' Compliance Code, regulators' operational decisions often do not take account of impacts on growth. In addition since existing commitments in the Regulators' Compliance Code are subordinate to other statutory duties, some regulators perceive their primary duties of protection to be incompatible with economic considerations.

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[12] Regulatory Enforcement Business Survey 2013

[13] World Bank *Doing business 2013,* October 2012,

[14] http://www.bis.gov.uk/assets/biscore/corporate/docs/n/12-1213-no-stone-unturned-in-pursuit-of-growth

[15] A summary of the post-implementation review of the Regulator's Compliance Code can be found in the Consultation Paper on Amending the Regulator's Compliance Code: http://www.bis.gov.uk/assets/brdo/docs/publications-2013/13-685-rcc-consultation.pdf

[16] http://discuss.bis.gov.uk/focusonenforcement/published-reviews-and-closed-focus-areas/

27. There are examples of existing regulator behaviour that create additional costs or do not factor in economic considerations (see para 6). However, there are also examples of good practice in regulators (see para 7) and the growth duty should help these to become more widespread[17].

Policy Objective

28. As a result of the growth duty, regulators can positively influence economic growth in three primary ways:

    a. Keeping the burden on business productivity to a minimum.
    b. Being proportionate in their decision-making.
    c. Understanding the business environment.

29. The proposed growth duty is designed to be complementary to the existing Better Regulation Principles requiring regulators to have regard to the economic consequences of their actions and carry out their existing duties in a proportionate manner. The growth duty should increase the effectiveness of these existing Better Regulation Principles specifically in relation to promoting growth. It will deliver this by placing the consideration of growth on the same statutory footing as existing duties of protection; this is different to the duty to have regard to the Regulators' Code, which is subordinate to all other duties. As a result of this difference, the growth duty can have effect at different levels of regulatory activities, from organisational policies to the enforcement activity of officers to ensure measures are not overly burdensome or unnecessarily restrictive in the interests of economic growth.

30. The growth duty will also go beyond existing Better Regulation Principles, asking regulators to be more proactive in their consideration of how their actions can impact business growth both positively and negatively. This means thinking about how compliance requirements can be a burden on business and a barrier to growth, and also seeking ways to actively encourage growth at a sectoral level through regulatory delivery. It is expected that the growth duty will encourage greater dialogue and engagement between businesses and regulators, so that they can work together to achieve regulatory compliance and foster growth. The duty will not make regulators accountable for growth in the economy; it will make them accountable for whether they have properly considered business growth in their decision-making.

31. The duty will not override regulators' primary statutory duties. Indeed, regulatory enforcement is recognised as important in creating a level playing field in which compliant businesses can grow without being undercut by unfair competition from non-compliant businesses. Through securing compliance, regulators play a vital role in ensuring consumer confidence in the market, an essential driver of demand in the economy.

Options considered

32. The two options we have considered are outlined below – do nothing or impose a statutory duty on regulators, in carrying out specified regulatory functions, to have regard to growth. We have not considered any alternative options to amend regulators' behaviour as evidence (see para 33) suggests that a behavioural option alone will not be enough to ensure that regulators consider the economic impact of their actions.

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[17] The intention is for the growth duty to be supported by guidance.

33. The evidence from the Post Implementation Review alongside the Focus on Enforcement reviews confirmed that some regulators did not feel able to act outside the measures that are subscribed for them in statute. As was noted by the Joint Committee on the Draft Deregulation Bill one regulator, Ofsted (the Office for Standards in Education, Children's Services and Skills) stated that they were unable to consider growth without a statutory duty.[18] The statutory Regulators' Code has been insufficient to incentivise regulators to consider economic considerations because a non-statutory code is outweighed by the statutory duties affecting regulators.

34. **Option 1** - Do nothing. This option would involve relying on the advice in the statutory Regulators' Code which has been revised and was published in 2014. However, the Code only operates at the policy making level and not at the level of operational decision making.

