

GUIDANCE NOTE

Full impact analysis statements that deal with regulatory fees

1.0 Introduction

This note provides guidance and outlines the requirements for completing a Full Impact Analysis Statement (IAS) for regulatory fees and charges. It includes information about when to complete a Full IAS and what to include, and how the Office of Best Practice Regulation (the OBPR) can assist agencies.

This guidance does not apply to fees charged by commercialised business units or government owned corporations. This guidance also does not apply to taxes or fines.

1.1 Regulatory impact analysis

To consider the impacts of either introducing a new regulatory fee or changing the level of an existing fee prescribed in regulation, regulatory impact analysis (RIA) is undertaken.

Assessing the impacts of proposed regulatory fees has many benefits:

- Fees and charges are set such that they support the achievement of policy objectives.
- The efficient cost of delivering government processes and programs is considered.
- Fees and charges reflect full cost recovery—unless there is a compelling reason not to follow full cost recovery.
- Proposed fees or charges can be demonstrated to be justified and reasonable.
- Decision-makers are aware of the impact of fees on stakeholder groups.

Robust RIA therefore means charges for regulatory services are most likely to be effective and efficient.

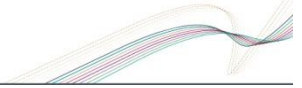
For instance, if the efficient costs of administering regulation are *not* incorporated in the price of regulated products (that is, the price is set too low), there may be incentives to produce and consume more of the regulated products than would otherwise occur.

On the other hand, if those efficient costs are incorporated in the price of regulated products, less of the cost is borne by general taxpayers, who may not consume these products.

1.2 Preparing for a Full IAS about fees

The decision to introduce (or amend) a fee should go through a rigorous policy/regulatory development process, which considers why costs should be recovered (or amended) for a regulatory activity instead of following an alternative option. Some of this analysis may ultimately be used to populate sections of a Full IAS about fees, including:

- the policy rationale for why cost recovery for a regulatory activity is appropriate
- the objectives or expected outcomes of cost recovery
- the cost associated with performing the regulatory activity
- the stakeholders who will be impacted (whether positively or negatively) by the fee for the activity
- the outcomes if the costs of the regulatory activity are not recovered
- other ways of meeting the objective—for example, introducing contestability or outsourcing the activity to the private sector.



Once a decision to introduce or amend a fee has been made, an agency should determine whether, under the requirements of *The Queensland Government Better Regulation Policy* (the Policy), a Full IAS about fees should be undertaken to inform the design and implementation of the fee. The preliminary work can be used as the basis of a submission to Queensland's Cabinet Budget and Review Committee (CBRC)—the agency which approves the introduction and level of fees. A submission to CBRC is to include the following information:

- the underlying rationale for the Government to be involved and why a fee is appropriate
- detailed costing calculations
- the reasons for setting any fees and charges at a level above or below cost recovery
- indexing arrangements
- review of the policy.

1.3 When is a Full IAS about fees required?

A Full IAS about fees should be undertaken when:

- the Cabinet Budget and Review Committee (CBRC) has approved the introduction of a fee; and,
- the new or revised fee is likely to result in a significant adverse impact on some or all stakeholders.

Figure 1 summarises steps to determine whether a Full IAS is required. The Policy provides information on assessing whether a regulatory proposal is likely to lead to significant adverse impacts. Further information is also available in the OBPR guidance note *What level of IAS is required?*

1.4 The role of the OBPR

The OBPR can guide agencies on the Fees IAS process through providing:

- preliminary advice on the costs, benefits and risks of the regulatory proposal
- assistance and technical advice, through the development of the Full IAS, to meet policy requirements (for example, to scope policy rationales and estimate impacts).

1.5 Other resources

This guidance note should be read in conjunction with the Queensland Government's policies and guidance on fees and charges (Box 1). Together these documents cover the key issues that agencies should consider when introducing or changing existing fees.

