

Business, Energy and Industrial Strategy Committee

Oral evidence: Pre-appointment hearing: Chair of the Regulatory Policy Committee, HC 1270

Tuesday 9 March 2021

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Members present: Darren Jones (Chair); Richard Fuller; Ms Nusrat Ghani; Paul Howell; Charlotte Nichols; Mark Pawsey; Alexander Stafford.

Regulatory Reform Committee Member present: Stephen McPartland.

Questions 1 – 28

Witness

I: Stephen Gibson, Government's preferred candidate for the role of Chair of the Regulatory Policy Committee.

Written evidence from witnesses:

Examination of witness

Witness: Stephen Gibson.

Q1 Chair: Welcome to this morning's session of the Business, Energy and Industrial Strategy Committee. The session today is the pre-appointment hearing for the new chairmanship of the Regulatory Policy Committee. We are delighted to welcome Mr Stephen Gibson, who is currently the interim chair of the Regulatory Policy Committee and the Government's preferred candidate to become the fully fledged chair of the RPC. Alongside our colleagues on the BEIS Committee today, we are also pleased to welcome Stephen McPartland, the Chair of the Regulatory Reform Committee here in the UK Parliament, to ask a question, too.

To get going, Mr Gibson, welcome to the Committee. I wonder whether you could start with a general opener about the role of the Regulatory Policy Committee in supporting the Government in the delivery of their own policies and how your chairmanship would contribute to that endeavour.

Stephen Gibson: Thank you for inviting me to the meeting this morning. You asked about the role of the Regulatory Policy Committee. The RPC has two principal roles in helping Government to pursue their policies. The first is independent scrutiny of impact assessments. Those are the evidence and analysis that Government Departments provide when they are seeking to promote a policy or a new regulatory measure. They provide that evidence and analysis, and the RPC acts as the independent scrutineer, the independent checker, of the quality of that evidence and analysis, to give confidence to Ministers, Parliament, the general public, business stakeholders, etc., of the quality of the evidence and analysis that supports the policy proposal.

The other thing we do is we act as the independent verification body, which means that we check the sum total of the impact of Government regulations on businesses. This dates back to 2010, when the coalition Government under David Cameron took over with a clear remit to try to reduce the impact of regulations on business. They set up the IVB as the body to check and verify the cost to business or burden on business of Government regulations, with the aim of reducing that burden over time.

We do both of those things. We provide independent scrutiny and we also provide validation. We work collaboratively with Departments to try to improve the quality of the evidence and analysis that supports those policies, with the aim of getting better policies.

Q2 Chair: Let me give you a quick topical example, which is something we are working on in this Committee at the moment. The Government have scrapped the industrial strategy and replaced it with a plan for growth, moving it from BEIS to Treasury. How would the RPC engage and interact with that decision? What engagement have you had so far on that?



Stephen Gibson: It would only be when you got to the point of particular policy proposals or legislative measures. A general aim to change industrial policy or a way to engage with industry would not come before the RPC. It would not come until you had a particular policy proposal. It could be—I do not know—relaxing a certain form of regulation, changing the minimum wage or imposing a different regulation.

We enter at the point where there is a clear policy proposal and alternative options, and we assist the Government in assessing the quality of the evidence supporting the different proposals.

Q3 **Mark Pawsey:** Good morning, Mr Gibson. Mr Gibson, in your opening remarks in your answer to the Chair you used the word “independent” three times, I think, but I note from your CV that you are the director and owner of an economic consultancy called SLG Economics. I am assuming that the letters “S”, “L” and “G” are your initials. The role of that body is to provide expert regulation and competition policy advice to regulators, regulated companies, consumer bodies and Government. Is there any way in which your ownership of this consultancy could be in conflict with your role as chairman of the Regulatory Policy Committee?

Stephen Gibson: You are right. We do take our independence very seriously. We have very clear rules—in fact, we have a new policy that we are about to publish—about ensuring that we do not have any conflict of interest or even any perception of a conflict of interest.