35. The previous iteration of the Code has been in place since April 2008 and is felt by some businesses to have made little difference to regulator behaviour. The overarching findings from the Post Implementation review of the Regulators' Code are:

    a. Whilst at a policy level regulators appear to have adopted the principles of the Code, the extent to which regulators perceive their role in supporting business growth is not consistent. Whilst the Code contains the principle that regulators should support economic progress, regulators consistently see their role as being primarily to protect consumers and citizens.
    b. Business representatives are critical of the fact that the Code has failed to promote more open and early dialogue with regulators. Part of the issue here is that visibility of the Code amongst businesses is low – many businesses consulted had little or no knowledge of the Code's existence and were therefore unable to make effective use of it, for example.
    c. The other issue businesses cite is that the Code does not apply to individual enforcement actions. Those businesses who have tried to use the Code to hold regulators to account for their behaviour say that regulators' appeal mechanisms need to be strengthened to provide a clear route to raise concerns where regulation is not being delivered in accordance with the Code.

36. **Option 2** - A statutory duty on regulators to have regard to economic growth in the exercise of specified regulatory functions. The duty applies to operational decision-making as well as at the policy making level and will be designed to improve the manner in which existing duties are carried out. This option will be accompanied by clear safeguards that the duty does not override existing duties to protect but is a duty to consider growth in decision making.

Option 1 – Do nothing

37. The option of 'do nothing' is a status quo, used as a benchmark against which the costs and benefits of the statutory duty proposals are assessed. Our status quo is the counterfactual of the non-introduction of the statutory duty.

38. This option would involve relying on the advice in the Regulators' Code which has been revised. This Code operates at the policy making level only.

Costs

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[18] Joint Committee on the Draft Deregulation Bill, Session 2013-14, HL 101 HC 925

39. There are no additional costs associated with this option as the Code is already in existence and therefore is not a new requirement for regulators.

Benefits

40. Without the introduction of the statutory duty the regulators would operate as normal. There are no additional benefits to either regulators or businesses.

Option 2 – Statutory duty for regulators, undertaking specified regulatory functions, to have regard to economic growth

41. This option considers the introduction of a statutory duty for **specified regulators, undertaking specified regulatory functions,** to have regard to growth. The following section analyses the costs and benefits for businesses and regulators.

Regulators

42. The duty to have regard to economic growth requires those exercising regulatory functions to consider the economic impact that their actions are likely to have on individual businesses and, where appropriate, industry sectors.

43. The duty indicates that economic growth is desirable and enables regulators to take growth into account alongside existing economic duties. Where regulators have choices in how they exercise their functions, the duty gives rise to two possibilities:

    a. Where the economic impact of a regulator's activity is likely to be adverse or negative, the regulator should consider how they could minimise that negative impact by adapting the way they carry out that activity.

    b. Where the economic impact of their activity is likely to be positive, the duty points them to adapt the way they carry out that activity in order to maximise that positive impact.

    To do this, regulators will need to understand the impact they are having on the business environment and adapt their approach accordingly.

Data

44. The following analysis uses assumptions based on a questionnaire on costs that was circulated to the regulators in scope of the growth duty at the point of the primary legislation consultation. The questionnaire asked regulators whether they expected to experience costs in both the short- and the long-term as a result of the Growth Duty, as well as asking regulators to provide estimates of the likely costs and time taken associated with these activities. In addition, we use data from the Annual Survey of Hours and Earnings 2015[19] .

[19] http://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2015provisionalresults

Regulator Costs

Estimating the number of regulators who will face additional one-off costs

45. It is currently anticipated that around 57 regulators will be required to have regard to growth alongside their protection duties. We have used this figure in our estimate.

46. The evidence gathered during the consultation on the primary and secondary legislation and subsequent regulator questionnaires show that the duty may have different impacts on different regulators. This is because some regulators feel they already take steps to consider growth and burdens in their work so feel this duty will have limited impact on their work. This accords with the examples above which show that some regulators are already making progress in this area. The accompanying guidance will clarify ways in which regulators can demonstrate regard to economic growth.

47. 35 regulators responded to one of our questionnaires on the likely cost implications of the growth duty. A comparison of the size of the regulators who responded and the regulators in scope for the duty reveals that the distribution of those who responded to the survey is similar to the distribution of regulators in scope of the duty. It has therefore, not been necessary to reweight the results to reflect the sizes of the regulators in scope[20].

