Regulatory Impact Analysis Evaluation 2016:

Identifying the Factors

Which Influence Quality

Report to The Treasury

December
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Acronyms and Abbreviations

PIRA	Preliminary Impact and Risk Assessment
QA	Quality Assurance
RIA	Regulatory Impact Analysis
RIAT	Regulatory Impact Analysis Team
RIS	Regulatory Impact Statement

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Executive Summary

Introducing or amending legislation or regulations in New Zealand requires a Regulatory Impact Statement (RIS) that summarises the Regulatory Impact Analysis (RIA) undertaken by the department. A RIS undergoes an assessment before being presented to Ministers to determine whether it 'meets', 'partially meets' or 'does not meet' the quality assurance (QA) criteria.

The Regulatory Impact Analysis Team (RIAT) in Treasury seeks to improve regulatory quality across government. To this end, RIAT has established a RIA Handbook and provides guidance to agencies.

Castalia was engaged to determine which factors contributed to the final QA assessment of 27 RISs completed in 2015/16.[1] Understanding this will enable RIAT to improve its guidance and the support it offers to authoring departments.

Our analysis found that three factors influence the final quality of a RIS

The following three factors are the most influential on the final RIS quality:

- The impact of the organisational policymaking process on the RIS

- The extent to which the policy process outside the organisation impacted the RIS

- The impact of the experience of the author/s on the RIS.

We suggest consideration of the following items to improve the assistance and guidance RIAT provides to agencies around RIA and RIS process:

- Clarify how the Regulatory Impact Analysis steps fit into departmental policymaking processes

- Consider clarifying the expected level of analysis and resource requirements for different types of RIS.

We identified factors which might affect RIS quality and built them into an assessment matrix

We devised an assessment matrix to systematically assess the process used to develop a RIS, given the diversity of situations and processes which require a RIS. Based on our extensive experience of assessing RISs, we identified the key elements in a RIS process (which we placed on an x and y axis), and determined the factors which influence them (which we inserted as quadrants where the axes intersect). Figure ES1.1 provides a simplified version of the matrix.

We completed a matrix for each RIS, assigning a score for each quadrant. The score represented the degree to which that quadrant was influential in determining the RIS quality. The higher the score, the more influential the quadrant was.

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[1] Castalia were given a sample of 30 RISs, but we were unable to contact officials for three of them.

Figure ES1.1: Castalia's Assessment Matrix (simplified)

	Knowledge	Time	Policy Process
Author/s	Author experience of: • RIS • the policy area	Constraints on the author's time	Whether the RIS author was part of the policy process
Organisational environment	Institutional knowledge and support	Constraints on the time needed for internal review and sign-off	How well the policy process embedded the RIS requirements
Context	The knowledge available on the policy issue	Time constraints from external events or processes	External impacts on the policy process

(Each cell scored on a scale from 1 to 3.)

We structured our interviews and information-gathering to assess which factors were influential in a systematic way for every RIS

The matrix allowed us to structure our interviews and information-gathering in a systematic and comparable way across RISs we reviewed. We conducted interviews across 14 departments with RIS authors, members of RIS departmental QA Panels, and Treasury vote analysts. We also analysed each RIS to supplement information from the interviews.

We divided the sample RISs according to their QA assessment into:

- 14 'high-quality' RISs (i.e. The RISs that had received a "meets" the RIA criteria)

- 13 'lower-quality' RISs (i.e. the RISs that had received either a "partially meets" or a "does not meet" the RIA criteria).

For each matrix quadrant, we compared the average score received by all the high-quality RISs against the average score of all the lower-quality RISs. The differential between the average quadrant scores told us how influential the quadrant was in determining final RIS quality; the higher the differential, the more of an impact the quadrant had on final RIS quality.

Three factors had a significant impact on the quality of a RIS

Figure ES1.2 illustrates which three quadrants had the highest differential between the two RIS groups and were therefore the most influential in determining final RIS quality. They are:

- The impact of the organisational policymaking process on the RIS

- The extent to which the policy process outside the organisation impacted the RIS

- The impact of the experience of the author/s on the RIS.