Given the wide remit of the RPC—we cover all the work the Government do from education to employment law to free trade agreements—it would be difficult to find a range of suitably qualified candidates for membership of the committee who did not have any active role or any potential conflict. Our policy involves declaring all the business impacts on the RPC’s register of interests, which is something I do and is in the public domain on our website, and then managing those interests.

I will give you a practical example. Last year, I was doing some work with the advertising sector on a consultancy project about advertising regulation. I declared that on our register of interests. When there were advertising policy proposals, I was recused from those. I was not involved in any of the RPC discussions. I did not have any discussions in terms of the decisions, and I did not see any of the papers or any of the supporting information. I was not aware that the RPC was doing that until publication. That is the standard policy.

For example, my predecessor Anthony Browne was the CEO of the British Bankers’ Association, so he did not get involved in any of the RPC work to do with banking or the finance sector. That has worked very well in the past, and I would expect it to continue to do so.

Q4 **Mark Pawsey:** Mr Gibson, did you recuse yourself because you had provided some consultancy or advice to a regulated company in that



case, or was it just a broader concern between the two organisations?

Stephen Gibson: In this case, this was advice to a business representative body. However, I take a very wide view of potential conflicts of interest. If there is anything in a particular sector or a particular area where there might even be a minor perception, I will register that on the conflicts of interest register and the RPC processes would kick in.

Q5 **Mark Pawsey:** Mr Gibson, approximately how many days per week are you active on SLG Economics?

Stephen Gibson: That does vary an awful lot. It always fits in around my RPC time and my other time, but it can be two or three days a week.

Q6 **Chair:** Mr Gibson, we understand from evidence that, if the RPC submits a document that says there is an issue with Government policy or a conflict, Ministers can override that and carry on with what they wanted to do in the first place. Does that need to change?

Stephen Gibson: We do not comment on the policy. We do not say whether a policy is good or bad, or whether we support the policy or not. We comment on the quality of the evidence and analysis supporting that policy, so we will say whether the analysis of the impacts on business is sufficient that the Government should be able to make a well-informed decision.

It is for the Government, Ministers and Parliament to decide whether, given our comments about the quality of the evidence, they still want to go ahead with that policy. It is not for us either to set Government policy or to seek to influence Government policy. All we do is this very formal, structured role about supporting the evidence and analysis that informs the policy.

Q7 **Chair:** Thank you for that. You have said previously that you would like mandatory scrutiny to be introduced around the consultation stage of policy-making, because sometimes the RPC is engaged too late in the day when a policy has already been decided. Is that something you want to take forward, if you become chair of the RPC?

Stephen Gibson: Yes, very much so. The Government have announced that they are going to have a review of the business impact target, and that will probably include most of the different areas of the better regulation framework within which the RPC sits. We have a number of different areas that we would like to take forward.

At the moment, of course, these are my personal views; they do not necessarily represent the views of the wider Regulatory Policy Committee. However, one of the things the Committee is very much agreed on is the importance of requiring Departments to submit impact assessments at the consultation stage—at a much earlier stage. At the moment it is only mandatory for them to submit it at the final stage. That



is after the decision has effectively been made, and it is our commentary on the quality of the evidence before it that goes to Parliament and Ministers.

It seems obvious to me that there is far greater value in having our commentary at an earlier stage, when we can identify gaps in evidence so that the Department can think about filling those gaps. We can identify areas of analysis that might be done so that the Department can go away and undertake that analysis to provide a properly informed and supported decision that can then go to Ministers and Parliament and ensure wider confidence in the policy-making process.

Q8 Ms Ghani: Mr Gibson, you talked about the independence of your role, which is music to our ears, but can I ask you how independent you will be? You have said that the Government's post-implementation policy reviews are ineffective and that much more could be done to improve them. How are you going to use your position as chair to try to resolve that?

