

A metal clip is holding a dark, rectangular object, possibly a piece of tape or a small board, against a light-colored, textured surface. The object has some white residue or paint on its right edge.

Regel|rådet

Swedish Better Regulation Council

Annual report


2012





Regelrådet  
Swedish Better Regulation Council

## Annual report 2012



*Increasing expectations*





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## Annual report 2012

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# Preface

Four years have passed since the Swedish Better Regulation Council started its work. The Council is one of the Government's tools in its work to achieve the overall goal to "create a noticeable and positive change in the everyday life of businesses". One of the goals in this work is to achieve a 25 per cent reduction in businesses' administrative costs related to laws, ordinances and regulations by the end of 2012. Even if the goal is not achieved, it has already had a crucial impact on the cultural change that is needed in the regulation process in order to achieve the overall goal.

The Swedish Better Regulation Council's task is to review proposals for new business rules or amendments to existing ones and assess whether administrative costs have been minimised in relation to what the regulator wishes to achieve, and to assess the quality of the impact assessments carried out by the regulator.

Over its four years of activity, the Council has handled around 1,700 cases and issued over 700 opinions. The results so far are both encouraging and disheartening. The number of approved cases is relatively high, which is positive, but at the same time the overall quality of the impact assessments is still challengingly low.

In other words, there is a great deal of work ahead where impact assessments are concerned, in terms of improving them; work which could however produce good results in a relatively short period of time. It is therefore necessary for this issue to permeate the entire regulation process. This process is a top-down process. The management must request impact assessments from its employees, but at the same time the employees must receive a good deal of support in order to conduct them satisfactorily. One of the problems that must be dealt with in this context is the Government appointed committees of inquiry in which the personal continuity is for obvious reasons low. Here, the assigners should be clear in their directions concerning the expectation of satisfactory impact assessments and allocate sufficient resources for this purpose. An impact assessment should be seen as an aid for the regulator, not an obstacle.

Over the past year, the Swedish Better Regulation Council has significantly increased its support to the regulator in terms of impact assessments, in accordance with the Government's Supplementary Terms of Reference. This applies to both direct support in the form of training and indirect support via our website. This support should, under the right conditions, slowly but surely contribute to better results.

The EU is responsible for roughly half of all regulation that concerns businesses. With its experience, the Swedish Better Regulation Council has been active both in Brussels and here in Sweden in an attempt to achieve strong coordination in the regulatory chain, in terms of impact assessments; something which in turn can result in a reduction of administrative costs for businesses.

In the past year, the Swedish Better Regulation Council has been reviewed by both Swedish Agency for Public Management and the Swedish National Audit Office. The reviews have been welcomed by the Council. The Swedish Better Regulation Council and its activities have come out well in these reviews. I feel that the Council's status as an independent reviewer and its independency are contributing factors. I hope that this experience is taken into consideration when the Ministry reviews the Council's on-going activities. In this context, I wish to thank the Council's previous Chair, Stig von Bahr, for the invaluable work he carried out in the Council for nearly four years.

The road to achieving the Government's goal has been a rough one, but then changing cultural patterns is no simple task. If well-planned solutions are produced for the issues that the Swedish Better Regulation Council discusses in its annual report, this should help to raise expectations among businesses that the goals will be achieved.



Lennart Palm  
*Vice Chair*



# Summary

In 2012 the Swedish Better Regulation Council has received 458 referrals and one EU impact assessment. Of these, the Council issued opinions on 145 cases. 108 proposals have been approved whilst 37 have been objected. The proportion of approved proposals is roughly the same as the previous year; 73 per cent for 2011 and 74 for 2012. 61 impact assessments have been deemed acceptable whilst 81 were said to be deficient. (Two impact assessments were missing and in one case the Swedish Better Regulation Council has not evaluated the impact assessment.) This means that 42 per cent of all impact assessments have been deemed acceptable. The previous year yielded the same figures. If we look at the Government Offices of Sweden, the proportion of acceptable impact assessments is lower; just 30 per cent. The fact that the quality of impact assessments is still so low poses a big problem. In order to increase the percentage of acceptable impact assessments, a degree of commitment is required on the regulators' side. Changing working methods takes times and requires active participation from all involved, at all levels.

Over the past year, the Swedish Better Regulation Council has published examples of good impact assessments on its website. In addition, the Swedish Better Regulation Council and the Board of Swedish Industry and Commerce for Better Regulation (NNR) have carried out a joint project concerning gold-plating which has led to the report "Clarifying Gold-Plating – Better Implementation of EU Legislation". The Swedish Better Regulation Council has also reported on two projects; one concerning threshold values which apply when any impact assessment is produced and one concerning those that apply when a full impact assessment is produced.

The Council's work with support and training has increased over the year. The increase is a result of both the Council's higher level of activity in the matter and the regulators' demands for more initiatives. This is gratifying, as it reveals an interest in the work with better regulation, which in the long term should lead to a higher quality of impact assessments. In 2012, the Swedish Better Regulation Council also developed and launched a new website.

As previously, the Council has been in constant communication with its sister organisations in the Netherlands, the UK, the Czech Republic and Germany. In light of their experiences, the five organisations have drawn up a communication with concrete proposals for how EU institutions should work with better regulation. The communication has been submitted to the EU Commission, Parliament and Council.

Two different reviews of the Swedish Better Regulation Council's activities have been carried out in the past year; one by the Swedish National Audit Office and one by Swedish Agency for Public Management. The Swedish Better Regulation Council receives positive feedback throughout both reports, while opportunities for development are highlighted in certain areas. In connection with the review reports, the Government has tasked the Swedish Agency for Economic and Regional Growth with developing a model for measuring costs other than those related to administration. The Swedish Better Regulation Council welcomes such work and participates in a reference group for the project. In 2013, the Government will take into consideration the evaluations performed by Swedish National Audit Office and Swedish Agency for Public Management.

In 2012, the Government has appointed a new Chair of the Swedish Better Regulation Council, Karin Lindell. Karin Lindell takes up her post as Chair from January 2013.



Regelrådet

Swedish Better Regulation Council

## Annual report 2012





# 1 Introduction

## The Swedish Better Regulation Council's commission

The Swedish Better Regulation Council is an independent Government appointed committee of inquiry established in 2008 as one of the Government's tools in its work to simplify the everyday life of businesses. Among other things, the Council's commission involves reviewing proposed statutes concerning businesses, with associated impact assessments. During the review, the Swedish Better Regulation Council shall consider whether the regulation is formulated so that it fulfils its purpose in a simple manner and at a relatively low administrative cost to businesses. The Swedish Better Regulation Council also evaluates the quality of the impact assessments. The Council provides an advisory service to the regulator. As the Swedish Better Regulation Council is a committee, its activities are governed by Terms of Reference. In addition to the reviewing work, the Council has also been commissioned in the Supplementary Terms of Reference (2011:71) to prioritise in its advisory role the support of the government appointed committees in the work with impact assessments, as well as to develop its guidance of the regulators in their work with individual impact assessments. The Swedish Better Regulation Council shall also, upon the regulator's request, review impact assessments that come from the EU. Unlike most other Government appointed committees, the Swedish Better Regulation Council shall not submit a Committee report; its activities shall have the characteristics of that of an Agency. The Council shall therefore submit an annual report that summarises its activities and experiences.

## Organisation

For much of 2012, the Swedish Better Regulation Council has had Stig von Bahr as Chair. Lennart Palm, Leif Melin and Eleonor Kristoffersson have been members of the Council. Eleonor Kristoffersson became a member in January 2012, replacing Christina Ramberg who is now a deputy member.

Other deputies are Claes Norberg, Sten Nyberg and Annika Andebark. Maud Spencer was a deputy member of the Swedish Better Regulation Council up until August 2012. Stig von Bahr left in November 2012. Vice Chair Lennart Palm then took up his post as Deputy Chair. A new Chair for the Swedish Better Regulation Council was appointed on 6 December 2012 by the Government. The new Chair, Karin Lindell, takes up her post on 1 January 2013.

The Council normally assembles every fortnight. In 2012, the Council held 23 meetings.

The Council's directive states that the Government intends to evaluate the Council's activities frequently. In 2012, evaluations of this nature have been carried out by Swedish Agency for Public Management. Information on Swedish Agency for Public Management's report can be found in Chapter 7.

## Secretariat

The Swedish Better Regulation Council is assisted by a Secretariat. The Secretariat's main task is to prepare the referrals received by the Council for its meetings. The Secretariat also provides support to individual committees, ministries and agencies that require assistance in their work with impact assessments. This task has increased in scope due to the aforementioned Supplementary Terms of Reference. The Secretariat also participates in the international work with better regulation and cooperates with similar organisations in other EU countries.

By the end of the year, the Secretariat consisted of an Administrative Director, six Case Officers and two Assistant Secretaries.



**Stig von Bahr**

Chair | LL.D., former Judge of the European Court of Justice and Justice of the Swedish Supreme Administrative Court



**Lennart Palm**

Vice Chair | LL.D., former Managing Director of the Board of Swedish Industry and Commerce for Better Regulation



**Eleonor Kristoffersson**

Member | LL.D. and Professor



**Leif Melin**

Member | Doctor of Economics and Professor



**Christina Fors**

Administrative Director | MScBa



**Karin Lindell**

Chair from 2013 | LL.D., former Reviewer General



## Facts and figures

### Introduction

If a proposed statute could potentially affect businesses, it is referred to the Swedish Better Regulation Council. In 2012, 458 referrals and one EU impact assessment<sup>1</sup> have been sent to the Swedish Better Regulation Council. Of these, the Council issued opinions on 145 cases. The remaining cases received a response from the Secretariat.

The obligation to send a remit applies to ministries, committees and agencies. The Swedish Better Regulation Council reviews proposals for laws, ordinances and regulations. Most referrals come from agencies and concern agencies' proposals for new regulations or amendments to existing ones. The cases received from the Government Offices may have been drawn up within the Offices – e.g., ministerial memoranda or referrals to the Council on legislation – or outside of the Offices, e.g., committee reports.

Table 1 shows the total number of cases referred to the Swedish Better Regulation Council by case type. The table reveals that a clear majority – three quarters – of all cases received by the Council concern statute proposals from agencies.

### Opinion or Secretariat response

In accordance with its directives, the Swedish Better Regulation Council may decide the selection criteria for

its own review. When a case is received by the Swedish Better Regulation Council, a preliminary assessment is made as to whether the Council shall issue an opinion on the case. The assessment is made by the Chair and the Administrative Director following proposals from a Case Officer at the Secretariat. In cases where the Council does not issue an opinion, a response is provided by the Secretariat instead.