One-off costs on regulators

48. Of the 35 respondents (the list of respondents is in Annex 3), twenty-two (63%) responded that they expect some one-off costs, while thirteen (37%) expected no one-off costs. In general, this group expected no costs because they felt that they were already embedding the policy in their area. For example, one regulator reported that “we are already applying the growth duty principles as part of the Regulators’ Code good practice” and another responded that the impact on them was “insignificant as already embedded”. Given the responses, therefore, it does seem reasonable that for some regulators the growth duty will impose no additional costs or generate additional benefits beyond their current activities.

49. For those regulators expecting to have one-off costs they arose as a result of the regulators wishing to train staff on the new requirements, changes to operational procedures and reporting, rewriting guidance material for businesses and staff and updating advice provided on the website.

Estimating the cost of training

50. Evidence from the questionnaire responses show that 54% of respondents expect to experience costs associated with training staff – this equates to 31 out of the 57 regulators in scope of the duty. In our high-cost scenario we have assumed that all regulators incur a training cost, irrespective of what they declared in their responses.

51. Using data from those responses which indicated the number of staff that regulators expect to train together with Focus on Enforcement data[21] on the number of FTE staff working on regulatory functions, we can calculate the number of training hours per FTE that regulators expect to provide. There were 8 respondents for which we had the necessary data for this calculation[22]. The median response from the consultation indicated that 0.37 hours per FTE

[20] 47% of respondents were small regulators, 40% medium regulators and 13% were large regulators.

[21] Data on the size and budget of National Regulators can be found on: http://discuss.bis.gov.uk/focusonenforcement/list-of-regulators-and-their-remit/

[22] For the 3 regulators whom we did not have data on FTEs we assumed the mid-point of the FTE band.

would be necessary for training staff on the growth duty, with a range from 0.1 to 3.6 hours per FTE[23]

52. FOE data[24] suggests that there is an average of 469 FTE at the regulators in scope. Applying the average ratio (0.37 hours) and hourly wage for regulators of £20.89[25] uprated by non-wage labour costs (20.2%) to all 31 regulators expecting costs from training, implies an estimated cost of £0.1m.[26] For sensitivity, we include estimates using the upper and lower responses from the consultation, giving a range of costs from £0.04m to £2.4m.

Estimating the cost of updating guidance, revising strategy and operational procedures

53. As stated above, 63% of regulators expect one-off costs associated with the growth duty – this equates to 36 regulators out of the total 57 regulators in scope of the duty. These include updating guidance for businesses, revising strategy and revising operational procedures. These costs vary considerably depending on the size of the regulator and the type of functions they carry out. These costs ranged from £540 for a small regulator to revise strategy and operational procedures and update guidance for business, to £40,000 of set-up costs for a large regulator[27].

54. Based on the responses to the questionnaire, we have used the weighted median[28] of each regulator size to estimate that this will cost £8,551 for each regulator in the first year[29] (36 regulators). This gives an overall total cost of £0.3m[30]. For sensitivity, we include a range of 25% above and below this estimate. In our high-cost scenario we have also assumed that all regulators incur this cost, irrespective of what they declared in their responses, resulting in a range of £0.2m and £0.6m.

55. It is expected that some of these costs will be passed through to business through cost recovery. The estimates used for cost recovery are taken from the consultation with regulators undertaken as part of the development of the Small Business Appeals Champion policy. During that consultation, 58 regulators were asked if they would recover the costs of appointing the Champions. Responses were received from 24 regulators with 13 reporting that they would cost recover in full and 11 indicating they would not recover the costs. For those regulators which did not respond to this question we used the responses from the 2012 Regulators' Questionnaire on the extent to which their regulatory enforcement activity was fully, partially or not cost recovered. We assigned vales of 100%, 50% and 0% to these responses respectively. Where no information for a regulator was available from these two sources, we assumed 50% would be recovered. Across the regulators we estimated that 50.4% of cost would have been recovered if regulators had to cover the costs of appointing the Champions. Although this relates to a different policy, it is the best estimate available of the extent to which regulators would cost recover from business. The figures below on one off

[23] Here we have excluded one extreme outlier where their number of staff requiring training in the response was 3 times higher than the number of FTEs.