Stephen Gibson: You are right: PIRs—post-implementation reviews—are very important, because they look at whether a policy has worked in practice or whether it needs to be tweaked, removed, extended or changed in some way.

In fact, Michael Gove, the Chancellor of the Duchy of Lancaster, in his Ditchley lecture last year commented on the importance of the evaluation of policies after they have been put in place. I fully support that. Historically, as you say and as I have commented previously, Departments have not been very good at doing post-implementation reviews for what seem to me fairly understandable reasons. They tend to focus on new issues and new policies, rather than the policies they put in place a number of years ago.

It is also fair to say that this has been exacerbated by the Covid pandemic. Departments have not been very easily able to engage effectively with stakeholders to understand the impacts of previous policies. In fact, many of the intended impacts have been diverted for very understandable reasons, because of the lockdown and the wider restrictions. While that is all understandable, when business gets back to normal it is very important that we do move to a position where the Government once again focus on properly monitoring and evaluating the effectiveness of regulatory measures so that they can be properly reviewed through PIRs.

The PIR itself is not an end. The end is to take the recommendations from the post-implementation review and then think about what changes need to be made. Is this policy no longer effective? Is this policy no longer necessary? Is this policy not working well enough? Does it need to be broadened and widened? That is a very important message you get from monitoring and evaluation of the policy once you have put it in place.



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Q9 **Ms Ghani:** Mr Gibson, are you suggesting that things were far better before Covid happened or not?

Stephen Gibson: The Government's policy on PIRs has been variable over time. It is certainly something that I want to give a high profile and a lot of my energy to going forward, as and when I take on the role of chair.

Q10 **Ms Ghani:** Mr Gibson, you have already spoken to the Chair about how the RPC is always brought in too late in the process. You have mentioned that. What are you going to do about that? What authority do you have to do anything about that?

Stephen Gibson: As I mentioned, the Government are introducing a review of the BIT, the business impact target, which will encompass the better regulation process. We will be engaging with the Better Regulation Executive and with Ministers to try to promote that. We have already started doing that. I have spoken to Ministers and I have the support from Ministers to the proposal for mandatory submission of IAs at the consultation stage. We have also been lobbying other parliamentarians, and indeed I met your Select Committee last autumn at your away day, and this was one of the measures we discussed then.

We have been very actively engaging with parliamentarians—peers as well as MPs—and business groups to try to seek to get this through. The route is the Government review that is about to start, and we very much hope that this will come into play.

Q11 **Charlotte Nichols:** You have previously said that the training of officials and the sharing of best practice is an important aspect of the RPC's work. Can you tell us a bit about why this training is important? Has it led to tangible improvements in the quality of regulatory outputs?

Stephen Gibson: You are right. I do believe that training is very important, and the RPC offers a range of training to both analysts and policymakers across Government. I do not remember exactly the number of people we get through training, but a number of hundred civil servants a year go through our formal training processes. We also offer targeted training for particular Departments and training to answer different questions. We have also introduced some new online training modules, which are particularly important during lockdown when people are working remotely.

As well as the formal training, we also offer guidelines and case studies, which we publish on our website. They set out our recommendations for best practice in terms of the methodology to use when evaluating measures, how to take account of proportionality, how to take account of the difference between direct and indirect measures, and a whole range of different approaches to evaluating policies. Those are there for people to look at, and they include case studies.



Of course, we have all of our opinions with the associated IAs going back over the last 10 years on our website, so people can see what we are doing. This is all very important, and this is all about improving the capacity of officials and civil servants within the Departments to produce high-quality evidence and analysis. If there is a particular question, they are always very willing to come and engage with our secretariat, who have ongoing discussions with economists and with policy experts from across Government to support them in producing impact assessments of their policies.