### Secretariat response

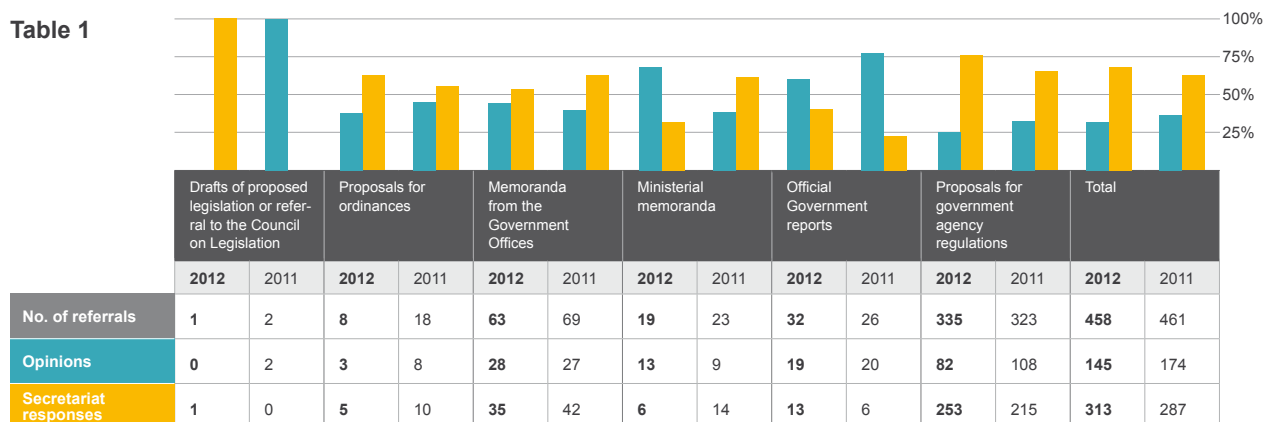
There are four reasons for giving a Secretariat response.

1. Limited impact.
2. Time constraints.
3. Outside the Council's mandate.
4. Resource constraints.

The most common reason is that the proposal is deemed to have a limited financial impact overall for businesses. It may for example concern local regulations, obsolete regulations or regulations that only affect the public sector or individuals. This group constitutes 89 per cent of all responses provided by the Secretariat.

Secretariat responses may also be provided due to time restraints. As the Swedish Better Regulation Council's meetings take place every fortnight, the Council normally requires a referral period of at least 14 days. If the referral period is shorter than this, a Secretariat response may be

**Table 1**



<sup>1</sup> Where the EU impact assessment is concerned, the Swedish Better Regulation Council has not decided whether or not the proposal should be approved or objected. Nor has it said whether or not the impact assessment is acceptable or deficient.

the only option. If the Council deems the referral period to be too short and believes that the case entails a great impact on businesses, the Council normally requests an extended referral period in order to handle the referral and issue a statement.

The Swedish Better Regulation Council also issues a Secretariat response if a case otherwise falls outside of the Council's reviewing task. Such cases most often do not contain Swedish statutory texts (however, see the section on the Swedish Better Regulation Council's review of impact assessments on an EU level, later in this chapter).

Finally, Secretariat responses may be provided due to resource constraints, e.g., if an unusually high volume of cases are received and the workload is too large. This option has been chosen on few occasions.

The number of referred cases has increased every year since the Council's establishment. The number of Secretariat responses has also increased, whilst the number of proposals deemed to have a greater impact on businesses – and which therefore have resulted in the Council issuing an opinion – is roughly the same. In 2012, Secretariat responses were provided for 68 of all cases; a slight increase from 2011, where the same figure was 62 per cent. The Swedish Better Regulation Council has closely examined the Secretariat responses as a result of respon-

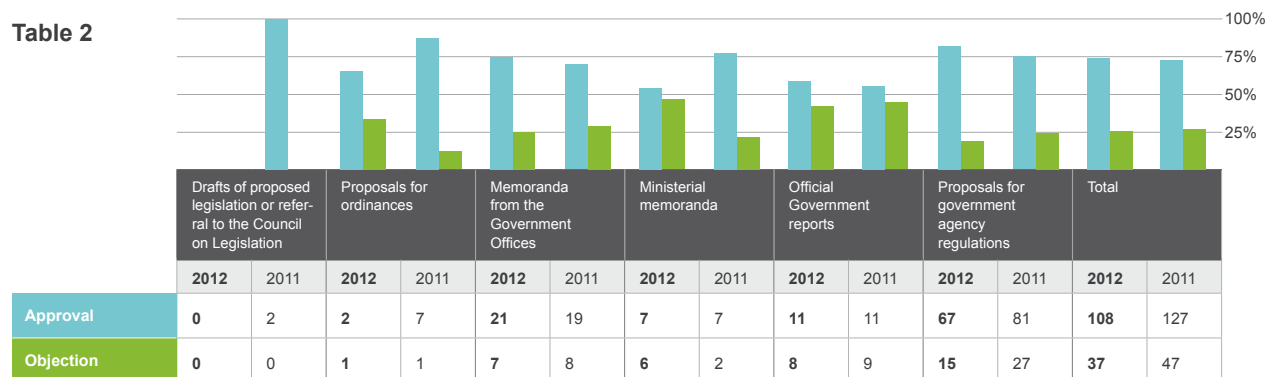
sibilities laid out in the Supplementary Terms of Reference. See the section on threshold values and Secretariat responses in Chapter 3.

### Approved or rejected proposals

The opinions issued by the Swedish Better Regulation Council consist of two sections. The first section contains the Council's assessment of the proposed statute from an administrative perspective and the second section contains the Council's assessment of the associated impact assessment. The proposed statute may be approved or objected. In order for a proposal to be approved, the Council must be able to see that the regulation is formulated so as to achieve its purpose in a simple manner and at a relatively low administrative cost to businesses; i.e., no unnecessary administrative costs have been added. When a proposal is objected, it is often because the regulator has not satisfactorily described the administrative costs in the impact assessment. It is therefore possible that the best solution has been chosen but that this is not clear from the impact assessment. A proposal may also be objected on the grounds that the regulator has chosen an unnecessarily complicated solution; e.g., a reporting interval which is far too short, or an unnecessarily large selection.

Table 2 shows the number of approved and objected proposals. Of the 145 opinions issued by the Swedish Better Regulation Council over the year, 108 proposals

**Table 2**





have been approved whereas 37 have been objected. The proportion of approved proposals is roughly the same as the previous year; 73 per cent for 2011 and 74 for 2012.

There are a number of reasons for the fact that so many proposals have been approved. If the proposal constitutes the simplest solution within existing framework, the Council approves the proposal. The Council assesses whether the regulations are formulated so as to achieve their purpose in a simple manner and at the lowest possible administrative cost for businesses. It does not assess the proposal's political aims. In addition, many proposals are based on EU law, international agreements or other superior statutes. The Swedish Better Regulation Council does not automatically approve proposals based on superior regulation but as the formulation is in these cases often governed by the superior statute, the proposals are approved in the vast majority of cases.

### Approved or rejected proposals by ministry and Agency

Table 3 shows the number of approved and objected cases referred by the Government Offices. It presents cases that have been prepared within the Government Offices as well as those prepared outside of them. Cases

prepared within the Government Offices include ministerial memoranda, referrals to the Council on legislation and government bills. Cases prepared outside of the Government Offices include Official Government reports and Ministerial memoranda. This group also includes proposals whereby an agency has investigated an issue following the Government's commission or on its own initiative and the ministry has referred the investigation.

The majority of proposals are approved; 41 of 63 cases, i.e., 65 per cent. The Ministry of Enterprise, Energy and Communications has particularly positive results; 11 of 12 of their referred cases have been approved.

There is however a marked difference between cases prepared within the Government Offices and those prepared outside. For cases prepared within the Offices, 17 of 21 cases have been approved; i.e., 81 per cent. Of the cases prepared outside of the Offices, 24 of 42 cases have been approved; i.e., just 57 per cent. The discrepancy in the assessment of proposals prepared within and outside of the Government Offices was also apparent the previous year and has increased this year. Considering that the proportion of approved proposals is so high overall, this deviation is striking.

**Table 3**

| Ministry   | Inside the Government Offices |           | Outside the Government Offices |           | Total     |
|--|-------------------------------|-----------|--------------------------------|-----------|-----------|
|  | Approval                      | Objection | Approval                       | Objection |           |
| The Ministry of Employment                             | 0                             | 0         | 1                              | 1         | 2         |
| The Ministry of Finance                                | 7                             | 1         | 3                              | 8         | 19        |
| The Ministry of Justice                                | 1                             | 1         | 7                              | 2         | 11        |
| The Ministry of Culture                                | 0                             | 0         | 2                              | 1         | 3         |
| The Ministry of Rural Affairs                          | 1                             | 0         | 1                              | 1         | 3         |
| The Ministry of the Environment                        | 2                             | 1         | 4                              | 3         | 10        |
| The Ministry of Enterprise, Energy, and Communications | 6                             | 0         | 5                              | 1         | 12        |
| The Ministry of Health and Social Affairs              | 0                             | 1         | 1                              | 1         | 3         |
| <b>Total</b>   | <b>17</b>                     | <b>4</b>  | <b>24</b>                      | <b>18</b> | <b>63</b> |

Table 4

| Government agency  | Approvals | Objections | Total |
|--|-----------|------------|-------|
| Swedish Work Environment Authority                       | 1         | 0          | 1     |
| Swedish National Board of Housing, Building and Planning | 2         | 0          | 2     |
| Swedish Energy Markets Inspectorate                      | 1         | 2          | 3     |
| Swedish Energy Agency                                    | 1         | 1          | 2     |
| Swedish Financial Supervisory Authority                  | 2         | 0          | 2     |
| Swedish Board of Fisheries                               | 0         | 2          | 2     |
| Swedish Board of Agriculture                             | 17        | 0          | 17    |
| Swedish Chemicals Agency                                 | 1         | 0          | 1     |
| Swedish National Food Agency                             | 1         | 0          | 1     |
| Swedish Medical Products Agency                          | 3         | 1          | 4     |
| Swedish Civil Contingencies Agency                       | 1         | 0          | 1     |
| Swedish Environmental Protection Agency                  | 2         | 0          | 2     |
| Swedish Post and Telecom Agency                          | 3         | 0          | 3     |
| Swedish National Police Board                            | 2         | 0          | 2     |
| Swedish Maritime Administration                          | 1         | 0          | 1     |
| Swedish Tax Agency                                       | 0         | 2          | 2     |
| Swedish Forest Agency                                    | 2         | 0          | 2     |
| Swedish National Agency for Education                    | 2         | 2          | 4     |
| Swedish National Board of Health and Welfare             | 0         | 3          | 3     |
| Swedish National Institute of Public Health              | 1         | 0          | 1     |
| Statistics Sweden  | 2         | 0          | 2     |
| Swedish Radiation Safety Authority                       | 2         | 0          | 2     |
| SWEDAC   | 1         | 1          | 2     |
| Swedish Dental and Pharmaceutical Benefits Agency        | 0         | 1          | 1     |
| Swedish Transport Agency                                 | 17        | 0          | 17    |
| Swedish Customs  | 2         | 0          | 2     |
| Total  | 67        | 15         | 82    |

The Swedish Better Regulation Council has closely examined the cases prepared outside of the Government Offices in an attempt to find an explanation for the high proportion of objections. The 18 objected cases are comprised of 8 Official Government reports, 6 Ministerial memoranda and 4 cases originally prepared by agencies. A clear majority of these cases have been objected as a result of the associated impact assessments not providing a satisfactory description of the administrative costs that implementation of the proposal would entail for businesses. The Swedish Better Regulation Council has therefore been unable to assess whether or not the most appropriate solution has been chosen and has thereby objected the proposal. In isolated cases, the Council has stated that the given solution is complicated and that in the absence of descriptions for alternative solutions and descriptions of costs, it cannot approve the proposal. The Ministry of Finance – and to a certain extent the Ministry of the Environment – have had a particularly high number of objected cases, but in general all ministries should review their procedures for cases that are prepared outside of the Government Offices and referred by the ministry. It is of course ultimately the responsibility of the ministry to ensure that the proposal is investigated satisfactorily and that the impact assessment facilitates appraisal of the administrative effects that implementation of the proposal may entail.