Figure ES1.2: The Most Influential Factors in Determining Final RIS Quality

	Knowledge	Time	Policy Process
Author/s	**Author experience of:** • **RIS** • **the policy area** 3 ... 1	Constraints on the author's time 3 ... 1	Whether the RIS author was part of the policy process 3 ... 1
Organisational environment	Institutional knowledge and support 3 ... 1	Constraints on the time needed for internal review and sign-off 3 ... 1	**How well the policy process embedded the RIS requirements** 3 ... 1
Context	The knowledge available on the policy issue 3 ... 1	Time constraints from external events or processes 3 ... 1	**External impacts on the policy process** 3 ... 1

☐ **High influence**

The most influential factor was *the impact of the organisational policymaking process on the RIS*

High-quality RISs were more likely to come from policy processes that either fully embedded the Regulatory Impact Analysis (RIA) requirements from the start, or could adapt to questions raised by the RIA process later.

Lower-quality RISs were more likely to come from policy processes which did not embed RIA requirements, leading to poorly defined problems, weak or absent options analysis, or lack of consultation. These were more likely when RIS authors or Ministers had already decided on the preferred solution before drafting the RIS. In several instances, officials had already presented 'high-level' policy papers to their Minister and sought a steer before commencing drafting.

The second most influential factor was *the extent to which the policy process outside the organisation impacted the RIS*

High-quality RISs were less likely to have been influenced by external processes. The two most common external influences were Ministerial preferences prior to the RIS being drafted, and external policymaking processes (such as an independent review). We found instances when the Treasury would support departments in minimising RIS requirements where an external policy review had taken place and vote analysts were comfortable with the level of analytical rigour, despite there being no explicit mechanisms to minimise RIS requirements in such scenarios.

The third most influential factor was *the impact of the experience of the author/s on the RIS*

High-quality RISs were more likely to have been authored by a policy analyst with significant RIS experience. Analysts with significant RIS experience also required less time to complete a high-quality RIS.

We did not see any correlation in the quality of a RIS and how much institutional support was provided, such as RIS training or the availability of an internal RIS QA Panel to

provide feedback. This means that the effect of institutional support cannot entirely negate the effect of a less experienced author.

We suggest that RIAT clarify how the Regulatory Impact Analysis steps fit into departmental policymaking processes

RIAT should work closely with departments to make them aware of when they need to complete a Preliminary Impact and Risk Analysis (PIRA), which determines if a RIS is necessary. This is because departments often start working on policy before determining if a RIS is required, which means the policy work does not necessarily incorporate the RIA analytical requirements from the outset. The RIA process then subsequently flags issues not considered originally, undermining the original policy process, and creating challenges when changing recommendations.

RIAT should use departments' internal RIS QA Panels and experienced RIS authors to educate departments about completing a PIRA the moment a regulatory solution becomes a feasible option in any policy analysis.

We also suggest that RIAT clarify the expected level of analysis and resource requirements for different types of RIS

This is because:

- Departments and Treasury are at times engaging in ad-hoc discussions to determine whether a RIS is appropriate for some policy proposals, however we did not find evidence of guiding principles to inform these discussions.

- Several departments commented that certain RISs, such as those with economy-wide or large sectoral implications, were more resource-intensive than they had planned for.

This suggests that there are different 'typologies' of regulatory policy proposals requiring differing levels of analysis and corresponding resource requirements. A framework can be used to provide a more systematic approach to Treasury-department discussions, by determining which typology a RIS fits, and therefore what the corresponding levels of expected analysis and resource requirements are.

Further research is required to understand the full array of typologies and the analytical/resource requirements for each. However, a framework to categorise RIS typologies and determine the expected analytical and resource requirements could be helpful.

1   The 2016 RIS Review: Purpose and Approach

The Treasury's Regulatory Impact Analysis Team (RIAT) engaged Castalia to identify which factors influenced the quality of a selection of 30 Regulatory Impact Statements (RISs).

The 2016 review focuses on factors affecting RIS quality rather than just the document itself

Previous reviews commissioned by RIAT have focused on assessing the quality of RISs, except for one review in 2014 which focused on assessing how departments evaluated different RIS policy options.

The focus on the quality of a RIS as a standalone document is important, however it does not always reveal the process which led to it. This means it is not always possible to make sensible recommendations on improvements to the RIS production process purely from assessing the document itself.

The 2016 evaluation described in this report adopts a different approach by systematically assessing which elements of the policy process influenced RIS quality in diverse situations. This allowed us to identify commonalities across RIS to understand what contributed to different levels of quality.

We identified factors which might affect RIS quality and built them into an assessment matrix

We identified factors which might affect RIS quality based on our previous experience in assessing RISs and by analysing the core elements of a RIS process. Core elements include:

- **The level of pre-existing knowledge about the RIS process or the policy issue**. An example would be a complete surprise in a unique situation compared with a regular ongoing issue.