- Q12 **Charlotte Nichols:** Just before I go back to the Chair, I wanted to ask a little bit about social media. You say in the 2020-21 RPC business plan that using social media to increase engagement is one of the priorities of the RPC. You have also said that you would like to increase the profile of the RPC. Why is the committee's profile and public engagement important? How do you intend to take this forward?

Stephen Gibson: One of the things I have initiated since I started as interim chair is that now we are on Twitter and we tweet all of our opinions. We are also on LinkedIn—I do not know what you call it, but we post our opinions on LinkedIn. We are seeking to increase our following. Publishing opinions and stating our concerns about the quality of Departments' analysis is only valuable if people are reading and taking notice of those opinions, so it is very important for me to increase that engagement and the profile of the RPC.

As I said, as well as the social media route, which is very important, we also engage with stakeholders like parliamentarians and business sector representatives, representatives of civil society groups, think-tanks, consumer organisations, academics and officials both in the UK and with other international regulatory bodies. We do all that to seek to make our decisions more impactful so that, when we say that something is fit for purpose, people will know and understand that that piece of evidence and analysis really is of a standard they can rely on to make a policy decision and, when we say that there are some gaps or problems with it, there is a challenge to them to improve the quality of the evidence and analysis so it becomes fit for purpose.

- Q13 **Stephen McPartland:** Thank you, Chair, for allowing me to guest today. Mr Gibson, how do you intend to lead the RPC and engage with Government as regulatory reform becomes much more of a priority as we move into a post-Brexit world?

Stephen Gibson: We will engage with Government on post-Brexit in exactly the same way as we engaged with Government on pre-Brexit, which is by encouraging them to support their proposals with high-quality evidence and analysis of the costs and benefits. It does not matter whether that proposal is a regulatory proposal or a deregulatory proposal. In both cases, it is still important that the evidence is supported by analysis so that it provides a structured framework for thinking



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through the different policy options to find the most effective way of achieving a particular policy objective.

One of the areas that has become more important since we have moved into a post-Brexit world is free trade agreements. We were asked last year by the Secretary of State for International Trade to assist the Department by reviewing its impact assessments of the free trade agreement. The first one was the UK-Japan free trade agreement. We did a very detailed review of that and we found it was fit for purpose. We published that, and I appeared before the International Trade Committee alongside DIT officials to comment on the quality of analysis that we found in that free trade agreement.

Q14 Stephen McPartland: As a follow-up, will your committee be getting involved in regulatory reform orders going forward?

Stephen Gibson: I am sorry. Can you explain a bit more about what you mean by "regulatory reform orders"?

Q15 Stephen McPartland: A lot of legislation is actually done through regulatory reform orders. For example, the Fire Safety Bill going through Parliament at the moment, which talks about cladding, actually amends the Regulatory Reform (Fire Safety) Order 2005.

Stephen Gibson: In the case that you mentioned, we would not, because there is a specific exemption from the framework for Grenfell-related policy measures. More generally, if it was not something that was subject to a specific exemption, we certainly would be involved in regulatory reform, whether it is applying new regulations or removing existing regulations.

Q16 Chair: Mr Gibson, explain to me what these exemptions are. Do Ministers exempt areas of policy that you are allowed to look at? Is that what you meant?

Stephen Gibson: There are a number of exemptions from the better regulation framework. I must say it is quite complicated. For example, it has to be a regulation. Things like taxes, duties, levies, procurement, grants and financial assistance do not come within the framework. Similarly, there is a de minimis exemption, which means that any measures that have an impact of less than £5 million a year do not go through the framework, just so that we can concentrate on the bigger ones.

There are also exemptions, for example, for temporary measures. Normally, temporary measures tend to be relatively small in impact, and obviously, by their nature, a measure that lasts less than 12 months is unlikely to have a long-term effect. Those exemptions have been used to exempt all of the Covid measures, for example, which have had a huge impact on Government, businesses and civil society organisations. Many of the Covid easements have not come through because of that.