Table 4 shows the assessment of proposals referred by agencies. 67 of a total 82 proposals have been approved, i.e. 82 per cent. The previous year, 75 per cent of all proposals from agencies were approved. The high proportion of approvals has therefore further increased. The Swedish Board of Agriculture and the Swedish Transport Agency stand in a favourable light whereas the opposite is true for the Swedish Tax Agency, the Swedish Agency for Marine and Water Management and the National Board of Health and Welfare. It is difficult, however, to draw any significant conclusions from the data as the vast majority of agencies have referred just a few individual cases that have elicited an opinion from the Council in the past year. The Swedish Board of Agriculture and the Swedish Transport Agency have completed more case referrals than other agencies.





### Administrative costs

In the Supplementary Terms of Reference, the Swedish Better Regulation Council has been tasked with reporting on whether the administrative costs given in the impact assessment have increased or decreased and, if the costs are quantified, by how much? There are two main problems with a report of this nature.

One is that the costs are not satisfactorily described in many impact assessments. It is normal for costs to be specified with general formulations such as “the costs will increase somewhat”, “the costs will rise to a certain degree” or similar. It is many to draw any significant conclusions based on these statements. Furthermore, many impact assessments only describe the costs for part of the proposal and omit costs related to other parts. A summary of the specified costs may therefore provide an inaccurate picture of the proposal’s total financial impact. Another problem is that there must be a basis to relate to, partly so that the reported figures have some relevance and also to facilitate comparisons over time.

The Swedish Better Regulation Council has reviewed the cases that it has issued opinions on over the past year. Quantified costs are specified for the entire proposal in only 29 of the 145 impact assessments that elicited an opinion from the Council. In the vast majority of cases, the calculations are incomplete and in 71 cases there are no calculations whatsoever.

The Council’s review reveals that the data is insufficient and cannot provide a true and fair picture of the development of administrative costs.

The Swedish Agency for Economic and Regional Growth’s 2013 appropriation directions commission the agency to draw up proposals for a method based on the regulators’ impact assessments in order to be able to follow the development of businesses’ administrative costs after 2012. In this work, it is important that the Swedish Better Regulation Council’s experiences are utilised. It is important that the model is reliable and that the development of the administrative costs can be followed. The shortcomings of today’s impact assessments should be prevented as far as possible.

It can be considered unusual that the Swedish Better Regulation Council approves so many cases despite the fact that the administrative costs are often inadequately described. In this context, it should therefore be observed that the Council only examines whether the regulations are formulated so as to achieve their purpose in a simple way and at a relatively low administrative cost for businesses. It is often possible to see whether the simplest solution for businesses has been chosen, even in the absence of detailed cost accounting. If the impact analysis is to be considered acceptable and in order to facilitate follow-up of the cost development over the years, however, the calculations must be much more detailed.

The Swedish Agency for Economic and Regional Growth's aforementioned task is therefore high priority.

### The impact assessments

The other section of the opinion issued by the Swedish Better Regulation Council discusses the quality of the impact assessment. The Council's opinion is based on Sections 6 and 7 of the Ordinance on Regulatory Impact Assessment (2007:1244) (KUF).

Out of all of the Council's opinions, we see that 61 impact assessments have been deemed acceptable in 2012 whereas 81 have been deemed deficient. In two cases no impact assessment was provided.<sup>2</sup> Table 5 shows the overall statistics for the Council's appraisal of the impact assessments. 42 per cent of all impact assessments have been deemed acceptable by the Council. The previous year yielded the same figures.

In the previous year's report, the Swedish Better Regulation Council predicted a positive development for the impact assessments. Unfortunately this prognosis has proven to be somewhat optimistic. Despite the fact that the Swedish Better Regulation Council now focuses its reviews of new regulations on elements that are substantially new in comparison with the existing regulation, the percentage of acceptable impact assessments has not increased. On the other hand, a positive development can be seen among individual regulators, especially agencies.

In order to increase the percentage of acceptable impact assessments, a degree of commitment is required on the regulators' side. A ministry's lack of interest in matters relating to better regulation can be passed on to the underlying agencies and a lack of commitment from the management in these matters, ultimately affects individual administrators. Changing working methods takes time and requires active participation from all involved, on all levels. The fact that the quality of impact assessments is still so low poses a big problem.

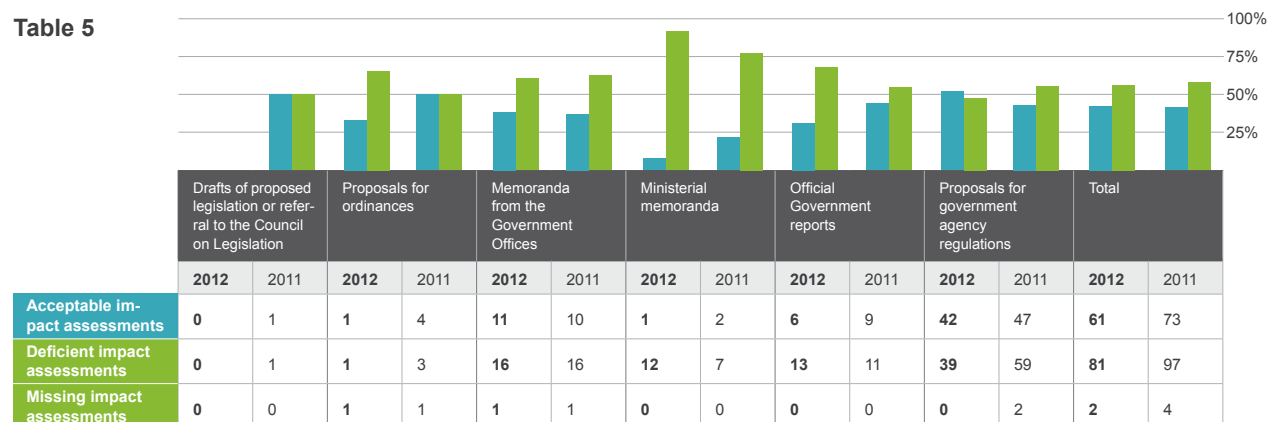
The most common reason for when an impact assessment is deficient is that the costs are inadequately described. There are often sweeping formulations, and in many cases few or no amounts are specified.

### Acceptable or deficient impact assessments by ministry and Agency

Table 6 reveals that 19 of 63 impact assessments referred by the Government Offices are deemed acceptable by the Swedish Better Regulation Council; a rate of 30 per cent. More than two thirds of all impact assessments that originate from the Government Offices are therefore deemed deficient.

If the impact assessments are divided by cases prepared within the Government Offices and those prepared outside, the figures are gloomier still. The division of cases inside and outside of the Government Offices is the same

Table 5



<sup>2</sup> Additionally, in one case the Swedish Better Regulation Council did not give its opinion on the impact assessment, referring to Chapter 2, Section 2 of KUF. This is not included in the statistics on impact assessments. Where impact assessments were missing, these were recorded as deficient.

Table 6

| Ministry   | Inside the Government Offices |           | Outside the Government Offices |           | Total     |
|--|-------------------------------|-----------|--------------------------------|-----------|-----------|
|  | Acceptable                    | Deficient | Acceptable                     | Deficient |           |
| The Ministry of Employment                             | 0                             | 0         | 1                              | 1         | 2         |
| The Ministry of Finance                                | 4                             | 4         | 0                              | 11        | 19        |
| The Ministry of Justice                                | 0                             | 2         | 3                              | 6         | 11        |
| The Ministry of Culture                                | 0                             | 0         | 1                              | 2         | 3         |
| The Ministry of Rural Affairs                          | 0                             | 1         | 0                              | 2         | 3         |
| The Ministry of the Environment                        | 1                             | 2         | 2                              | 5         | 10        |
| The Ministry of Enterprise, Energy, and Communications | 4                             | 2         | 3                              | 3         | 12        |
| The Ministry of Health and Social Affairs              | 0                             | 1         | 0                              | 2         | 3         |
| <b>Total</b>   | <b>9</b>                      | <b>12</b> | <b>10</b>                      | <b>32</b> | <b>63</b> |

as in previous tables. 32 impact assessments of a total 42 prepared outside of the Government Offices have been deemed as deficient by the Council, corresponding to 76 per cent. In the previous year, 62 per cent of these cases were deficient. This means there has been a great deterioration in terms of the cases which have been referred by the Government Offices but prepared outside of them. In order to overcome this downturn, radical measures are required. A contributing factor in the year's negative trend is the Ministry of Finance's referral of 11 cases prepared outside of the Government, all of which were deemed deficient. The Ministry of the Environment and the Ministry of Justice also appear in a negative light as a result of many deficient impact assessments, but all ministries should, as previously called attention to when discussing the assessment of referred proposals, review its procedures for cases that are referred by ministries but prepared outside of the Government.

The responsibility to produce acceptable impact assessments for cases referred from ministries lies with the ministries themselves and unfortunately the impact assessments prepared within the ministries are not always of a particularly high quality. 9 of 21 impact assessments have been deemed acceptable; a rate of 43 per cent. There has however been a certain increase since the previous year, when the same figure was 41 per cent. The increase can be partly attributed to the Ministry of Enterprise, Energy and Communications' improvement of its statistics from previous years.

The Swedish Better Regulation Council's appraisal of impact assessments referred by agencies is presented in table 7. 42 impact assessments of a total 81 have been deemed acceptable by the Council; a rate of 52 per cent. For the first time, more than half of the referred cases have been deemed acceptable, which is gratifying. In the previous year, 44 per cent of all cases referred by agencies were deemed acceptable. The agencies have therefore improved their statistics and also show better results than the ministries in general. The Swedish Transport Agency produced particularly positive results. The opposite is true for the National Board of Health and Welfare and the Swedish Financial Supervisory Authority.