- **The timeframe that a RIS is produced within**. For example, a RIS may be drafted in a week or over a year. Assessing timeframes also captures the amount of resources applied to the task within an agency; for example, while a process may have a long timeframe, internal team resourcing may mean an author did not have time to spend on a RIS.

- **The policy process.** For example, it could be a large legislative change programme compared with a short annual update to a regulation. This might also dictate whether a RIS is drafted as the policy is being formulated or afterwards.

Each of these elements apply at three different levels:

- **The authoring team**. The authoring team will have different levels of pre-existing knowledge, allocate different amounts of time and resource (depending on their prioritisations), and be part of a certain policy process.

- **The organisation**. The department will have different levels of, and access to, institutional knowledge and different feedback/sign-off processes which will affect timeframes. They may have their own idiosyncratic policy processes which complement or clash with the RIS process.

- **The wider context**. The context of a policy change will affect the knowledge available to departments and authoring teams; for example, a unique policy issue will have a limited amount of literature to draw from. Context can also affect

available timeframes (for example, an externally driven deadline) and the policy process (for example, if a policy has already been developed at the international level).

We placed the key elements of the RIS process onto a matrix *x* and *y* axis, and determined the factors which influence them, which became the quadrants where the axes intersect. This is summarised in Figure 1.1.

Figure 1.1: Castalia's Assessment Matrix (simplified)

	Knowledge	Time	Policy Process
Author/s	Author experience of: • RIS • the policy area 3 ↕ 1	Constraints on the author's time 3 ↕ 1	Whether the RIS author was part of the policy process 3 ↕ 1
Organisational environment	Institutional knowledge and support 3 ↕ 1	Constraints on the time needed for internal review and sign-off 3 ↕ 1	How well the policy process embedded the RIS requirements 3 ↕ 1
Context	The knowledge available on the policy issue 3 ↕ 1	Time constraints from external events or processes 3 ↕ 1	External impacts on the policy process 3 ↕ 1

We developed a scoring system to assess the strength of each quadrant

For each RIS, we assigned each quadrant a score of between 1 and 3. The score represented the degree to which that quadrant was influential in determining final RIS quality. The higher the score, the more influential the quadrant was. Figure 1.2 shows the criteria for scoring each factor. We generated questions within each quadrant to guide our analysis and draw out information on the process behind each RIS.

We structured our interviews and information-gathering to assess which factors were present in a systematic way for every RIS

We assessed which quadrants were influential for 27 RISs submitted to Cabinet in 2015/16, based on interviews with RIS officials and a desk-based analysis of each RIS. The RISs are listed in Appendix A, and were prepared by 14 different government agencies.

We conducted interviews with:

- 18 RIS authors and departmental officials
- Two members of departmental RIS QA panels
- 12 Treasury vote analysts.

For each RIS, we interviewed different combinations of officials depending on their availability and responsiveness; Appendix A provides details. Though our identification of potentially influential factors provided an analytical framework to guide our interviews, some subjective judgement was still required to produce a score for each factor. We minimised this effect by changing the mix of Castalia managers and analysts that worked on each matrix, and by calibrating the final matrices through a joint assessment by all managers.

We analysed each RIS to supplement information from the interviews. The RISs were important sources of information on factors like the available knowledge on a policy issue, or the imperative driving tight timeframes or creating external constraints.

After scoring each RIS with the matrix, we looked at their quality-assurance assessments to see if there was a correlation

Prior to going to Cabinet, each RIS receives a QA assessment, which provides a view on the quality of the RIS. RISs are assessed and given a "meets", "partially meets", or "does not meet" the criteria set out in the RIA Handbook. To understand which quadrants in our matrix influenced the quality of a RIS, we divided our sample of RISs by their QA assessment, which were as follows:

- 14 'high-quality' RISs (i.e. RISs which received a "meets")

- 13 'lower-quality' RISs (i.e. RISs which received either a "partially meets" or a "does not meet"[2]).

This process allowed us to develop a database which links the quality score of each RIS with data on the presence and strength of factors which might influence RIS quality. We calculated the average score for each quadrant for all the high-quality RISs, and compared this with the average score for each quadrant for the lower-quality RISs. The differential between the average quadrant scores told us how influential the quadrant was in determining final RIS quality.

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[2] One RIS in the sample was yet to receive a QA score. We reviewed it internally and judged that it was not a "meets", therefore we placed it into the same category as the "partially meets" and "does not meets" RISs (thereby totaling 13).