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Similarly, there are exemptions because of international trade and civil emergencies. There is an exemption, as I mentioned, around Grenfell and the regulations for the safety of tenants following Grenfell. There are exemptions for economic regulators. That gives you a flavour. That is not an exhaustive list, but, if you would like, I am sure that our secretariat could provide you with an exhaustive list of the exemptions from the better regulation framework.

Q17 Chair: I just wanted to understand whether it was for Ministers to, at a whim, exempt an area of policy or whether it was based on a framework.

Stephen Gibson: No, it is a framework that was set up in the Small Business, Enterprise and Employment Act 2015.

Q18 Paul Howell: In your pre-hearing questionnaire, the first of your three priorities was about engaging in the Government review of the business impact target to ensure that RPC views are properly taken into account. There are a couple of follow-up questions to that. First, why do you see that as the No. 1 in terms of your list? Secondly, what specific issues are you looking to pick up?

I know that in your answer you also refer to what you have just touched on in your previous answers about exemptions like Covid, Brexit, etc. You might want to discuss what you think should change around that. You could also explain a little bit in terms of one of your answers relating to this where you have referred to the equivalent annual net direct cost to business and problems with those metrics. Could you flesh those out a little bit, Mr Gibson?

Stephen Gibson: Why is it important? It sets the entire framework within which we operate. It sets what we can red-rate on. Currently, we can only state that an impact assessment is not fit for purpose based on the impact on businesses and, in particular, on small and micro businesses. For example, we can comment but we cannot red-rate on the basis of the impact on the environment, innovation and trade or whether, indeed, the measure is expected to meet the objectives it sets. All we can do is comment on the EANDCB, the equivalent annual net direct cost to business.

Q19 Paul Howell: Apologies; if I could just interrupt you there, just because of what you have said, should you be able to red-rate on more broad issues?

Stephen Gibson: I do. This is my personal view again. This is not necessarily an RPC view. I think we should consider extending the scope of the review. For example, in a report last year the CMA recommended that we should be able to red-rate on the impact on competition and innovation. That is very important. If the Government are keen on net zero and serious about achieving net zero, when it brings in new regulations it should have a clear measure of whether those new regulations are likely to facilitate a move towards achieving net zero or



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whether they are likely to move us away from net zero because of their impacts on the environment and carbon emissions, et cetera.

To me, it would seem sensible that the same organisation that is reviewing the Government evidence on the impact on businesses should, at the same time, think about the evidence on the impact on the environment. That may mean that we need to change some of the expertise and skills we have, both in the committee and in the secretariat, but in terms of Government process it seems a sensible way of reviewing how new regulations are likely to impact on our achievement of net zero and on competition.

Given the importance of trade post Brexit, picking up the point from the previous question, it also seems sensible to think about and analyse the impact of regulations on our ability to trade internationally and our ability to import and export.

Q20 Paul Howell: I just have one slight follow-up to that. You have been interim chair for a little while now. You have almost answered this by your answer there, but I will ask it anyway. Have you had the opportunity or have you taken the opportunity to do pre-work on this and get ready for it on the assumption that either yourself or somebody else would take this forward anyway when the review takes place?

Stephen Gibson: Yes, we have started. We have set up a sub-group of the committee to develop our thinking. Until we actually know the formal scope of the review, it is not for us to propose these measures. It is for the Better Regulation Executive to set out the consultation, and we will respond to that consultation in due course.

As you say, we have started both in terms of thinking about our own ideas and our own justification for why we want to make these changes but also in terms of engaging with other groups and other stakeholders to get both support but also to get their inputs as to which bits of the framework seem to be working well and which bits less well, so that we can take those on board in our proposals.

Q21 Richard Fuller: Mr Gibson, correct me if I am wrong, but in the independent verification body report that was produced last week on the RPC, it stated that the net cost of regulation to business is £5.7 billion and the Government target is that it should be zero. Is that right? Is it part of your job to opine as to whether that is a good thing or a bad thing, or just to give them the facts?