As previously mentioned, most of the deficient impact assessments are due to inadequate descriptions of the costs – administrative or otherwise – that implementation of the proposal may entail for the businesses affected. Many impact assessments also lack descriptions of the number of businesses affected. The Swedish Better Regulation Council wishes to emphasise in particular that the fact that the proposed amendments to statutes are grounded in EU law does not mean that the regulator can omit a description of the financial impact of the amendments on the businesses affected. The Swedish Better Regulation Council realises that in some cases it can be difficult to estimate costs and the number of businesses, but rough estimates are better than nothing at all. Where there is a lack of reliable data, the impact assessment is based on estimations of the number of businesses affected, the total

Table 7

| Government agency  | Approvals | Objections | Total |
|--|-----------|------------|-------|
| Swedish Work Environment Authority                       | 1         | 0          | 1     |
| Swedish National Board of Housing, Building and Planning | 1         | 1          | 2     |
| Swedish Energy Markets Inspectorate                      | 1         | 2          | 3     |
| Swedish Energy Agency                                    | 0         | 2          | 2     |
| Swedish Financial Supervisory Authority                  | 0         | 2          | 2     |
| Swedish Board of Fisheries                               | 0         | 2          | 2     |
| Swedish Board of Agriculture                             | 11        | 6          | 17    |
| Swedish Chemicals Agency                                 | 0         | 1          | 1     |
| Swedish National Food Agency                             | 0         | 1          | 1     |
| Swedish Medical Products Agency                          | 1         | 3          | 4     |
| Swedish Civil Contingencies Agency                       | 1         | 0          | 1     |
| Swedish Environmental Protection Agency                  | 1         | 1          | 2     |
| Swedish Post and Telecom Agency                          | 3         | 0          | 3     |
| Swedish National Police Board                            | 2         | 0          | 2     |
| Swedish Maritime Administration                          | 1         | 0          | 1     |
| Swedish Tax Agency                                       | 0         | 2          | 2     |
| Swedish Forest Agency                                    | 2         | 0          | 2     |
| Swedish National Agency for Education                    | 1         | 3          | 4     |
| Swedish National Board of Health and Welfare             | 0         | 3          | 3     |
| Swedish National Institute of Public Health              | 1         | 0          | 1     |
| Statistics Sweden  | 2         | 0          | 2     |
| Swedish Radiation Safety Authority                       | 0         | 2          | 2     |
| SWEDAC   | 1         | 1          | 2     |
| Swedish Dental and Pharmaceutical Benefits Agency        | 0         | 1          | 1     |
| Swedish Transport Agency                                 | 11        | 5          | 16    |
| Swedish Customs  | 1         | 1          | 2     |
| Total  | 42        | 39         | 81    |

financial impact and preferably the impact on what is in the context a typical business.

It is of course risky to draw large conclusions from statistics as they are based on relatively few cases and there are great variations from one year to the next in the number of cases referred by different regulators.

This applies to the Swedish Better Regulation Council in particular, as individual ministries can have a profound effect on the statistics between different years. It is however noteworthy that such a high proportion of the impact assessments referred by the Government Offices are deemed deficient. The Government Offices should be at the forefront of the Government's work to simplify regulation. The Council has noted great variations in the level of commitment among different regulators, which is also clearly reflected in the quality of the impact assessments. Regulators that are committed to their work with impact assessments will see clear results. The work must however have the support of the management in order for it to have a long-term impact.

### Reviewing EU impact assessments

As mentioned in the introductory chapter, the Swedish Better Regulation Council has been commissioned to assist regulators with reviewing impact assessments prepared on an EU level, where the proposals may potentially have extensive implications for industry. The reviews are performed on the regulators' requests and contain an assessment of whether the implications for Swedish businesses are adequately described. The Council shall also submit proposals concerning the extent to which a supplementary impact assessment for Sweden should be prepared and what it should contain. In such cases, the opinion issued by the Council contains a description of the proposal, administrative costs, other economic effects and viewpoints on what should be included in a supplementary impact assessment for Sweden. There has so far been one case in which such a review has been performed. In 2012, the Swedish Better Regulation Council has issued an opinion to the Ministry of Justice in a case concerning an impact assessment from the European Commission. One other case from the Ministry of Justice is in the preparatory stage and will be concluded early 2013. The reviewing in these cases is considerably more time-consuming than that required for national impact assessments.



## To be noted

- Administrative costs are inadequately calculated in the majority of impact assessments.
- The majority of impact assessments are still of low quality. 58 per cent of all referred impact assessments are deficient.
- Impact assessments that originate from agencies are generally of higher quality than those originating from ministries.
- The impact assessments that are referred by ministries but prepared outside of the Government Offices are often unsatisfactory in terms of quality. The ministries need to review their procedures in this area.



## Special projects

### Good examples

The Supplementary Terms of Reference requested a number of systematic examples of good ways to describe consequences. In spring of 2012, examples were published on the Swedish Better Regulation Council's website. The examples are based on Sections 6 and 7 of the Ordinance on Regulatory Impact Assessment (2007:1244) (KUF). Under the respective points in the paragraphs are sections of impact assessments that describe precisely this point in a good way. It is thus easier to find good descriptions of e.g., competitive aspects, administrative costs or agreement with EU law. The chosen impact assessments can also be viewed in their entirety in the examples.

The examples are also used by the Swedish Better Regulation Council during the courses that the Secretariat participates in, and are a welcome addition. Hits on the Council's website have increased significantly since its remodelling carried out in April 2012 and it is likely that the examples have contributed to the increased number of visitors.

Certain points are however often described very briefly and in this respect it is therefore difficult to find good impact assessments. They concern matters such as the date on which a statute takes effect, other impact and special considerations for small enterprises. The Swedish Better Regulation Council therefore pays particular attention to these matters when supplementing the published examples. At present there are examples from agencies represented to a greater extent than ministries. This is partly due to agencies referring significantly more cases than ministries. It is therefore easier to find good examples among the agencies' cases. The Swedish Better Regulation Council, however, intends for the examples to include a good balance of impact assessments from regulators on all levels and will be later supplemented when new cases arrive which fulfil the requirements in Sections 6 and 7 of KUF in a good way.

### Gold-plating

Much of the regulations that affect businesses originate in EU legislation. When implementing EU directives, member states tend to stipulate higher national requirements than stipulated in the directive. This is known as "gold-plating". In discussions concerning the EU and the Single Market, gold-plating is often named as a source of increased regulatory costs and competitive disadvantages for businesses, as well as a fragmented European single market.



In light of this, the Swedish Better Regulation Council and the Board of Swedish Industry and Commerce for Better Regulation have carried out a joint project that has led to the report "Clarifying Gold-Plating – Better Implementation of EU Legislation". The report reveals that it is unclear as to what is actually meant by gold-plating. Some read more into the term than others. The report proposes that the required minimum in accordance with EU legislation should be the starting point for implementation in Sweden. If deviations from the minimum are made, they must be justified in an impact assessment that reports on the impact of new EU legislation on businesses. It is suggested that the Government introduce a provision that regulates in detail what such an impact assessment should contain. Implementation of the proposals in the report would thereby not involve an absolute ban on stricter requirements than the directive's minimum level, but on the other hand it would mean that all gold-plating must be clearly motivated and all implications described. In this way, unnecessary costs for businesses can be avoided. The joint report of the Swedish Better Regulation Council and the Board of Swedish Industry and Commerce for Better Regulation has been submitted to the Ministry of Enterprise, Energy and Communications and the Prime Minister's Office. It has been positively received and some of the proposals in the report will be used as a basis for the Government's future work with appropriate regulation and support for regulators. One proposal for amendments to KUF as a

result of proposals in the report has also been submitted to the Ministry of Enterprise, Energy and Communications by the Swedish Better Regulation Council.

### Threshold values

With the Supplementary Terms of Reference, the Swedish Better Regulation Council has received two commissions associated with threshold values for the preparation of impact assessments. They involve finding a threshold value for the preparation of all types of impact assessment, as well as a threshold for when a “full” impact assessment is to be prepared. A full impact assessment means that Section 7 of KUF is included. The purpose of the task is to find models for regulation which mean that the regulators do not need to allocate resources to work on matters that are not of great importance and can instead focus on the amendments that have a significant impact on businesses.

### Threshold values and Secretariat responses

In order to discover whether it is possible to find a threshold value for when any kind of impact assessment is required, the Swedish Better Regulation Council has reviewed a number of the cases that have elicited a Secretariat response in 2010 and 2011. The review has been limited to a selection of the Secretariat responses issued due to “limited impact” (point 1 in the section on Secretariat responses, Chapter 2). The purpose of the review was to attempt to find a lowest common denominator among these cases, i.e., typical situations in which a case normally elicits a Secretariat response. As it was, a great majority of the cases could be placed in one of five categories: Niche target group, Limited amendments, Local regulations, Obsolete regulations and Public Sector. Of the cases reviewed in

2010, 72 per cent could be placed in one of these categories. Of the cases reviewed in 2011, 84 per cent could be placed in one of these categories. The pie chart below shows the results in per cent.

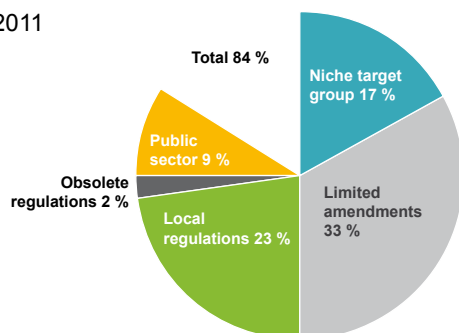
The Niche target group category is characterised by proposals that reach a small sphere of businesses. The Limited amendments category contains smaller amendments such as date adjustments and linguistic alterations. The Local regulations category comprises proposals that concern a limited geographical area, e.g., speed regulations. The Obsolete regulations category contains proposals for the abolition of regulations that are no longer applied. Finally, the Public sector category is for cases which are primarily targeted at the public sector, i.e., the State, municipalities and county Councils.

The Swedish Better Regulation Council’s review reveals that it is possible to categorise the cases that have elicited Office responses. This does not mean, however, that impact assessments have been unnecessary in these cases. The Swedish Better Regulation Council’s review has been performed purely from a business perspective. There may be other reasons to prepare an impact assessment, including environmental or social impact. The impact assessment is also an internal tool for the on-going work and is an important basis for decisions. The categorisation should therefore not be used as a basis for deciding when an impact assessment is to be prepared. On the other hand, this grouping can be used to formulate exceptions for when a case is to be referred to the Swedish Better Regulation Council.

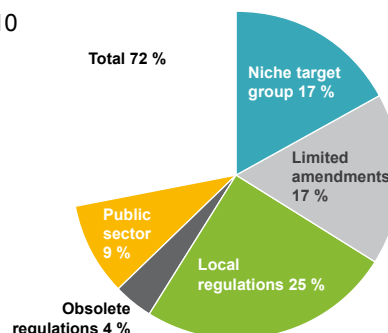
Of the five proposed categories, the Swedish Better Regulation Council believes that the categories Local

### Reviewed Secretariat responses

2011



2010





regulations, Obsolete regulations and Public Sector can be formulated in statutory texts. The categories Niche target group and Limited amendments are however too diffuse for statutory texts. These categories can be broken down into smaller components, but there is a risk of becoming too specific to function well as regulations.