Figure 1.2: Assessment Matrix to Determine Which Factors Influence the Quality of a Regulatory Impact Statement

Key components of RIS process	Key attributes affecting RIS quality		
	Knowledge	**Time**	**Policy Process**
Author/s **(The impact of the author/s on the RIS)**	**The impact of the experience of the author/s on the RIS** **3 Expert – prepared many RISs (e.g. more than 5)** **2 Intermediate – prepared a few RISs but not many** **1 Beginner – little to no experience preparing RISs** Did the author/s have experience preparing RISs before? How many RIS had they previously worked on? Did the author/s have experience in that particular policy area? Were there any changes in responsible personnel part-way through this RIS? Who else was involved and how much experience did they have preparing RISs?	**The impact of the author's time constraints** **3 No material constraints with the team's time allocation** **2 Some constraints – some areas had to be rushed due to time constraints within the team** **1 Major constraints – author felt significantly more time was needed to meet Treasury RIS standards because of constraints on the team's time allocation** Did the author have enough time to complete the RIS? When were they first tasked with the RIS relative to the deadline? When were they first provided feedback? Did they have enough time to take feedback on board? Was the RIS a priority for the author? How many projects were they simultaneously involved in?	**The influence of the policy process on the author's ability to prepare a good RIS** **3 Deep involvement in policy process – involved from the start, played significant role in overall policy process in addition to writing the RIS** **2 Some involvement in policy process – author was involved substantially in the policy process, even if not from the start, and had at least some involvement in the wider policy process** **1 Limited involvement in process – author was not involved substantially in the policy process and mainly just wrote the RIS** Was the author/s involved in the policy process development from the beginning? Did the author/s have any tasks in the process beyond the preparation of the RIS? Was there a policy team based conceptualisation stage that the author was involved in? Were the options developed in the policy process or during the drafting of the RIS?

	The impact of institutional knowledge and processes on the RIS	The extent to which the RIS is impacted by a time factor from inside the organisation	The impact of the organisational policymaking process on the RIS
Organisational environment **(The impact of the responsible organisation on the RIS)**	**3 Extensive support provided** **2 Some support provided** **1 Limited support provided – author mainly left to write the RIS on their own** **(Support/information could be from wider team, external support, guidebooks etc.)** Was training provided/available on writing a good RIS? Did the wider team have experience in preparing RIS? Did they share that experience with the author? Did the organisation use external support? Is there a formal process to retain policy issue knowledge in the department? Are there any lessons-learnt / continuous improvement processes the author could draw from? Was the RIS reviewed after being written? If yes, how and at what level within the organisation? Did the Treasury have any input? If so, what kind of input?	**3 Reviewers provided feedback with enough time for changes to be made and for the author to implement those changes** **2 Reviewers reviewed final copy and gave feedback but there was not enough time for all changes to be implemented** **1 No time available for review and feedback** Were sufficient resources allocated to this RIS compared with other comparable RIS? How were the organisation's internal deadlines structured? How do these relate to external processes? How flexible are they? What room is there for slippage?	**3 Great process – process in substance matched what a RIS is designed to achieve** **2 Average process – process in substance fell short of what a RIS is designed to achieve but meets in significant ways** **1 Poor process – e.g. RIS drafted at the end of the policy process (and the policy process did not address key RIS requirements)** Did the policy process start with a clear problem definition? Were a realistic set of options determined which were all tested within the wider policy process before the RIS was completed? Was there consultation and feedback from industry or stakeholders? Did the policy process reflect the content of the RIS or did writing the RIS raise new questions that had not been addressed in the policy process? To what extent did issues raised during the drafting of the RIS feed back into the policymaking process?

| Context

(The impact of the external environment on the RIS) | The impact of contextual knowledge on the regulatory issue
3 Thorough consideration of available evidence
2 Some reference to available evidence but no evidence it was considered in detail
1 No consideration of available evidence

How much pre-existing knowledge is there on this issue?
Were overseas examples cited?
Is this an issue for which there is no precedent?
Is this issue of longstanding or a one-off event?
Did the issue arise unexpectedly or predictably? | The extent to which the RIS is impacted by a time factor from outside the organisation
3 No external time pressures – no additional pressures on top of any borne from authoring team or within the organisation
2 Some external time pressures, which meant some reprioritisation within the authoring team or changes to internal processes
1 Significant external time pressures, which meant authoring team did not have realistic amount of time to meet Treasury RIS standards and/or undertake due internal processes