Stephen Gibson: It is certainly right that we have confirmed the net cost on businesses last year was £5.7 billion. The Government set a holding target, rather than a formal target, of zero, so no net cost to business. I understand that what they mean by "holding target" is that it is something that is simply a place-filler so they can reassess how they want the business impact target—

Q22 Richard Fuller: It is a good point, but my point was rather more precise.



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Is your job to opine whether it is a good outcome or a bad outcome? A simple yes or no is enough.

Stephen Gibson: No, it is simply to verify.

- Q23 **Richard Fuller:** In that report, you list some impact assessments reviewed in the year. I have been trying to go back over the years and look at the impact assessments and come up with some statistics. It is very difficult to dig down into the detail of what you have done. Could you commit to the Committee that you will provide us with a spreadsheet going back over the last five years that summarises the information that is in your IVB report? Essentially, for each impact assessment, I would like the Department, the year, what the opinion was, the rating both before and after your assessment, the equivalent annual net cost to business, the business NPV and the overall NPV, which are standard items that have certainly become routine. Could you provide us with that full comprehensive summary? You are a new broom, and it would be good to see what the baseline is that you are working from.

Stephen Gibson: I would be happy to commit to that, yes.

- Q24 **Richard Fuller:** On PIRs, what is your overall assessment of the status of post-implementation reviews? I know you just mentioned this to my colleague Nusrat Ghani, but how many PIRs are done each year?

Stephen Gibson: There are around a dozen—10 to a dozen a year.

- Q25 **Richard Fuller:** That does not sound like very many, does it?

Stephen Gibson: No, it does not. As I said, this is something the Government should be improving on. However, what I would say is that some PIRs look at a package of measures rather than focusing on individual measures. For example, there has been a recent set of PIRs on tobacco where they take a number of different policy measures and do a post-implementation review of the range of the tobacco impacts rather than going measure by measure. You are right: I do agree that we should have more focus on PIRs.

- Q26 **Richard Fuller:** Essentially, the view might be that we say we do PIRs, but actually in fact we do not really bother, no one looks at them and there are no consequences.

Finally, I would like to turn to another aspect that is maybe adjacent to your work but I would be very interested in your opinion on. We have a vast number of regulatory agencies in this country of various standing. There does not seem to be much regulation of the regulators. I do not know whether you have been reviewing the work of the IEA on this. Is it your view that there is some scope for your area of responsibilities to cover looking at whether regulatory agencies are doing what they are supposed to and whether they are doing it well or not?

Stephen Gibson: That would be extending the role of the RPC quite significantly. It is not something that would be a natural extension to our



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role, but, if Parliament and Ministers wanted that, it is something we could, if necessary, extend our role to think about.

There have been previous reviews of the quality and effectiveness of regulators by, for example, the National Audit Office. My guess is that that sort of regulating of regulators would probably sit better within their scope than the RPC's scope.

Q27 Richard Fuller: Is it your view that it is an area where we could sharpen up oversight?

Stephen Gibson: What I would say—this is from my non-RPC experience—is that there is a wide variety of both quality and expertise across the regulators. I see this in my consultancy, where some regulators are very well informed, really on top of both the evidence and the policy thinking, well staffed and well supported, and some are very thin, both financially, in terms of their resources, and in terms of the in-house expertise.

It is often the case that there could be more support across regulators to ensure both consistency and joined-up policy thinking without trying to reinvent the wheel in each different regulatory body in terms of policy thinking and the evaluation of some fairly standard concepts such as, for example, risk and reward, and how you regulate monopolies and oligopolies effectively. There could be much more sharing of best practice.

Q28 Chair: Mr Gibson, that brings us to the end of our set questions today. Is there anything else you would like to say to the Committee before I bring this session to an end?

Stephen Gibson: Thank you very much for your questions this morning. I look forward to working with you in future.

Chair: Thank you for your time, Mr Gibson.