In June 2012, the Swedish Better Regulation Council has reported to the Government on its commission. The Council welcomes a continuation of the project concerning when it should have a case referred to it. Over the last three years, the Council has issued 200-300 Secretariat responses per year, which is unnecessary resource management for all involved. With one exception to the obligation to send a referral, a large number of the Secretariat responses issued by the Swedish Better Regulation Council could be avoided. Section 5 of KUF does in fact exempt agencies from their obligation to prepare an impact assessment in certain cases. The question is whether it is clear when this exception can and should apply. Many agencies that the Swedish Better Regulation Council has been in contact with are looking for a clear set of rules for when an impact assessment should be prepared and when a case should be referred to the Swedish Better Regulation Council.

#### *Threshold values for limited impact assessments*

The other part of the commission on threshold values relates to regulators' preparation of a full impact analysis, i.e., when Section 7 of KUF is included. In order to develop a basis for the commission, the Swedish Better Regulation Council engaged Jönköping International Business School. The School has reviewed and analysed a selection of the cases referred to the Council in 2011. The investigation also included a comparison with other countries that have introduced different threshold values. The School has produced a report on the commission which, together with comments from the Swedish Better Regulation Council, was submitted to the Government in June 2012. The report proposes the introduction of a 'multi-criteria analysis'. The ten issues suggested for inclusion in the analysis are primarily based on Section 7 of KUF. The report reveals that the reviewed impact assessments are far too heterogeneous and cannot be used to draw general conclusions concerning threshold values. For example, many of the impact assessments lack detailed information on costs. Instead, the authors of the report conclude that it is important to have clear requirements for the structure and content of impact assessments. The use of multi-criteria analyses could be one way of overcoming such deficiencies. The Swedish Better

Regulation Council agrees that a multi-criteria analysis can be a good way of assessing how extensive an impact assessment should be. However, the Council emphasises that the matter of which issues are to be included in such an analysis is of great importance, as is the approach to assessing each issue. It is also important that the parties may be heard, that the process is transparent and that clear guidelines for the implementation are produced in the continued work to develop this model.

The Government has commissioned the Swedish Agency for Economic and Regional Growth to work with a continuation of the project. The work will commence in 2013. The Swedish Better Regulation Council will continue to be committed to the issue and consult the Swedish Agency for Economic and Regional Growth concerning the on-going development of a potential multi-criteria analysis.

#### **Agencies' work with better regulation in the negotiation phase of EU legal acts**

The 2011 annual report accounted for the project initiated by the Swedish Better Regulation and the Swedish Agency for Economic and Regional Growth on Agencies' work with better regulation in the negotiation phase of EU legal acts. In 2012, the project went according to plan. The interviews conducted with five Swedish agencies concerning their work with EU legislation has resulted in the publication "From EU proposal to agency regulation – achieving simple and effective rules". The publication contains agencies' experiences of better regulation in connection with the work with EU legislation, as well as proposals from the Swedish Better Regulation Council and the Swedish Agency for Economic and Regional Growth pertaining to which areas the agencies should focus on in particular. The three main areas identified are: Internal guidelines, impact assessments, consultation and collaboration.

With the publication, the Swedish Better Regulation Council and the Swedish Agency for Economic and Regional Growth hope to inspire the agencies to work actively with better regulation in the processes that bring about an EU legal act. The publication arrived in connection with a well-attended seminar in the spring of 2012. As there was a great deal of interest from the agencies, another seminar took place at the end of the year. Ministries were also invited to this seminar. One section based on the publication has been added to the Swedish Agency for Economic and Regional Growth's courses, which the Swedish Better Regulation Council also participates in. In autumn 2012, the Swedish

Better Regulation Council and the Swedish Agency for Economic and Regional Growth have together visited a number of agencies and spoken about the publication. More visits are planned for 2013 and the potential for continuation of the project is being discussed.

### Impact assessment handbook

The Swedish Better Regulation Council plans to give out a handbook that will aid regulators in their work with impact assessments. The book will be targeted at regulators on all levels, but is primarily a support for administrators employed by agencies or on committees. The work has so far been carried out in cooperation with the Swedish Agency for Economic and Regional Growth. The texts in the book will be based on Sections 6 and 7 of KUF and shall contain concrete advice and commentary on the various points in each paragraph. Handbooks are of course already available in this field, but there is a need for updated versions, as emphasised by regulators during courses and at meetings. Some of the basic material is already written, but the product cannot yet be finalised, pending the results of the Swedish Better Regulation Council and the Swedish Agency for Economic and Regional Growth's on-going evaluations. Another reason for the wait is that the Swedish Agency for Economic and Regional Growth has struggled to meet the resource requirements for the work. The date for publication of the handbook has therefore been postponed.

### Clearer opinions

The Supplementary Terms of Reference state that the Swedish Better Regulation Council's advisory role must be developed. The Council's opinions could for example lay the foundations for improvements of statute proposals and impact assessments. Many regulators have also expressed a desire for the Swedish Better Regulation Council to be clearer when issuing opinions. In 2012, the Council has therefore commenced work to review the formulation of its opinions in terms of disposition and content. The aim is to allow the opinions issued by the Council to play a greater role in increasing the quality of referred impact assessments.

The work to develop the opinions issued by the Council has thus far led to two concrete measures. In late autumn 2012, the reporting Case Officer was tasked with providing a more detailed explanation of the reasons for which impact assessments are rejected. This was to be included in a draft of the opinion brought before the Council. In addition, the responsible regulator has been contacted regarding the referrals which elicited responses from the

Swedish Better Regulation Council between August 2012 and October 2012, and where the impact assessment has been deemed unsatisfactory. The regulators have been asked to respond to a survey on their perception of the opinion issued. The results of the survey are found in the chapter on follow-ups.

### The SCB project

In 2011 the Swedish Better Regulation Council began surveying the regulatory systems for reporting statistics in Sweden, Norway and Denmark. The survey revealed that Norway and Denmark are ahead in their work with coordinated and limited reporting for businesses. The survey has been presented to Statistics Sweden (SCB) at a meeting in which the Swedish Better Regulation Council also emphasised the importance of prioritising these issues. The Swedish Better Regulation Council also asked the question why the work to simplify the reporting of statistics and other information in Sweden does not seem to have come as far as in Denmark and Norway. SCB spoke about a project in which businesses will be able to submit statistics via their own accounting systems.

### Committees and impact assessments

The previous year saw the initiation of a project aimed at improving committees' work with impact assessments. Over the year, a reference group discussed how the committees' apply the rules and regulations pertaining to impact assessment and whether an updated committee handbook is required (Ds 2000:1). From the discussions, it was clear that the most prominent issue is the Committees Ordinance's (1998:1474) relation to KUF, which is perceived as problematic. As the Council's mandate does not cover all of the Committees Ordinance, no overall proposal has been made for amendments to the ordinance. In its discussions on the rules and regulations, the Swedish Better Regulation Council elaborates on the potential minor adjustments that may be required in order to increase uniformity between the regulations pertaining to impact assessments for agencies, ministries and committees. The Swedish Better Regulation Council has forwarded the comments to relevant actors in the areas in which it is active, e.g., to the Swedish National Audit Office, which has reviewed the Government appointed committees and the preparation process. The reference group's comments concerning the project on gold-plating, for example, have also been observed in the projects that the Council has worked with in the past year and which may entail amendments to statutes.

## To be noted

- The Swedish Better Regulation Council's examples have had a positive reception.
- Any instances of gold-plating should be described in the impact assessment.
- There is scope for limiting which cases are referred to the Swedish Better Regulation Council.
- A multi-criteria analysis is a model which could be considered for future work with impact assessments, though a more in-depth investigation is necessary. A crucial element is which issues are to be included in such an analysis and the fact that guidelines exist for implementation.





## Training for better regulation

### Training and support for regulators

Since the formation of the Swedish Better Regulation Council, it has worked to support committees in their work to prepare impact assessments. The support function has been developed over the years. Via the Supplementary Terms of Reference, the Council's support function is further emphasised. Now the Council's support in the work with individual impact assessments also includes ministries and agencies.

In 2009, work commenced with providing advice to committees tasked with proposing regulations for the industrial sector. At the time, this advisory function primarily entailed providing information and training initiatives. In isolated cases, however, advice and support was provided to individual committees. During the period 2010-2012, the support has increased. The Swedish Better Regulation Council now actively contacts committees and offers advice on working with impact assessments. Once or twice per year, special social gatherings are arranged, to which all committees are invited. On these occasions, the Swedish Better Regulation Council speaks briefly about its activities. Thereafter, those gathered are given the opportunity to ask questions and meet other committees. The gatherings are a welcome forum for exchanging experiences under lighter circumstances.

In addition to the support it offers in the individual work with impact assessments, the Swedish Better Regulation Council participates in the general training courses organised by the Swedish Agency for Economic and Regional Growth and the Administrative Support for Government Appointed Committees.

### Training initiatives

#### *Training for agencies*

The Swedish Agency for Economic and Regional Growth holds training courses targeted at agencies with which the Swedish Better Regulation Council collaborates. In 2012, the Swedish Better Regulation Council participated in four training courses arranged by the Swedish Agency for Economic and Regional Growth. On the courses, the Council runs through what is required of an impact assessment on the basis of Sections 6 and 7 of the Ordinance on Regulatory Impact Assessment (2007:1244) (KUF), from a business perspective. Common errors and inadequacies in referred impact assessments are noted

and tips are provided on how to rectify these. The Swedish Better Regulation Council also reviews a number of impact assessments from the examples published on the Council's website. In the past year, the training has increased in scope, going from informing about the Swedish Better Regulation Council's reviewing to including a section on the agencies' work with EU legislation. The training is primarily intended for anyone who does not have much experience working with impact assessments. The Swedish Better Regulation Council's initiatives tend to be appreciated by the participants.

#### *Training for committees*

The Swedish Better Regulation Council also participates in the training course organised by the Administrative Support for Government Appointed Committees. In 2012, six training courses took place. The Council's part is similar to the programme for the Swedish Agency for Economic and Regional Growth's training course, except for the section on EU legislation. The Course targeted at committees has recently been extended in order to incorporate a practical exercise with an existing impact assessment. Training evaluations reveal that the training initiatives are on the whole well received and that the information provided by the Swedish Better Regulation Council is concrete and useful. The Swedish Better Regulation Council's collaboration is above all an opportunity to emphasise the important content of impact assessments and to inform about the Council's activities, especially regarding the possibility of support and advice when working with impact assessments. The training is given at an early stage. Some investigations have indicated that the section on impact assessments can therefore be difficult to take on board, as the assessments have not always had time to look at this issue. However, the Swedish Better Regulation Council wishes to point out that it is to a certain extent a matter of prioritisations. The work with impact assessments should be included in the entire process and not come as a last-minute effort.