What external time pressures were placed on the organisation writing the RIS?
Did the circumstances make the RIS process urgent?
Were the deadlines hard deadlines or did they change? Were original deadlines met?
Was the RIS a reactive process or a proactive process?
Were deadlines and timeframes changed during the process? | The extent to which the policy process outside the organisation impacted the RIS
3 Limited external pressure for a specific outcome
2 Significant external pressure for a specific outcome
1 External pressure dictated outcome

How was the RIS triggered? For example, was it:
▪ A Ministerial priority?
▪ By the department (e.g. from department-driven policy analysis)?
▪ A concern of industry?
▪ An external event?
Were priorities changed during the RIS writing process?
How did wider stakeholder interest affect the RIS process?
Was a (incl. public) commitment made to pursue a path before the RIS was conceived of? |

2 Identifying the Factors Which Influence the Quality of a RIS

The following section explains:

- How we ranked the matrix quadrants according to how influential they were

- The most influential quadrants and what caused them

- The lower influence of the remaining quadrants.

The key factors which influenced the quality of the sample RISs

We compared the average quadrant scores for high-quality RISs against the average quadrant scores for lower-quality RISs to calculate the differential. The higher the differential, the more of an impact the quadrant had on final RIS quality. Lower differentials meant that high-quality and lower-quality RISs were receiving roughly the same score for that quadrant, meaning the quadrant had less of an impact on RIS quality.

We ranked the quadrant differentials in an ordinal scale, based on the relative score of each one. The quadrants with the highest differential, and therefore having the greatest influence on RIS quality, are higher up the rankings. Table 2.1 shows how each quadrant ranks.

Table 2.1: How the Factors Effecting the Quality of a RIS Ranked in Influence

Rank	Quadrant	Difference between the average score of high-quality and lower-quality RISs
1	The impact of the organisational policymaking process on the RIS	0.8
2	The extent to which the policy process outside the organisation impacted the RIS	0.6
3	The impact of the experience of the author/s on the RIS	0.5
4	The impact of contextual knowledge on the regulatory issue	0.4
5	The extent to which the RIS is impacted by a time factor from inside the organisation	0.2
6	The impact of institutional knowledge on the RIS	0.2
7	The influence of the policy process on the author's ability to prepare a good RIS	0.1
8	The extent to which the RIS is impacted by a time factor from outside the organisation	0.1
9	The impact of the author's time constraints	0.1

Policymaking processes evidently played a key role in RIS quality because the two highest ranking quadrants sit in the *policy process* column of the assessment matrix.

We determined that the three highest ranking quadrants had high enough differentials to be of significance and warrant further discussion. These are:

- The impact of the organisational policymaking process on the RIS

- The extent to which the policy process outside the organisation impacted the RIS

- The impact of the experience of the author/s on the RIS.

Quadrant One: The impact of the organisational policymaking process on the RIS

This quadrant measures how much the organisation's policymaking process incorporates the core requirements of the Regulatory Impact Analysis (RIA) framework, which is summarised in a good RIS. It is where the 'organisational environment' and 'policy process' intersect on the matrix. The RIA framework is captured in the RIS Handbook, and includes:

- Describing the status quo

- Defining the problem and assessing its magnitude

- Defining the objectives

- Identifying the full range of feasible options

- Analysing the options

- Consulting relevant stakeholders

- Developing a recommendation

- Describing how the policy change will be implemented

- Describing how the change will be monitored, evaluated and reviewed.

These requirements constitute a sound approach to regulatory decision making, therefore we would expect departments to follow the principles behind them even if officials were not explicitly trying to fulfil RIA requirements.

We found a significant number of high-quality RISs either explicitly followed the requirements of the RIS Handbook or followed policy processes that captured the analytical principles. Five out of the 14 high-quality RISs had a score of 'three' – *process in substance matched what a RIS is designed to achieve* – compared with only one out of 11 lower-quality RISs.[3]

Conversely, only two of 14 high-quality RISs had a score of 'one' - *the policy process did not address key RIS requirements* – compared with seven of 11 lower-quality RISs.

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[3] Though we had a total of 13 'other' RISs, we were only able to partially complete the matrix for two of these because of interviewee availability. For those two RISs, we could not make a judgement on *the impact of the organisational policymaking process on the RIS*.