[24] The average number of FTEs is based on Focus on Enforcement data on National Regulators in scope of the Growth Duty. However, there is data missing for some regulators so this is an approximate value.

[25] From Annual Survey of Hours and Earnings 2015.

[26] Cost of training = (469, FTE for regulatory purposes*0.37 median hours per FTE * (£20.89, Hourly wage*1.202 for non-wage labour costs) * (31, regulators that expect training costs)

[27] We have defined the size of the regulator by their number of full time equivalent staff for regulatory activity. (Small < 100 FTE, Medium 100 – 1000 FTE, Large > 1000 FTE)

[28] Throughout this impact assessment, the average used is the mean rather than the median unless otherwise stated.

[29] This comes from the expected costs of regulators, taking into account that costs might vary depending on the size of the regulator.

[30] Total cost of guidance = (57, the number of regulators in scope)*(63%, the estimate of regulators expecting one-off costs)*(£8,551, the cost of guidance, IT, management procedures etc.)

costs to regulators therefore represent 49.6% of the costs described above to include only costs borne by regulators. Business costs (the passed through 50.4%) are included in the relevant section below.

Table 4 – Summary of one-off costs of regulators (£M)

	low	High	best
Training	0.018	1.199	0.067
Guidance, IT and operational	0.114	0.302	0.152
Total one-off costs	**0.132**	**1.501**	**0.219**

56. The sum of the costs of training and the cost of guidance changes will give a total one-off cost to regulators of between £0.1m and £1.5m.

Annual costs

57. Questionnaire responses show that 12 regulators responded "yes" to the question of whether they expect the growth duty to affect the way resources are deployed within the organisation over the medium to long term, 16 responded "no" and the remaining 3 were unsure or did not complete the question[31]. If we assume that those who were unsure actually experience costs in similar proportions to those who responded "yes" or "no", then the total number of regulators facing annual costs is estimated to be 24 out of the 57. The remaining 33 regulators therefore, would expect no annual costs. This is likely to be because after a first initial awareness sessions with current staff subsequent training of new staff can be easily incorporated into existing induction training. Also once guidance is revised it should not need further work. These are the figures that we use in the subsequent analysis. However, for the high-cost scenario we have assumed that all regulators incur on-going costs, irrespective of their responses.

58. Responses to the regulator questionnaire do not provide enough information to estimate the likely scale of the longer term costs. However all those who responded yes to the most recent survey opted for the answer that the rise to costs would not be significant. As a result we have assumed that for those who expect longer term costs, there will be some ongoing costs of training staff, updating guidance, revising strategy and operational procedures and providing advice but that these will gradually fall over time. All those who expected to face annual costs were also amongst the set of regulators that expected one off costs. To profile the annual costs for these regulators, we take the one-off costs for just these 24 regulators using the same method as above (as in Table 7) as year 0 and apply them to each subsequent year. We recognise that this is a significant over-estimation as costs can be expected to fall once guidance, systems and processes have been adapted and only new staff require training. However, we do not have suitable data to estimate a profile from.

59. It is also likely that some of these ongoing costs associated with updating guidance and revising strategy and operational procedures will be related to future decisions made by regulators in response to the growth duty and will form separate qualifying regulatory provisions that will need to be scored for the Business Impact Target. However, it is difficult to determine the proportion of these costs that are attributable to the growth duty and the

proportion attributable to future QRPs so by including all of these costs, we are likely to be overstating the annual costs of the growth duty.

60. Again regulators will be able to cost recover for some of these costs. As before we have assumed that they will cost recover 50.4% in line with other impact assessments.

61. Regulators will be required to report annually describing how the growth duty (and Regulators' Code) has affected the way they exercise their functions and how businesses have been affected. The costs imposed on regulators by this reporting duty are not included within this impact assessment as they will be estimated in a separate impact assessment supporting the implementation of the reporting duty to both the Growth Duty and the Regulators' Code.