#### *Other training initiatives*

The Swedish Better Regulation Council has noted an increased demand for courses tailored to individual ministries and agencies. This is gratifying, as it reveals an interest in the work to simplify regulation, which in the long term should also lead to a higher quality of impact assessment. The Council has upon request held a training



course for the Ministry for Rural Affairs. During the course, information was provided about the Swedish Better Regulation Council's activities, the formal requirements for an impact statement, common errors and inadequacies that the Council sees in the impact assessments referred to them, and tips and advice for improvements and good examples. The participants gave consistently positive feedback on the course. This year, a similar course will be held for the Ministry of Culture and, potentially, the Ministry of Enterprise, Energy and Communications. The Swedish Better Regulation Council is pleased that the course is in demand among ministries as it is an important part in improving the quality of impact assessments, though it also wishes to point out that the division of roles is somewhat unclear. If the Council is to arrange general courses targeted at ministries, this should be clearly stated in the Council's directive.

A number of agencies have also demanded tailored courses. In these cases, the Swedish Better Regulation Council has attempted to arrange a suitable programme together with the Swedish Agency for Economic and Regional Growth, which bears the main responsibility for training and support for Agencies. The Swedish Agency for Economic and Regional Growth did however struggle to meet resource requirements in the autumn and was on a few occasions unable to participate. The Swedish Better Regulation Council has therefore run its own courses tailored for the Swedish Transport Agency, Swedish Customs and the Swedish Environmental Protection Agency. The courses focus on the Council's experiences from working with impact assessments – what the Council looks at in particular in its examinations, information on common errors in impact assessments and good examples. These gatherings are appreciated, and as previously mentioned it is gratifying that there is a demand for initiatives. It can however be problematic that the Council alone participates on these occasions, as the division of roles between the Swedish Agency for Economic and Regional Growth and the Swedish Better Regulation Council can be perceived as ambiguous. The division of responsibility

between the Swedish Agency for Economic and Regional Growth and the Swedish Better Regulation Council has been highlighted in Swedish Agency for Public Management's report (further information on the report can be found in Chapter 7). There is cause to return to this matter.

In 2013, tailored training courses will be held for the Swedish Tax Agency, the Swedish Financial Supervisory Authority and the Swedish Post and Telecom Authority (PTS). The Swedish Tax Agency's course will be run in cooperation with the Swedish Agency for Economic and Regional Growth.

### Support to individual committees

The advisory service for individual committees is run in an informal manner and is governed first and foremost by the committee's wishes but also by the time available and the assessment task. In many cases the committees have drafts of the proposal and impact assessment that they want the Swedish Better Regulation Council to comment on. The advice is based on the provisions of the Committees Ordinance (1998:1474) with emphasis on section 15 a, which references Sections 6 and 7 of KUF. In general, the committees are recommended to organise the impact assessment on the basis of Sections 6 and 7 of KUF so that answers to the questions are easily found. The impact assessment and related comments are discussed at one or more meetings.

Over the past year, the Swedish Better Regulation Council has noted that more committees are now aware of the Council's work and have contacted its Secretariat for advice. It is gratifying that the work with impact assessments is receiving attention. One of the biggest remaining challenges is time restrictions. In many cases, there is not enough time to take the Swedish Better Regulation Council's comments into consideration as the Secretariat has been contacted at too late a stage. Additional information about the results of the Council's support to individual committees can be found in the chapter on follow-ups.

## To be noted

- There is an increased demand for support and training initiatives, which is positive. More committees have received support from the Swedish Better Regulation Council's Secretariat and many regulators are requesting tailored training initiatives.
- Where training is concerned, the Council's role in relation to the Government Offices should be clarified.
- To ensure the committee support produces the best possible results; a certain window is required so that there is time for the assessment to take the Council's comments into consideration.



Practice  
makes  
perfect





## Contact and communication

### Communication and web

In 2012, the Swedish Better Regulation Council has developed and launched a new website which better caters to the Council's needs and clarifies its work. For the visitor, the new website also makes it easier to find and download the opinions issued by the Council. The web address, [www.regelradet.se](http://www.regelradet.se), is the same as before. The new website was launched in the beginning of April 2012 and has since then had 6,185 visitors. The Council's responses to referrals are continuously published on the website. Since April, visitors have made a total of 30,329 downloads from the website. In the previous year there were 28,813 downloads. Visitors spend an average of nearly six minutes on the website. The visitor can also find tips and advice on the website pertaining to what an agency should take into consideration in its work with regulation. Here they can find information about support initiatives offered by the Council and good examples of impact assessments. The website also contains current information on the field of better regulation and what the media is saying about it.

Anyone interested in better regulation can follow and contact the Swedish Better Regulation Council via Twitter. The Twitter feed is also connected to the website.

Over the past year, the Council has continued to publish its newsletter *Regelrätt* (According to the Rules). The publication is issued monthly and has 600-700 readers; chiefly those working with regulation at agencies and ministries, representatives for industrial organisations, journalists and members of the Riksdag. The aim of *Regelrätt* is to make the Swedish Better Regulation Council's opinions available to a wider public and to inform about current events in the field of better regulation. *Regelrätt* is distributed electronically, and anyone wishing to subscribe can do so via the Council's website.

Many regulators have praised the new website. During a visit from an agency, it was explained that this agency preferred to look up its cases on the Council's website as it was easier than finding them in its own system.

### Business contacts

The Swedish Better Regulation Council's activities are primarily intended to create better conditions for enterprise. Information concerning businesses' reality and percep-

tions of administrative burdens is therefore central to the Council's activities. The Swedish Better Regulation Council regularly visits various industrial organisations in order to exchange information. During these meetings, discussions are conducted on how conditions conducive to entrepreneurship can be achieved via reduced administrative costs and impact assessments. The Council has over the past year met BFS – The Swedish Catering Equipment Manufacturers and Distributors Association, Kemisk-Tekniska Leverantörförbundet [the Chemical/Technical Supplier Association] and the organisation Forum. In addition, it regularly meets with the Board of Swedish Industry and Commerce for Better Regulation (NNR) in an on-going exchange of information.

The Council has also met with industrial organisations in 2012 in connection with the aforementioned gold-plating project.

### International contacts

In 2012, the Swedish Better Regulation Council has had on-going contact with its counterparts in other EU countries. At present, there are sister organisations in four EU countries – Actal, the Dutch Advisory Board on Regulatory Burden, Nationaler Normenkontrollrat (NKR) [the National Regulatory Control Council] in Germany, the Regulatory Impact Assessment Board (RIAB) in the Czech Republic and the Regulatory Policy Committee (RPC) in the UK. All are independent organisation with the task of reviewing and advising the respective country's government regarding better regulation and the reduction of costs for businesses. The RIAB in the Czech Republic was established last year. It is gratifying that more countries see the importance of and need for a regulatory board.

In light of previous years' correspondence with recommendations to the Commission, the Council and the Parliament, the five organisations met in Brussels in the spring of 2012 in order to discuss the on-going work with better regulation and a reduction of administrative costs on a European level. This resulted in a meeting in June 2012 with representatives from the Parliament and the Council. The main focus of discussions was the importance of producing impact assessments for all proposed Community legislation and within the EU's regulatory institutions.

In the spring, the Commission opened up for consultation on the upcoming work with “Smart Regulation”. As part of the Commission’s consultation process, the Swedish Better Regulation Council designed, together with its European counterparts, a document which was submitted to the Commission, the Parliament and the Council in September 2012. The document contains concrete recommendations for how the EU’s institutions should work with better regulation in the short and long term. For example, it is recommended that impact assessments are made for each new proposal and for all stages of the legislation work, and that interest groups have a greater degree of involvement than at present. It is also recommended that an independent body (a “watch-dog”) is established, with the task of carrying out an independent review of all proposed regulation from the EU. The document also emphasises the importance of setting a minimum net reduction for businesses’ regulatory burden once the previous maximum target expires at the end of 2012. Together with sister organisations, the Council has also met with Members of the European Parliament and officials of the European Council in order to follow up the document in terms of the need for impact assessments in both the Parliament and the Council when there are significant amendments to the Commission’s proposals.

In 2012, the Swedish Better Regulation Council has participated in a number of seminars on matters concerning better regulation. The Council has contributed to two meetings arranged by OECD. One of the meetings took place in Prague in June and concerned the work with impact assessments in the Czech Republic and other OECD countries. The other meeting took place in Berlin, also in June, and concerned compliance costs, among other matters. Berlin was also the location of a seminar in March. It was a seminar on the implementation of EU legislation. At this seminar, the Swedish Better Regulation Council informed about the report on gold-plating that the Council had just started with NNR. In September, the Council participated in a seminar in Lisbon arranged by the Portuguese Government in cooperation with the Commission. The Council also participated in a DEBR<sup>3</sup> meeting in Dublin in November. DEBR is a bi-annual meeting that is the responsibility of

the incoming Presidency in the EU and which is a forum for exchanging experiences from working with better regulation. Finally, the Swedish Better Regulation Council participated in a development cooperation project in Ukraine in December, run by the Swedish National Board of Trade. The Council received a special invitation to Kiev as a speaker and held a seminar about its experiences of working with impact assessments.

The Council has also been invited to all of HLG’s (the Commission’s “High Level Group of Independent Stakeholder’s on Administrative Burdens”; also known as the “Stoiber group”) meetings as an observer and has participated in four of these.

<sup>3</sup> Directors & Experts on Better Regulation

## To be noted

- There has been an increased interest in the Swedish Better Regulation Council's website.
- Good contacts in industry provide an in-depth knowledge of how the work with better regulation is perceived in practice. Collaboration also provides the opportunity for dialogue on how this work can be further improved.
- Cooperation with sister organisations can lay the foundations for better impact assessments in the EU. The Council has on a number of occasions put forward concrete proposals, together with sister organisations, for how the work with better regulation in the EU should be improved.







### General information on follow-ups

In order for the Swedish Better Regulation Council's work to be more effective and appropriate, following up its activities is a very important element. In 2011, the follow-up work focused on more concrete issues concerning the Council's reviewing and opinions, where in the previous year there was more emphasis on public knowledge of the Council. The previous year's follow-up revealed that many regulators would like to see more clarity in the opinions issued by the Council. They also wanted the Council to see itself more as an advisor that would follow the entire process, rather than someone who enters at the end in order to stamp 'approved' or 'rejected' on the final product.

The Council has borne these viewpoints in mind when formulating the past year's follow-up. In 2012, the Swedish Better Regulation Council has continued to follow up the effects of its own activities. Firstly, a survey has been conducted on perceptions of the Council's opinions, and secondly, the Council has studied the effects of support provided to committees. The aim of the past year's follow-up is to find concrete measures that could contribute to an increase in the quality of impact assessments, especially in terms of impact assessments from committees.

### Visiting regulators

The Swedish Better Regulation Council regularly meets with the agencies and ministries that have referred cases to them. During these visits, the Council informs about its activities and the cases referred to them. There is also room for discussion about individual referrals. The past year has seen seven visits to agencies. Among others, the Swedish Better Regulation Council has met the Swedish Energy agency, the Swedish Energy Markets Inspectorate, the Swedish Board of Agriculture and the Swedish Forest agency.