Table 2.2: Percentage of High-quality and Lower-quality RISs That Incorporated RIS Requirements in Their Policymaking Processes

Quadrant Score	Percentage of high-quality RISs (Total RISs: 14)	Percentage of lower-quality RISs (Total RISs: 11)
3 - *Great process – process in substance matched what a RIS is designed to achieve*	36% (5 RISs)	9% (1 RIS)
2 – *Average process – process in substance fell short of what a RIS is designed to achieve but meets in significant ways*	50% (7 RISs)	27% (3 RISs)
1 – *Poor process. E.g. RIS drafted at the end of the policy process (and the policy process did not address key RIS requirements)*	14% (2 RISs)	64% (7 RISs)

The best RISs had:

- **Policy processes that either fully embedded the RIA framework from the start, or could adapt to questions raised by the RIA process later.** Good examples include the Ministry for the Environment's Emissions Trading Scheme RIS, where the lead author was also the lead policy analyst and actively sought to answer the key RIA requirements from the start of the policy process, and the Ministry of Justice's New Trusts Act RIS which embedded the RIA requirements from the start.

- **Wide consultation with relevant stakeholders with plenty of time to incorporate views.** The Ministry of Education's RIS on enabling schools to implement cohort entry arrangements for children first starting school engaged in lots of consultation and fed this into the policymaking process.

RISs that received the lowest scores bolted the drafting of the RIS onto the end of a policy process that did not embed the RIA requirements, and tended to view the RIS as a 'tickbox' exercise. This was most prevalent when RIS authors or Ministers had already decided on the nature of the problem or the preferred solution, leading to RISs with poor problem definitions and weak options analysis. In several instances, officials had already presented 'high-level' policy papers to their Minister and sought a steer before drafting a RIS; this created difficulties when a full RIA analysis undermined the original preferred option.

In some cases, authors might only become aware that a RIS is required quite late in the policymaking process. This might be due to:

- The author not having the RIA requirements front-of-mind at the start of the policy process

- A regulatory change solution not being anticipated when the problem was first being explored, meaning the RIA requirements were not considered at that time either.

Further research is required to fully understand this, but based on the interviews we conducted it seems likely that many authors did not anticipate a forthcoming requirement to draft a RIS when producing high-level notes for their Ministers.

Poor or absent consultation processes were another common source of poor RIS quality. Departments under externally-driven time pressures were most likely to miss this step.

Some interviewees commented that they could have consulted other relevant departments at a more senior level earlier on in the process to ensure differences were resolved before reaching Ministerial level.

Quadrant Two: The extent to which the policy process outside the organisation impacted the RIS

This quadrant measured how much external processes influence the department's policymaking process. Examples of external processes include strong Ministerial steers or international policymaking processes. They can occur before the RIS drafting starts (possibly even triggering the policy proposal itself) or afterwards.

Influential external processes occur throughout almost all policymaking. Vocal external stakeholders can alert officials to potential problems, and internationally-driven reforms allow multiple countries to adopt them. Good departmental policy processes will work alongside external ones and allow proposals to change if necessary. However, they should not be driven by external events. A RIS is a departmental document and is supposed to represent the views of the department; it must ultimately be guided by sound analysis. This is important because the Minister who is served by a RIS relies on objective analysis against which he or she can weigh up political considerations, including external events.

We found that half of the high-quality RISs were subject to no or limited external pressures for a specific outcome, compared with only one (of 12) lower-quality RIS (in this case, the RIS 'partially met' the RIA criteria). One third of lower-quality RISs scored a 'one', meaning they were subject to external constraints severe enough to determine the final recommended policy proposal.

Table 2.3: Percentage of RISs Subject to Different Levels of External Influence

Quadrant Score	Percentage of high-quality RISs (Total RISs: 14)	Percentage of lower-quality RISs (Total RISs: 12)
3 - *Limited external pressure for a specific outcome*	50% (7 RISs)	8% (1 RIS)
2 – *Significant external pressure for a specific outcome*	36% (5 RISs)	58% (7 RISs)
1 – *External pressure dictated outcome*	14% (2 RISs)	33% (4 RISs)

The most common external constraints were:

- **Ministerial views on a policy problem or preferences for a policy option.** This was the most common. RIS authors had different views about drafting a RIS in this circumstance; some felt the process of drafting a RIS should support the Minister's views, which would often lead to 'shoe-horning' a RIS to fit a predetermined idea. The Ministry for the Environment's Emissions Trading Scheme RIS was a good example of how a department can use the RIA process to foster a productive policy discussion with Ministers for a better outcome. The Ministry convinced their Minister to support an alternative option through sound analysis that met the RIA requirements, and free and frank discussion.