62. The profile of estimated annual costs after cost recovery is outlined below:

Table 5 – Profile of estimated annual costs to regulators (£M)

	Year 0 – one off cost	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
low	0.132	0.092	0.092	0.092	0.092	0.092	0.092	0.092	0.092	0.092
best	0.219	0.157	0.157	0.157	0.157	0.157	0.157	0.157	0.157	0.157
high	1.501	1.501	1.501	1.501	1.501	1.501	1.501	1.501	1.501	1.501

Businesses

63. At this time it is difficult to quantify the benefits that the growth duty may have on business. As the growth duty becomes embedded within regulators, they may make a series of changes to their policies and procedures relating to enforcement, inspections and data requests as well as revising guidance documents to assist businesses in understanding what they need to do to comply with regulatory requirements. In many cases, these changes will be qualifying regulatory provisions for the Business Impact Target and regulators will be required to undertake a cost benefit analysis to produce an estimate of the net cost to business and have it verified by the independent Regulatory Policy Committee (RPC). These qualifying regulatory provisions and their corresponding contribution to the Business Impact Target (BIT) would then be published in the Government's annual report setting out the progress made against the £10bn BIT.

64. Business may also feel the benefit of the growth duty through their individual interactions with regulators e.g. the frequency of inspections and the advice provided by enforcement officers as part of an inspection. These benefits are likely to be difficult to monetise but would not be captured by the BIT as they would be non-qualifying regulatory provisions (NQRPs). Each year regulators must publish a list of all of their NQRPs which would include, for example, information on the number of inspections.

65. The annual reporting requirements for the growth duty and Regulators' Code also provides an opportunity for regulators to summarise the impact they are having on business, which may refer to the QRPs and NQRPs initiated by implementing the growth duty as well as feedback from business on the impact of the growth duty.

66. The most significant changes to regulators' policies and procedures arising from the Growth Duty are therefore likely to form future QRPs where a more accurate analysis of the costs and benefits would be conducted. To avoid double counting in the future, no estimate of the benefits to business is included within the Business NPV or the NPV in this impact assessment. However, some analysis is presented below to illustrate the type of benefits that may be generated as the growth duty is implemented and the scale of these benefits that would be required to break even in NPV terms.

Business Benefits

67. As mentioned previously we have not included the benefits to business in the Net Present Value or EANDCB calculations. However we have below set out where we expect these benefits to come from and quantified the scale we might expect, along with minimum benefit required to overcome the total costs.

68. The growth duty is expected to generate significant benefits to businesses by addressing the issues set out in the 'problem under consideration' and 'rationale for intervention' sections above. In particular, it will encourage regulators to find way to:

    a. Keep the burden on business productivity to a minimum.
    b. Be proportionate in their decision-making.
    c. Understand the business environment and apply this.

69. The growth duty requires regulators to have regard to economic growth when making decisions and to consider the economic impact that their actions are likely to have on individual business and where appropriate, the industry sector. There is potential for considerable business benefits resulting from the growth duty. According to the REB survey, 26% of businesses feel that regulators' actions have previously impacted on their growth or expansion, 34% feel that regulators have impacted on other business decisions while 41% feel that regulators' actions will have a bearing on their future plans. The most cited impact that regulators had involved finance/cost, with 16% mentioning this, time was also another consideration.

70. Some consultation responses also support the premise that the growth duty will have a positive benefit for businesses. The majority of respondents who were businesses or trade associations (71%) indicated they expected a positive impact on business from the growth duty, a further 26% were uncertain about the impact and only one respondent thought the growth duty had the potential to increase costs to business.[32] Regulators were less sure with a number indicating work already underway will already help achieve a reduction in business burden. A small number (15%) also felt they were already meeting the requirements of the growth duty so there would be no change. Overall over half of regulators (54%) thought there would be no benefits to business from the duty. A sizeable minority (31%) however were highly positive about the potential impact.