So far, the Council has primarily met with regulators that refer a large number of cases, though it may also be of interest for the regulators that have not had many cases to hear more about the Swedish Better Regulation Council's activities and have the opportunity to discuss individual cases. The Council therefore organised a meeting in autumn 2012, to which several agencies were invited. They were provided with information about the Council's

reviews and had the opportunity to exchange experiences with other agencies. A total of 18 administrators from ten agencies participated. Participants included the Swedish Work Environment Authority, the Swedish agency for Marine and Water Management, the Swedish National Debt Office and the National Board of Health and Welfare. The exchange of experiences was the first of its kind arranged by the Swedish Better Regulation Council. The meeting was a success across the board; the participants found it interesting to hear the Council's viewpoints and felt that it was a good initiative by the Council. It was however remarked that the allotted time was somewhat short and that there could have been more space for the exchange of information among the agencies. The Swedish Better Regulation Council is planning future meetings of a similar nature and will take into consideration the views expressed.

A visit to the Ministry of Education and Research was planned for mid-December 2012 but has been postponed to the beginning of 2013. A visit to the Ministry of Employment is also planned for 2013.

### Surveys on opinions

As mentioned in the chapter on special projects, the Swedish Better Regulation Council has begun working on the clarity of the opinions it issues. Surveys have therefore been sent out to the regulators that have referred a case between August and October 2012 in which the Council has deemed the impact assessment as unsatisfactory. These Agencies were asked to answer three questions: if the regulator feels that the reason for the rejection of the impact assessment is explained in the opinion, if it is made clear in what respect the impact assessment should be supplemented, and finally, if the Council's opinion needs to be clearer in some respect. For each question, the respondent was given the opportunity to provide comments and additional suggestions for how the opinions could be improved.

A total of 18 surveys were sent out, 13 of which were completed and returned. From the answers received, it can be determined that a great majority - 12 of 13 respondents - feel that it is clear as to why the impact assessment has been deemed unsatisfactory and in what respect the impact assessment should be supplemented in order to achieve a satisfactory result. Suggestions for how to attain

greater clarity in the opinions issues include a specific heading for supplements.

The fact that a great majority of the responses are positive can be thought somewhat odd, as the Swedish Better Regulation Council has received criticism over the years for opinions which are too brief and formal. The survey group is however so small that it is risky to draw any significant conclusions from the responses received. It is possible that these particular opinions were especially detailed. Another explanation for the positive answers may be that there has already been a degree of improvement in the opinions issued by the Swedish Better Regulation Council. The Council has worked gradually on clarifying its opinions. The opinions formed today have a different disposition and a more detailed content than those from the Council's initial phase.

The work to improve the opinions issued by the Council will continue in 2013. As previously mentioned, the Secretariat will develop more comprehensive draft opinions for presentation to the Council, whereby responses to surveys will be taken into consideration. During the autumn, an identical survey will be sent out in order to determine whether or not any difference has been noticed in how the Council's opinions are perceived by the regulators. Once a larger number of responses has been received, it will be possible to gain a clear picture of how the Swedish Better Regulation Council's opinions should be improved in order to best meet the regulators' needs.

### Follow-up of the Swedish Better Regulation Council's support to committees

Since the arrival of the Supplementary Terms of Reference on 25 August 2011, the Swedish Better Regulation Council's Secretariat has provided individual advice to 25 committees. Of these, the Council has issued opinions on eight cases. In five cases, the impact assessments were deemed satisfactory. The committees that have received advice from the Secretariat therefore achieved considerably better results than other committees in terms of the Council's criticism of the impact assessments. As previously pointed out, the time factor is conclusive in terms of the support that can be provided and how the support can be received. In general, many committees attempt to make contact with the Swedish Better Regulation's Secretariat at a late stage. It is therefore sometimes

not practicable, in terms of time, to make improvements to the impact assessment. It is a matter of having enough time for meetings and discussions between the Secretariat and the committee as well as for taking into consideration the viewpoints in the assessment and making the required amendments to the text. The time that the Secretariat's personnel has allocated to providing advice to an individual committee has varied greatly, from one hour to 13 hours.

The question of time is not solely about prioritisations on the committees' part. The committees must be offered the opportunity to prepare an impact assessment of a high standard within its own time constraints. The Swedish Better Regulation Council therefore recommends that the ministries create clearer guidelines for the preparation of impact assessments; both in terms of formulations in the directive and in contact with the ministry, and that sufficient resources are allocated. Today, the majority of impact assessments prepared by committees are deemed by the Council to be unsatisfactory, so it is a crucial factor in achieving better results for cases referred by the Government Offices.

## To be noted

- The Swedish Better Regulation Council's initiative to exchange information with Agencies was appreciated and should continue.
- The Council is working to improve the opinions it issues.
- Committees that have received advice from the Secretariat produce better impact assessments than other committees on the whole.
- Clearer guidelines are required for committees' preparation of impact assessments. This applies to both formulations in Terms of Reference and contact with ministries.





## Overhaul of the Swedish Better Regulation Council and rules and regulations

In 2012, two separate reviews were performed which covered the Swedish Better Regulation Council's work. One is the Swedish National Audit Office's review of the Government's work with better regulation, a portion of which is carried out by the Swedish Better Regulation Council. The results of the review were presented in March 2012 in the report "Regelförenkling för företag – regeringen är fortfarande långt från målet" [Better regulation for businesses – the Government is still far from reaching its goal]. The other is the Government's commission to the Swedish Agency for Public Management to evaluate the Swedish Better Regulation Council's activities. On 15 October 2012, the Swedish Agency for Public Management presented the results of the commission in the report "Vad gör Regelrådet? Arbetsprocesser, roller och organisation för enklare regler" [What does the Swedish Better Regulation Council do? Work processes, roles and organization for better regulations]. The Swedish Better Regulation Council receives positive feedback throughout both reports, while opportunities for development are highlighted in certain areas.

### The Swedish National Audit Office's report

Over the past year, the Swedish National Audit Office has reviewed the Government's work with better regulation. In its report, the Swedish National Audit Office proposes measures that they feel should be taken in order to improve the work with better regulation. One point made is that the Swedish Better Regulation Council's mandate is too limited. The Swedish National Audit Office suggests that the Council focus its reviewing on proposals' combined economic effects on businesses and not solely on the administrative costs as these constitute a relatively small portion of businesses' total costs.

The Swedish National Audit Office goes on to warn about over-boosting the Council's support role, as there is a risk that the Council will land outside of its reviewing remit. The Council runs the risk of losing its independent role if it comes too close to the very subjects of its reviews, e.g., by providing advice to those who are to be reviewed.

### The Swedish Better Regulation Council's comments

As previously mentioned, the Swedish Better Regulation Council's review consists of two parts. One is a matter of

assessing whether the best solution for businesses – from an administrative viewpoint – has been chosen, based on the purpose and the desired effect of the proposal. The other part, which consists of the Council's review of the impact assessment, includes an estimation of all costs and other effects for businesses rather than only those related to administration. If the total economic impact of the proposal is not described comprehensively enough, the impact assessment is rejected.

The Government has explained that it intends to produce a model for measuring costs other than those related to administration (see the section below on the Government's communication) and has commissioned the Swedish Agency for Economic and Regional Growth to work on its development.

The Swedish Better Regulation Council welcomes this work and is participating in the reference group which the Swedish Agency for Economic and Regional Growth created to assist in this work. If a model of this nature is correctly designed, it could go a long way to making matters easier for the regulators and for the Council's reviews. The systematic reviewing of impact assessments performed by the Swedish Better Regulation Council over the years means that it now has a great deal of experience in these matters. If a model is produced for making calculations, the Council's mandate could be broadened so that its reviews also cover other costs even when assessing proposed statutes. This would however require amendments to the Council's directive. It should also be noted that the Council's task does not include assessment of the political grounds of the proposal. With a potential broadening of the Council's reviewing remit comes the risk that its opinions could be seen to challenge the political grounds.

In terms of the support role, the Council has had the dual-role problem in mind when formulating the support provided. It is the Secretariat that handles the practical elements of the support and advisory functions. A Case Officer that has provided support in an individual case may not present the case to the Council. Each impact assessment is evaluated individually, irrespective of whether the referring body has previously received support, participated in a training course or similar. The Swedish Better Regulation Council is aware of the problem but

does not wish to exaggerate the difficulties involved in certain roles. The expertise and experience gathered in the Council and the Secretariat should be utilised both for advising and ing, in order to achieve the best possible results overall in terms of the work with impact assessments and better regulation. The assessments for which support has been provided by the Council's Secretariat achieve better results than other assessments on the whole in terms of their quality.

### Government Communication

The Government has answered the Swedish National Audit Office's report with the communication "Regeringens skrivelse 2012/13:5 Riksrevisionsvisionens rapport om regelförenkling för företag" [Government communication 2012/13:5 The Swedish National Audit Office's report on better regulation for businesses]. The Government observes that other costs are already included in the Swedish Better Regulation Council's review of the impact assessment. It is also noted that a big problem is posed by the lack of good methods for calculating other costs. The Government therefore intends to develop methods to calculate these costs. This is expected to increase the quality of the impact assessments.

The Government also believes that the Swedish Better Regulation Council was established as "an advisory body for the Government and administrative Agencies, under the Government". According to the Government, the idea behind the Swedish Better Regulation Council was not to introduce a body that controls the regulator. The communication explains that not enough of the Council's knowledge reaches the regulators. The low quality of the impact assessments is used to support this statement.

### The Swedish Better Regulation Council's comments

As previously mentioned, the Swedish Better Regulation Council welcomes the development of methods of calculation and is happy to take part in this work.

In accordance with existing rules and regulations, the Council has an independent control function. The Council is of course an advisory body, but its primary task is to independently review or control the regulator's solution in terms of the administrative costs and the quality of the impact assessment.

The Council does not share the Government's view that not enough of the Council's knowledge is transferred to the regulators. In order to reach the regulators, several channels are used. The Swedish Better Regulation Council participates in a number of different courses and is constantly visiting regulators. The Swedish Agency for Public Management Council is working actively with outward communication via its website and Twitter. Over the years that the Council has been active, it has gradually increased its communicative capacity. Indeed, the Council realises that the opinions it issues have room for improvement in terms of clarity and that the support offered for impact assessments could also be further developed. In order to make matters easier for the regulators, the Council is working to improve the opinions it issues. See the chapter on follow-ups for more information on the work with the Council's opinions. A deciding factor in terms of deficiencies in the impact assessments is how the regulator prioritises the work with impact assessments and thereby how much commitment, time and resources are invested in the assessments. This is reflected in the series of interviews carried out by the Swedish Better Regulation Council and which are included in the previous year's report.

In this context, the Council wishes to point out that it has in accordance with its Supplementary Terms of Reference increased its support to committees in the work with impact assessments. All new committees are contacted and offered advice. However, a smaller proportion of committees then go on to contact the Secretariat for support. Furthermore, in cases where support is provided, the advice is not always followed. Therefore, in order to achieve the Government's goals for better regulation, a greater commitment and prioritisation of these issues is required among assessors and regulators.