Box 1 Queensland fees and charges—policies and guidance

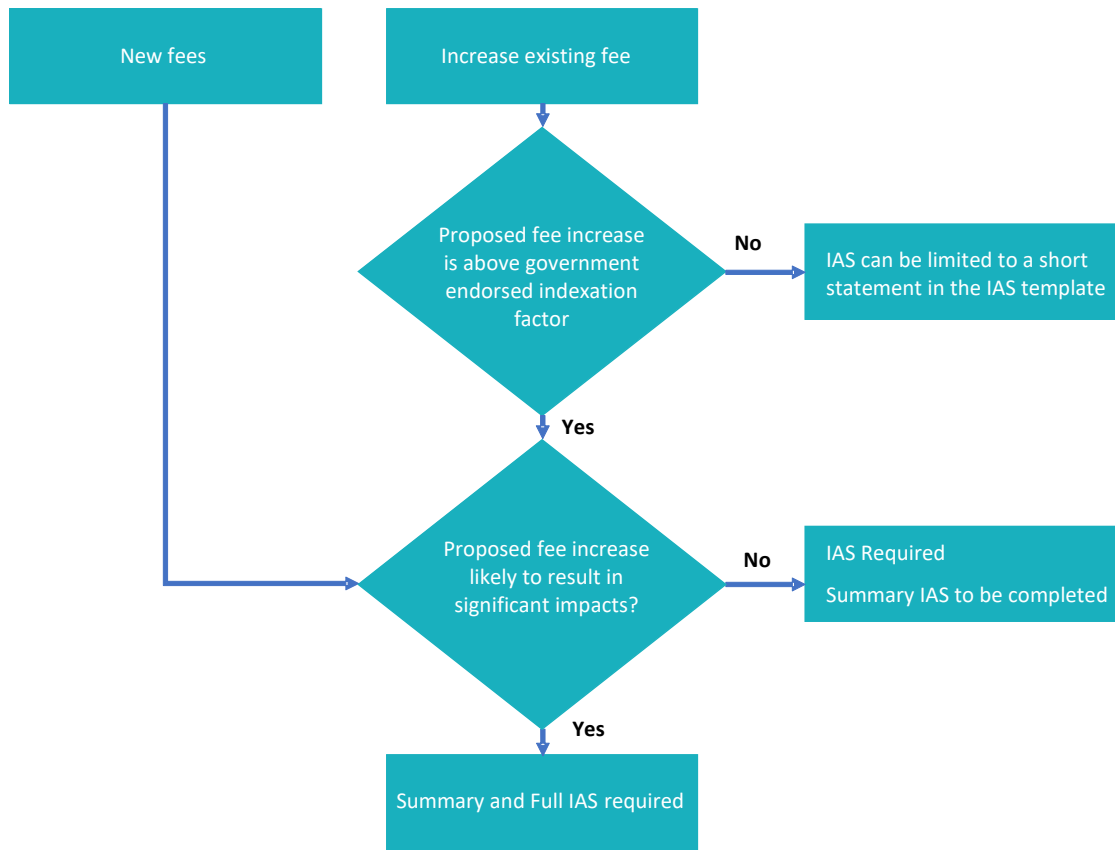
- The Queensland Government's:
 - principles for fees and charges ¹
 - policy statement on full cost pricing²
 - Better Regulation Policy (the Policy)³
- The Queensland Financial and Performance Management Standard 2019 (FPMS)

¹ Queensland Treasury, *Principles for Fees and Charges*, Queensland Government, 2021

² Queensland Treasury, *Full Cost Pricing Policy: A Queensland Government Policy Statement*, Queensland Government, 2010

³ Queensland Treasury, *The Queensland Government Better Regulation Policy*, Queensland Government, 2023

Figure 1 When to complete a Full IAS





2.0 Information to include in a Full IAS about fees

The level of information in a Full IAS about fees should be proportionate to the level of complexity of the fees activity, and the likely materiality of introducing (or amending) fees for providing the government good or service.

The following information should be included:

1. Introduction
2. The cost recovery model
3. Designing options
4. Impact analysis
5. Recommended option
6. Consultation
7. Competition impacts
8. Implementation and evaluation.

A completed Summary IAS should be attached as a cover the Full IAS prepared.

2.1 Introduction

The introduction should state the purpose for the Full IAS and discuss the regulatory activity. This can include:

- a description of the regulatory good or activity
- a summary of the government's decision to charge a fee for the good or activity, including why charging for the good or activity is appropriate
- the policy objectives/outcomes.

If the proposal is about reviewing or amending an existing charge, information should include:

- a description of the regulatory good or activity
- reasons for the existing fee being reviewed—for example, whether a problem exists with the existing fee
- details of the existing fee
- reasons, if any for retaining the existing fee.

The good or activity

Details to include are the characteristics of the good or service, the current level of supply, the parties who benefit from the good or service, and the parties responsible for paying the regulatory charge.