71. We have estimated the scale of potential benefits using data from the REB Survey[33]. Given the scope of the growth duty we estimate up to 495,215[34] businesses will potentially benefit from the measure

[32] Source: response to the Consultation with Non-Economic Regulators on the Duty to Have Regard to Growth.
[33] forthcoming research
[34] Business Population Estimates 2015

72. The REB survey suggested a number of areas where the businesses felt there were number of areas where regulation was posing a costly burden, administrative burdens, replicated data requests, inspection preparation and getting advice and guidance on regulatory matters.

Administrative burdens

73. Many regulators require businesses to submit up-to-date information about their regulated activities. This information can allow the regulator to ensure the business is meeting the necessary requirements. However, businesses can become frustrated when they are required to submit information that is unchanged frequently or when the prescribed format or mechanism for reporting is burdensome.

74. The growth duty encourages regulators to consider the impact this has on businesses and regulators may reconsider their internal operations in order to save businesses both time and money which can be invested more productively. In addition, by working closely with other regulators they may develop ways to enable greater data sharing.

75. The Regulatory Enforcement Business Survey found that 36% of businesses collect data for regulatory enforcement purposes. The average number of staff hours required for gathering information and completing paperwork that was only gathered for this purpose was 15.29 hours per month.

Replicated Data Requests

76. The REB survey found that 17% of all businesses send the same information to different regulators while 19% send the same information to the same regulators for different purposes. This represents a significant duplication of effort and an unnecessary additional administrative burden.

77. From the REB survey, we estimate that 3.94 additional hours per month[35] are required to send the same information to the same regulator[36].

Inspections

78. The REB survey found that 65% of businesses have had an inspection in the past 3 years. Thus just under 22% of businesses are inspected in any one year[37]. Inspections are an important tool for regulators which allow them to check whether businesses are maintaining compliance with legal requirements. However, inspections can impose large preparatory and follow-up costs on businesses. The BPS found that 46% of businesses find it burdensome to be ready for or to deal with inspections. In the REB survey 16% of businesses that were inspected felt that there was unexplained duplication with a previous inspection by the same regulator. A further 1% felt that there was unexplained duplication with an inspection from another regulator.

35 An average of 18.32 hours for those that experience duplication from the same regulators and an average of 14.38 hours for those who experience no duplication

36 Using the question: Approximately how many staff hours in total are spent in gathering information and completing paperwork for regulators that would not otherwise be gathered or completed - in a typical average month? and comparing those that answered yes/no about sending the same information to the same/different regulator.

37 For the analysis this equates to 103,084 businesses inspected each year.

79. The growth duty encourages regulators to avoid conducting inspections in a way that creates unnecessary burdens on businesses. The REB survey found businesses spend 17.68 hours[38] doing what is necessary before, during and after an inspection.

Quality advice and guidance

80. Many businesses view regulators as an authoritative source of advice on compliance issues and will seek advice from regulators. However, other businesses are fearful about approaching regulators and will choose to seek advice from other sources which may be less reliable and more costly. Nineteen percent of businesses feel that the advice available from regulators is insufficient.

81. Businesses use a range of external agents to help comply with regulations e.g. lawyers and accountants[39]. A number of reasons were given for using external agents to help with compliance. Approximately 70% of respondents wanted independent advice, assurance or were worried about penalties for non-compliance[40]. It is unlikely that regulators will be able to reduce the use of external agents by these businesses. However, 62% use external agents due to lack of clarity in legal requirements and 49% because they feel the advice from regulators is insufficient.[41] The growth duty is likely to have the biggest impact on these businesses.

82. Just over two-thirds (69%) of businesses using external agents for compliance help reported that they used the agent for between one and four hours per month with a further 9% using the agent for between five and eight hours[42] .

Potential Growth Duty Benefits

83. The following table sets out for each for each of these individual areas the benefit required to outweigh the total cost (Net Present Value equal to zero) , and a range of benefits that might be possible from relatively small savings in the area. These assumptions have been checked in the consultation although very few regulators commented. Only 31% of regulators in the consultation expected benefits to business therefore we have included a best estimate that assumes only 31% of businesses achieve the benefit. As the analysis clearly shows the benefits would only need to be relatively small to outweigh the costs.