- **International or independent policy reviews.** Authors were unanimous in viewing the RIS as superfluous in this instance, citing the international/independent policy process as more relevant in dictating the policy outcome or already incorporating the key RIA requirements. This often led to the drafting of a RIS becoming a tick-box exercise that struggled to command high-level focus or departmental resources.

The role of the Treasury was different in each circumstance; RISs with a strong Ministerial preference were more likely to be challenged by Treasury vote teams on analytical grounds, but RISs constrained by external policy processes were less likely to be challenged and perceived as analytically-driven. Several vote analysts we interviewed cited satisfaction with the problem definition and options analysis of an external policy process (our study did not explore the rigour of external policy reviews to verify this).

In one case, the Treasury vote team worked with the department to get Ministerial approval to end further RISs for a frequently-occurring policy issue driven by an external policy process. This particular RIS received a 'meets' QA assessment, despite missing key RIA requirements, because the Treasury and the department were content with the external review it relied upon.

The decision not to complete a full RIS is sensible if external policy processes can be shown to fully incorporate RIA criteria and drafting a full RIS would be resource-intensive. However, currently there are no criteria or set of principles used to explicitly determine this. As such, Treasury and departments seem to be relying on ad-hoc discussions.

Quadrant Three: The impact of the experience of the author/s on the RIS

The experience of the author/s includes both their experience drafting RISs and their experience in the RIS's policy area. It is unsurprising that experience is positively correlated with the quality of a RIS; over one third of high-quality RISs were authored by officials with significant experience (a matrix score of 'three'), but none of the lower-quality RISs were authored by someone with that level of expertise.

Table 2.4: RIS and Policy Experience of RIS Author/s

Quadrant Score	Percentage of high-quality RISs (Total RISs: 14)	Percentage of lower-quality RISs (Total RISs: 12)
3 - *Expert – prepared many RISs (e.g. more than 5)*	36% (5 RISs)	0% (0 RIS)
2 – *Intermediate – prepared a few RISs but not many*	50% (7 RISs)	75% (9 RISs)
1 – *Beginner – little to no experience preparing RISs*	14% (2 RISs)	25% (3 RISs)

Some departments we interviewed, such as Inland Revenue, produce many RISs due to the nature of their work and therefore have advisors experienced in this process, which has positive impacts on RIS quality including understanding the RIA requirements and building the policy process around them.

Author experience also effected the way authors perceived time pressures. A good example is the Ministry of Primary Industry's Blue Cod RIS. The author was experienced in the RIA process and drafted the RIS within two days, and commented that this was enough

time. By comparison, all departments we interviewed tried to set aside much longer timeframes to draft a RIS to a standard they were comfortable with. This was because the MPI author guided a policy process which addressed the key RIA requirements so that writing the RIS at the end was merely a case of documenting it on paper (rather than conducting new analysis).

There is a weak correlation between RISs of different quality and quadrant scores for *the impact of institutional knowledge and processes on the RIS*, which captures the amount of institutional support given to authors going through the RIA process (for example, RIS training). This means that the effect of institutional support cannot entirely negate the effect of a less experienced author.

The remaining factors have a lower influence on RIS quality

The average score difference between high-quality and lower-quality RISs decreases further down the rankings to between 0.1 and 0.4, which we do not think is significant. As the average score difference gets closer to zero, it is more likely that the factor either exerts no influence, or both a positive and a negative influence (depending on the situation) which nets out.

For example, the *extent to which the RIS is impacted by a time factor from outside the organisation* has an average score difference between the two RIS groups of 0.1. This could be because external time pressure is (up to a point) not relevant to the quality of a RIS. However, it could also cause one of two effects which broadly net out; it could negatively impact RIS quality in some situations, and in other situations it could positively impact RIS quality because limited time is the result of the RIS being high-profile, incentivising departments to place their best analysts on it.

Though general trends can be discerned, less influential factors at the aggregate level can still be very relevant at the individual level. For example, the Ministry for the Environment's Emissions Trading Scheme RIS was written by an author with no RIS experience and yet the institutional processes (which had an average score difference between the RIS groups of just 0.2 at the aggregate level) played a significant role in the RIS achieving a 'meets' criteria. This included:

- Bringing in an analyst to assist the project who was on the departmental RIS QA Panel
- The lead author going on a RIS training course
- Engaging RIAT early in the policy process for feedback
- Establishing a reference group of expert economists to input into the policy process.

