



HINTS AND TIPS

on preparing a Regulatory Impact Statement (RIS) or a Legislative Impact Assessment (LIA)

The purpose of the RIS process is to ensure that regulation is only implemented when there is a justified need; only the most efficient forms of regulation are adopted; and there is an adequate level of public consultation in the development of regulatory measures. The purpose of the LIA process is to assess the impacts of a proposed primary legislative measure on business and/or competition to improve the robustness of policy-making in Victoria.

When is a RIS or LIA needed?

A RIS is required for any statutory rule or legislative instrument that imposes a significant economic or social burden on a sector of the public. It is important to assess both quantitative and qualitative burdens. In general, if preliminary analysis suggests that the costs to any sector of the public (or the community as a whole) are greater than \$2 million per year, then there is likely to be a significant burden. In addition, any qualitative burdens such as impacts on rights, access to services or the ability to innovate or compete must be assessed. A LIA is required for any legislation that has potentially significant economic or social burden on a sector of the public, including competition impacts.

What is the process?

Your Minister determines whether the proposal requires a RIS or LIA. The OCBR can provide advice to help you to advise your Minister on the need to prepare a RIS or LIA. You should consult with the Economic Policy Branch of the Department of Premier and Cabinet if you need advice about whether a LIA is required.

The OCBR provides independent advice about the adequacy of the analysis in the RIS or LIA (rather than the merits of the proposal) against the requirements of the *Subordinate Legislation Act 1994* and the *Victorian Guide to Regulation*.

Typically, before the OCBR's final advice a RIS/BIA goes through 3-4 draft iterations. Please allow 10 business days for the OCBR to provide an assessment for each draft of a RIS and 3-4 business days for each draft of a LIA. It can take 2-6 months – or longer for complex, higher impact proposals to draft a RIS or LIA and have it assessed by the OCBR as adequate.

When to start?

The best time to start thinking about a RIS or LIA – and engage with the OCBR – is at the start of the policy development process, before your Department, agency or Minister has determined a preferred policy solution.

If you are likely to need to prepare a RIS or LIA, contact the OCBR as early as possible to discuss the process and the proposal. The OCBR can help Departments to define the problem and identify possible options.

Who should prepare it?

Policy officers with detailed knowledge of the relevant issues should generally be able to prepare a RIS or LIA, although specialist assistance in estimating the costs and benefits from within your department or externally may be useful. If a department chooses to engage a consultant to help develop a RIS or LIA, the OCBR can provide general advice on how to select a suitable consultant and provide a list of consultants who have previously prepared a RIS/LIA.

Analysis proportionate with impact

The OCBR provides advice on the adequacy of the analysis in a RIS or LIA according to the impact of a proposal. When the proposal has a low impact or is relatively simple, it generally requires less analysis than where the proposal imposes a large burden, or is more complex. Further guidance on proportionality is available in the *Victorian Guide to Regulation*.

The OCBR is here to help you through the RIS / LIA process by providing:

- Advice to help inform your Minister on the need to prepare a RIS/LIA
- Training on the preparation of RISs and LIAs
- Examples of previous RISs for similar proposals
- Advice on defining the problem, identifying possible options, and undertaking a cost-benefit analysis
- Written feedback on early drafts

Sources of data for cost-benefit analysis in RIS/LIAs

- Stakeholder consultation
- Published research
- University research centres
- Expert opinion
- Surveys
- Australian Bureau of Statistics

Useful guidance material when preparing a RIS or LIA

- DTF *Victorian Guide to Regulation and Appendices (2014)*
- DTF *Cost Recovery Guidelines (2010)*
- OCBR RIS / LIA assessment checklist

Contact us on 9092 5800

regulationreview@betterreg.vic.gov.au

www.betterregulation.vic.gov.au

HINTS AND TIPS

for completing key steps in the RIS/LIA process

◆ Problem

Identify and define the problem that requires intervention. Explain the nature source and extent of the problem, and describe who is affected. Avoid discussing options for addressing the problem at this stage.

◆ Objectives

Define the objective of the intervention in relation to the underlying problem, specify objectives in terms of outcomes, rather than the means by which they will be achieved, identify and separate primary and secondary objectives.

◆ Options

Undertake a preliminary analysis of a range of options, including consideration of how other jurisdictions have dealt the same or a similar problem. Discard options that are clearly unworkable or inappropriate and then describe the remaining viable options in detail. At least 2-3 options should be considered for straightforward problems, more for complex problems. Non-regulatory options must also be considered in the case of a RIS.

◆ Assess the costs and benefits of options

Present (or estimate) the costs and benefits of the viable options. The aim is to identify the preferred option - the option that achieves the objectives of the intervention and generates the highest net benefit to society. Cost-benefit analysis (CBA) is the preferred decision tool. This requires quantification of costs and benefits. A multi-criteria analysis (MCA), break even analysis or cost-effectiveness analysis may be used where there is a lack of quantitative data. This section must outline any key assumptions, gaps in the data, and limitations of the analysis. A small business impact assessment is mandatory in the case of a BIA.

◆ Preferred option

Explain the reasons for choosing the preferred option and discuss how the preferred option will function in practice.

◆ Implementation & Enforcement

Explain how the preferred option will be practically implemented and how it will be enforced.

This is important because the actual costs and benefits estimated in the RIS or BIA depend on the ability to implement and enforce the preferred option.

◆ Evaluation

Include details of an evaluation strategy to review the effectiveness of the regulations. An evaluation strategy should include the collection of baseline data in order to assess whether the regulations are achieving the specified objectives.

◆ Consultation

Consult with affected parties during the preparation of the RIS and include a statement in the RIS outlining who was consulted, and a summary of their views. Include the length of consultation period planned for the final RIS. The recommended period is 60 days and must be at least 28 days.

◆ Appendices

Include technical discussion, an explanation of the CBA assumptions, a bibliography and a copy of the settled regulations (for RISs) in the appendix.

◆ Executive Summary

The Executive Summary should provide a clear and transparent summary of the major findings, including any shortcomings or gaps in the analysis. Stakeholder questions can also be included for areas where data or information is lacking.