	Minimum Saving required (Based on 31% of benefits)	**Assumption**	**Best estimates based on 31% of benefits (annual)**	**High estimate assuming achieved by all regulators (annual)**
Reduction in data requests	0.06% reduction (less than a minute)	5% reduction in data collection (approximately 0.75 hour)	£15.6m	£50.3m

[38] BIS Regulatory Enforcement Business Survey

[39] 31% of businesses surveyed used external lawyers, 48% used external accountants, 36% used external specialist consultants and 47% used external insurance companies

[40] REBS 2013

[41] Businesses were able to select more than one reason for using external agents.

[42] For the analysis we take the midpoint of these ranges, 2.5 hours and 6.5 hours.

	Minimum Saving required (Based on 31% of benefits)	Assumption	Best estimates based on 31% of benefits (annual)	High estimate assuming achieved by all regulators (annual)
Reducing duplicate data requests	0.4% reduction (less than a minute)	25% reduction in duplicate request (1 hour)	£11.0m	£35.4m
Reduction in time required for inspection preparation	0.9% reduction (less than 10 minutes)	5% reduction (just under 1 hour)	£1.0m	£3.0m
Reduction in external advice	3.6% reduction	Reduced requirement by 10%	£0.5m	£1.6m

Business Costs

84. Regulators will be able to cost recover for their additional costs of undertaking this duty. Using the calculations from the previous section and cost recovery rate of 50.4%, we would expect one-costs of between £0.1m and £1.5m to be cost recovered from businesses. There would also be an average annual cost recovery from businesses of between £0.1m and £1.5m. As described in the description of the regulators' costs these annual costs to business may be an overestimate if they include the costs associated with future QRPs if regulators change their policies and procedures or update guidance documents.

Table 6 – Profile of estimated total annual costs to businesses (£M)

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
low	0.134	0.093	0.093	0.093	0.093	0.093	0.093	0.093	0.093	0.093
best	0.223	0.159	0.159	0.159	0.159	0.159	0.159	0.159	0.159	0.159
high	1.525	1.525	1.525	1.525	1.525	1.525	1.525	1.525	1.525	1.525

Wider societal impacts

85. The Growth Duty has been designed to change regulator behaviour in terms of the consideration given to the impact of their activities on economic growth which will be beneficial to business. However, this will not be done at the expense of existing protections and regulators will still be required to fulfil their existing statutory duties. As a result, there are assumed to be no negative impacts on other outcomes that regulators' activities contribute to e.g. consumer protection, public health and environmental protection.

Overall Impact

86. As the benefits to business are not monetised here. This measure will count as a small IN for the purposes of the Business Impact Target. The EANDCB is £0.2m giving a BIT Score of £1m. The total net present value to society is -£3.44m. However the benefits to business are likely to outweigh these costs but will be scored as part of the assessment of future QRPs.

Risks

Uncertain benefits to businesses.

87. The benefits outlined here are based on the Business Perceptions Survey and the Regulatory Enforcement Business Survey, which are both largely perceptions-based surveys. It is important to be aware that perceptions surveys may not always give the full picture. Perceptions can be influenced by a number of sources and it is often hard to determine what directly influences perceptions. For example, the BPS indicates that businesses feel that the burden of regulation is increasing, despite the fact that Government has considerably reduced the burden of regulation in recent years.