3   Suggestions for Improving RIAT Assistance to the RIS Process

There are two specific suggestions that will allow the RIAT team to improve the guidance and assistance it provides to departments undertaking RISs. These are discussed below.

3.1   Suggestion 1: Clarify How the Regulatory Impact Analysis Steps Fit into Departmental Policymaking Processes

RIAT should work closely with departments to make them aware of when they need to complete a Preliminary Impact and Risk Analysis (PIRA), which determines if a RIS is necessary. This is because departments often start working on policy before determining if a RIS is required, which means the policy work does not necessarily incorporate the RIA analytical requirements from the outset. The RIA process then subsequently flags issues not considered originally, undermining the original policy work, and creating challenges when changing recommendations.

Our report showed the main reasons for policy work starting before a RIA process were:

- The author not having the RIA requirements front-of-mind at the start of the policy process

- A regulatory change solution not being anticipated when the problem was first being explored, meaning the RIA requirements were not considered at that time either.

Identifying when policy work starts can be difficult because it depends on the issue: for example, some policy processes in our analysis started reactively in response to external policy reviews, while others started proactively through department analysis. In the former, the department was reviewing a proposed policy problem and solution, while in the latter the department deduced the problem and proposed solutions themselves. However, what each process has in common is that there is a point in time when it is apparent to the department that a regulatory change is a feasible policy solution, even if it is not the most likely solution. It is at this point that departments should complete a PIRA.

However, this still requires policy advisors to know, and flag, that a PIRA is necessary once a regulatory solution is deemed a feasible option. RIAT should use departments' internal RIS QA Panels and identify and utilise experienced RIS authors to educate departments. Our analysis shows experienced authors have a significant influence in determining the final RIS quality outcome, therefore there is a strong case for using them throughout organisations for knowledge transfer.

We acknowledge that completing a PIRA and going on to complete a full RIS is impractical for departments that are asked for immediate, high-level advice on an issue by Ministers. However, matters would be aided significantly if departments more clearly qualified high-level, very qualitative, advice to Ministers during the early stages of policy formulation. Signalling that the problem definition and possible solutions are subject to change following fuller analysis would help minimise the impact of any subsequent changes. Ministers would also benefit from a useful gauge of the accuracy of the advice received.

3.2   Suggestion 2: Consider clarifying the expected level of analysis and resource requirements for different types of RIS

RIAT should consider clarifying the expected level of analysis and resource requirements for different types of RIS because:

- Departments and Treasury are at times engaging in ad-hoc discussions to determine whether a RIS is appropriate for some policy proposals. There will be instances when this flexibility is very useful; for example, when the resource costs of a department reviewing a highly technical proposal with limited regulatory impacts outweigh the benefits. However, we did not find any evidence of guiding principles to inform these discussions.

- Several departments commented that certain RISs were more resource-intensive than they had planned for. Two departments drafted RISs that had significant sectoral or economy-wide implications, and commented that they did not know how much resource to put into the analysis at the start. The RIS examples they had seen related to relatively technical or minor regulatory changes and did not offer adequate guidance. Both departments commented that they were ultimately more resource-intensive than originally planned for.

This evidence suggests that there are different 'typologies' of regulatory policy proposals requiring differing levels of analysis and corresponding resource requirements. A framework could be developed to provide a more systematic approach to Treasury-department discussions, by determining which typology a RIS fits, and a systematic assessment of the degree of impact and therefore what the corresponding levels of expected analysis and resource requirements are. Such a framework could be published in the RIS Handbook to help departments plan their resources. It could include examples of high-quality RISs for each RIS typology to further assist departments.

3.3 Further Research Can Provide Deeper Insights and Make the RIS Process Even Better

Our assessment provides insight into the key factors influencing the quality of RISs, but we have also unearthed new questions which, if answered, would allow RIAT to improve departmental policy processes. These include understanding:

- **The links between the quadrants:** Our limited sample size meant that we were not able to fully explore interdependencies between the matrix quadrants (for example, the extent to which the experience of a RIS author determines how much the RIS process becomes embedded in the department's policy process).

- **Whether sub-factors are particularly relevant:** We see much potential in deepening the matrix we have developed to explore whether specific sub-factors are the most influential factors. For example, the timing and quality of consultation within the policy process quadrant.

- **Developing an assessment framework for the level of expected resource input for different types of RIS**. Further research is required to understand the full array of RIS typologies and the analytical/resource requirements for each. For instance, regulatory policy proposals could be categorised based on their level of expected regulatory impact (for example: negligible, small, medium, and high).

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