### The Swedish Agency for Public Management's evaluation

In March 2012, the Swedish Agency for Public Management was commissioned by the Government to evaluate the Swedish Better Regulation Council's activities. The intention behind the commission is to increase the cost-effectiveness and appropriateness of the regulation.

The Swedish Agency for Public Management's report reveals that the Council's reviews of proposed statutes and impact assessments work well from the activities'

current focus. The Swedish Agency for Public Management is however of the opinion that the Council's reviewing could have a clearer focus by concentrating solely on the impact assessments. The reviewing function could also be broadened so as to cover other costs for businesses (i.e. not only administrative costs). The Swedish Agency for Public Management also feels that the Council should develop the opinions it issues by elaborating further on the justification of its position.

The Swedish Agency for Public Management observes that the various regulators' activities are of different natures. The Council's support should therefore be adapted more based on the needs of the individual regulator. An Agency's opportunity to benefit from the opinion issued by the Council, as part of a learning process, is not felt in a committee; under normal circumstances the committee has been dissolved by the time the Council's opinion is received. The Swedish Agency for Public Management therefore suggests that the Swedish Better Regulation Council consider introducing a special process for reviewing committee reports.

Finally, The Swedish Agency for Public Management emphasises the fact that it does not see any major ambiguities in the division of roles between the Swedish Better Regulation Council, the Swedish Agency for Economic and Regional Growth and the Swedish National Financial Management Authority. However, it believes the division of responsibility would be clearer if one of the actors was given a coordinating role. In terms of the Council's future organisation, The Swedish Agency for Public Management has not, in accordance with its commission, decided which form is most suitable; it merely provides a brief account of the advantages and disadvantages of various alternatives.

### **The Swedish Better Regulation Council's comments**

In the report, it is suggested that the Swedish Better Regulation Council's reviewing cover impact assessments alone. It is the Council's understanding that the reviewing of proposed statutes is so closely related to reviews of impact assessments that these elements cannot be separated. The Council has however been informed, in deeper discussions with The Swedish Agency for Public Management, that The Swedish Agency for Public

Management does not feel they should be separated. The proposal related to limited reviewing is based on the viewpoints received by The Swedish Agency for Public Management during interviews with regulators and is more a matter of how the Council expresses itself in the opinions it issues. Some regulators find it confusing that the Council can approve a proposal and at the same time deem the associated impact assessment insufficient. The interpretation of The Swedish Agency for Public Management's suggestion should therefore be that the Council's opinion should only contain an evaluation of the impact assessment.

In accordance with its directive, the Swedish Better Regulation Council shall consider whether regulations are formulated so that they fulfil their purpose in a simple manner and at a relatively low administrative cost to businesses. This requirement is not found in the Ordinance on Regulatory Impact Assessment (2007:1244) (KUF). According to KUF, it is enough to have accounted for the administrative costs; no assessment is made as to whether or not the costs are reasonable. If the Council is only to issue an opinion on the impact assessment, the rules and regulations should therefore be supplemented with the requirement for the regulations to fulfil their purpose in a simple manner and at a low cost.

### **Review of the rules and regulations**

The above reports and communications may lead to amendments to the rules and regulations. In addition, there is still a need for additional adjustments in relevant statutes. In the previous year's report, the Swedish Better Regulation Council has accounted for certain ambiguities and deficiencies in the rules and regulations that it has observed. Below is a brief description of the problems. For a more in-depth discussion, see the Swedish Better Regulation Council's report for 2011.

### **The surrounding rules and regulations**

The most important statute for the work with impact assessments is the Ordinance on Regulatory Impact Assessment (2007:1244) (KUF). KUF is targeted primarily at agencies and regulates when an impact assessment should be performed and any requirements pertaining to the content of the assessment. For committees, provisions pertaining to the work with impact assessments can be found in the Committees Ordinance

(1998:1474), and for ministries there are guidelines established by the Government Offices. As regards the content of an impact assessment, both the Committees Ordinance and the guidelines reference KUF. The consequences (impact) shall be presented in a manner corresponding to Sections 6 and 7 of KUF.

In addition to the aforementioned statutes there is the Ordinance (2011:118) about collection of statements by government agencies from the Swedish Better Regulation Council, as well as the corresponding guidelines for the Government Offices, which regulate when and how regulators are to refer cases to the Swedish Better Regulation Council.

As previously mentioned, the Council has pointed out deficiencies in the surrounding rules and regulations. Even if the regulations are on the whole well formulated, it is difficult to understand why regulators on different levels are treated differently. For example, agencies are to apply Sections 4-7 of KUF whilst other regulators are only to apply Section 6 and 7 of KUF. The same rules should apply to all regulators. Furthermore, the Council has noted that, as it now focuses its reviewing solely on substantial changes, there is a certain leeway between the subject of the Council's review and the content of an impact assessment in accordance with KUF. An amendment to this point in KUF should also be considered.

In addition, the Council has noted that on several occasions it has been afforded a referral period that is far too short for handling the given proposal and impact assessment. In several cases, the regulators have worked on the assumption that the Council's 14 day minimum requirement for the preparation process starts when the case is referred by the regulator. This often means that several days have passed before the case comes into the hands of the Council. Two weeks have also proven to be far too short a period for processing certain cases, especially if they are received between the Council's meetings. The Council therefore requests that the obligatory referral period be extended to at least 21 days.

### Potential amendments

In addition to the remarks made by the Swedish Better Regulation Council above, there are other reasons to consider amendments to the surrounding rules and regu-



lations. The evaluations performed under the Council may give rise to amendments to directives and statutes, especially if the proposals of the Swedish National Audit Office and The Swedish Agency for Public Management concerning the broadening of the Council's reviewing function are to be realised.

In previous chapters, the Council has reported on the projects it has run in recent years. Several of these projects may require statutory amendments in order to continue. Where the gold-plating project is concerned, the Council has submitted proposed amendments to KUF to the Ministry of Enterprise, Energy and Communications. The project on threshold values may also entail statutory amendments, both in terms of the rules and regulations on the whole and the obligation to the to send a remit to the Swedish Better Regulation Council. In these cases, no concrete proposals for statutes have been produced as the project is not yet complete.

Based on the Council's previous experience, the Government will make a decision in 2013 on the Swedish National Audit Office and The Swedish Agency for Public Management's evaluations of the Councils' activities. Thereafter, an overall inspection of the rules and regulations will be carried out. In connection with the inspection, the projects that may give rise to statutory amendments will be taken into consideration.



## To be noted

- The Swedish Better Regulation Council's work receives positive verdicts in the reviews performed by the Swedish National Audit Office and The Swedish Agency for Public Management.
- Improvements can be made to improve regulators tools for calculating costs.
- Several possible changes to both the Council's reviewing function and its organisation are being looked into.
- There is a certain leeway between the subject of the Council's reviews in accordance with the Supplementary Terms of Reference and the contents of an impact statement according to KUF.



## Conclusions and recommendations

During the four years of the Swedish Better Regulation Council's activities, 1,700 cases have been referred to the Council. The Council has issued opinions on over 700 cases. Through this experience, the Council has built up a broad knowledge base. The systematic reviewing performed by the Council is intended to emphasise to the regulator the importance of formulating proposed statutes so as to reduce the administrative costs for businesses where possible. The Council's obligatory reviewing also puts pressure on regulators to describe the impact of their proposals in a satisfactory manner. The proportion of approved proposals has increased up until this point, whilst the number of satisfactory impact assessments has not increased to the desired extent. In 2012, the Council has issued opinions on over 145 cases. 108 proposals have been approved whereas only 61 impact assessments have been deemed satisfactory. The fact that more than half of all impact assessments that pass the Council's reviews are still, more than four years after the Council's establishment, deemed as unsatisfactory is unacceptable. In order to increase the quality of the impact assessments, efforts are required from all actors involved.

There are a number of factors that together will help to achieve satisfactory impact assessments. These include prioritisation, training, commitment and time. The Council is gradually expanding its support role. Over the past year, the Council has participated in more training courses and visits than before. The Council has also provided more support to committees since the introduction of the Supplementary Terms of Reference in 2011. The Council's support does not always produce results fast, but this increased activity will hopefully be reflected in the quality of future impact assessments, on both the Council's and the regulators' part. However if the training courses are to produce good results, commitment is required, primarily from management. It is a matter of both the signals sent out to employees and allocating sufficient resources – in terms of personnel and time – to the work with impact assessments. The work with better regulation must be carried out on an on-going basis; a single training initiative is not enough. In order to achieve results, the approach must permeate the on-going activities on all levels. On its part, the Council contributes by providing resources in terms of advice and support. The regulators themselves must contribute with commitment to the matter in their daily work.

Much of the regulations that entail an administrative burden for businesses originate in EU law. The Council carefully follows the development in the EU in terms of administrative costs and impact assessments, and has over the years carried out a number of projects with an EU connection.

Together with its sister organisations, the Council has called the attention of the EU institutions to the importance of preparing impact assessments and ensuring these are of a high standard, which in turns makes matters easier for Swedish regulators and negotiators. In the EU projects run by the Swedish Better Regulation Council, the Council has also stressed that as EU legislation is ultimately to be applied as national legislation, it is important for Swedish regulators to enter at as early a stage of the process as possible and that the impact on Swedish businesses is identified. When a directive is finally approved and is to be implemented, it is no longer possible to change its formulation.

In the implementation of EU legislation, it is also important to clarify gold-plating, where applicable, in the impact assessment.

Looking ahead, there is a great potential for change in the field of better regulation. In addition to the overall work to raise the quality of impact assessments and reduce complications for businesses, the activities of the Swedish Better Regulation Council and affiliated actors are also under scrutiny. The reports presented by the Swedish National Audit Office and The Swedish Agency for Public Management this past year concerns matters related to the Council's organisation and mandate. Proposed amendments will also require changes to the surrounding rules and regulations. In addition to this, there are interesting opportunities in the development of on-going projects, particularly where the project on threshold values is concerned.







## Recommendations

- Develop better tools as support for regulators for calculating material and financial costs.
- Invest more in training on all levels – ministries, agencies and committees.
- Clarify the Swedish Better Regulation Council's role in relation to the Government Offices, where training is concerned.
- The management of regulatory bodies must commit to the work with impact assessments. The role of management is crucial in both stimulating the administrators and allocating sufficient resources to the work with impact assessments.
- Better illustrate the effects of gold-plating in impact assessments when implementing EU-based regulation.
- Ensure that the European Council and Parliament perform impact assessments where there are substantial amendments to the Commission's proposals.



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The Swedish Better Regulation Council is a Government Appointed Committee of inquiry. The Council provides advice to regulators and reviews the formulation of proposals for new and amended legislation that may have financial consequences for businesses. The Council makes a decision as to whether the regulations are formulated so as to achieve their purpose in a simple manner and at the lowest administrative cost for businesses, but will not assess the political goals of the proposals. The Swedish Better Regulation Council also evaluates the quality of the impact assessments.

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