References

- The Focus on Enforcement reviews: http://discuss.bis.gov.uk/focusonenforcement/published- reviews-and-closed-focus-areas/
- Post Implementation Review of the Regulators' Compliance Code - The PIR has not yet been published – a link to the final report will be added once published
  A summary can be found in the Consultation Paper on Amending the Regulator's Compliance
  Code: http://www.bis.gov.uk/assets/brdo/docs/publications-2013/13-685-rcc-consultation.pdf
- Lord Heseltine's report - No Stone Unturned in Pursuit of Growth: http://www.bis.gov.uk/assets/biscore/corporate/docs/n/12-1213-no-stone-unturned-in-pursuit-of- growth
- Business Perception Survey 2012: http://www.bis.gov.uk/assets/brdo/docs/publications-2012/12- p145-business-survey-2012.pdf
- Annual Survey of Hours and Earnings 2012: http://www.ons.gov.uk/ons/rel/ashe/annual-survey- of-hours-and-earnings/2012-provisional-results/2012-provisional-table-14.zip
- Consultation with Non-Economic Regulators on the Duty to Have Regard to Growth: http://www.bis.gov.uk/assets/brdo/docs/publications-2013/13-684-growth-consultation.pdf
- Government Response to Consultation on the draft Regulators' Compliance Code and the application of the principles of good regulation (2007) http://www.berr.gov.uk/files/file45144.pdf
- Framing regulation task force implementation group: 'one year on' assessment: https://www.gov.uk/government/publications/farming-regulation-task-force-implementation-group- one-year-on-assessment
- Environment Agency – Improvement Plan, July 2012: http://www.environment-agency.gov.uk/static/documents/Utility/EA_Improvement_Plan_FINAL_-_July_2012(1).pdf
- World Bank *Doing business 2013,* October 2012

Annexes

Annex 1: Post Implementation Review (PIR)

Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a Sunset Clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below:

Basis of the review:

We intend to review the impact of the statutory duty on **regulators, who undertake specified regulatory functions in scope of the duty,** to have regard to economic growth.

Review objective:

(1) Review the impact of the growth duty in minimising the burdens of compliance on business and promoting growth.
(2) Reviewing the impact of the growth duty on regulators and the extent to which the measure.

Review approach and rationale:

1) Review of monitoring data to look at for example, costs to regulators and appeals under the growth duty
2) Evaluation of the growth duty - Consider whether the costs and benefits have been realised and if not why. In addition we will look at the extent to which the Growth Duty has led to changing behaviour by regulators. This will be part of the wider evaluation of the Better Enforcement Package including the Small Business Appeal Champions and the Code as it would be very difficult to separate the impact of these policies. The Regulatory Burdens Survey 2013 will provide a baseline for the evaluation.
3) Ongoing analysis of stakeholder views - This will ask about the impact of each individual component of the Better Enforcement package to understand if any elements are working better/worse than others.
4) Evaluate lessons learned and feedback into the policy making process

Baseline:
Focus on Enforcement Reviews,
Regulatory Enforcement Burdens survey
Success criteria:
Costs and benefits in line with expectations or benefits exceeded

Monitoring information arrangements:
Regulators to provide Regulatory Delivery within BIS with data on the number of appeals by businesses on the grounds that the Growth Duty wasn't applied and the outcome of such appeals and the costs of these appeals to Regulators.

Annex 2: Specific impact tests

Equality Impact Test

120. We do not believe that there will be any impacts in the area of equality.

Small and Medium Business Assessment

121. The growth duty will apply equally to all businesses.

122. This measure is expected to impact on all businesses. Although the proposal to introduce the Growth Duty is expected to benefit businesses in the long-run, some costs will be incurred by small and micro business as regulators recover a proportion of the costs from this duty. We assume that the distribution of costs among businesses (including small and micro businesses) will reflect the structure of existing fees and charges, and so should not produce a disproportionate burden on small or micro businesses.

123. We have considered the possibility of fully exempting small and micro businesses from these costs as well as a number of potential mitigating options e.g. a temporary exemption, voluntary contributions, or different cost recovery rates for small and micro businesses. However, all of the options would require revision of the fee structures of all or most of those regulators which pass on the costs of the policy. Changing fee structures, as well as levels, would be a very complex undertaking creating further costs and would not be proportionate to the scale of this proposal. We would encourage regulators to consider whether they could change structures in this way as part of their implementation of the duty.

Other Impact Tests

124. We do not believe that there will be any impacts in the areas of competition, greenhouse gases, wider environmental issues, health and well-being, families, human rights, rural proofing or sustainable development. Clearly, some of these things are affected by the activities of regulators, but as the Duty is considered alongside their statutory remits in these areas there should be no overall impact.

125. In addition, there will be no new burdens for local authorities as a result of the growth duty as they are not in scope.