Decision to charge a fee

This section should clearly set out the rationale for the government introducing a new fee (or revising an existing fee). This will typically be the same information that has been included in the CBRC submission to approve the introduction or amendment of a fee. An agency's approach to setting regulatory fees should align with principles set out in the Queensland Government's Principles for Fees and Charges and the FPMS (see Box 1), including that a fee:

- where feasible, should recover costs directly from those that benefit—that is, the 'beneficiary pays' principle
- should reflect full cost recovery unless the government has made a deliberate decision otherwise



- should consider the objectives of imposing the fee. For example, is there a behaviour that the agency and the government are seeking to promote in relation to the activity?

The Full IAS about fees should include a summary of the decision to recover either the full costs or some of the costs (a partial cost) of providing the good or activity, and include the reasons for the decision.

Any other conditions placed on the recovery of costs should be listed, such as a phased-in or a staged implementation.

Policy objectives and outcomes

A Full IAS should state the policy objectives or outcomes that charging for the regulatory activity will achieve.

The objective of introducing a fee is typically to improve the efficiency and equity of funding arrangements by ensuring the parties that give rise to the need for regulation bear the costs of administering and enforcing it.

Clearly stated objectives can help policymakers:

- identify charging regimes—understanding the policy objectives can help the policymaker focus on charging regimes that achieve the desired level of cost recovery in the most effective and efficient way
- evaluate outcomes—clear objectives help the policymaker compare the different charging regimes and provide guidance for evaluation frameworks.

RIA Requirements for the statement of objectives

- A statement should clearly identify the policy objective (for example, to recover a level of costs).
- Criteria should be given against which the different options can be evaluated (for example, how will option X provide the desired level of cost recovery?).

2.2 Cost recovery model

A Full IAS about fees typically includes a discussion of:

- the costs of providing the regulatory activity (see discussion in Box 2)
- the design of the fees, including links to the outputs and processes of the activity.

The Full IAS about fees should provide a detailed projection of the cost of providing the activity. The projected total cost forms the basis for the level of fees and charges. Draw from the CBRC submission work completed on costs to conduct a regulatory activity.

Box 2 Costing principle

Costing involves determining the value of resources consumed in the production of goods or the provision of services, and provides the basis for setting the amount of a user charge. Costs include both operating and capital related expenses.

The Full IAS about fees should:

- provide a breakdown of the costs to be recovered from fees and how these have been calculated/apportioned
- clearly demonstrate that the costs used are efficient
- confirm how efficiency was determined, for example, by explaining the benchmarking that was undertaken and/or the form of consultation that took place.



Estimating costs

Estimated costs will depend on:

- the expected cost of supplying the good or service over the pricing period—including direct costs (such as staff salaries and on-costs) and indirect costs (such as overhead costs, for example, IT and finance expenses)
- the expected quantity supplied over a specific period (that is, what are the outputs of the activity?).

In the case of a pre-existing activity, the total cost of providing the activity in recent years can be used as a guide to estimate the cost in future years, provided that the agency can demonstrate that these costs are efficient (section 2.4).

The total costs in future years may be different for several reasons, including:

- Cost efficiencies may be introduced, which would reduce the cost of supplying the good or activity.
- The quantity of the service provided may be higher or lower than in previous years.

Estimating the total cost of supplying a good or service in the future often involves making assumptions about the expected volume of activity or the cost of supplying a unit of the good. For example, it may be assumed that the level of output of the good or service is the same in the future as it was in the past and the cost of supplying a unit of the good increases in line with inflation. Assumptions that were used should be clearly set out, such as assumptions to derive the cost projections and key assumptions that are changed to show the corresponding change in total cost estimates.

Demonstrating efficient costs

The costs an agency proposes to use as the basis for cost recovery should be the minimum costs necessary to deliver the activity—that is, the efficient costs. For example, only the costs of the resources (such as staff) involved in the activity should be included in the recovered cost.

Benchmarking against other similar activities, market testing and consultation can help to identify whether costs are being minimised.

Benchmarking and market testing can also measure the relative efficiency of government-provided services, by comparing the costs of providing similar services among different departments/across jurisdictions, or by comparing the costs of providing services by the government with the costs of providing those services by the private sector.

Consultation should be undertaken with those who are/will be affected by the charges. Consultation about fees needs to be supported by open and accountable processes to reduce the risk that conflicts of interest may influence the level of fees. The Full IAS process provides a framework for consultation to take place, but agencies may seek to support this through establishing additional processes (for example, through working groups).

RIA Requirements for the cost of providing the regulatory activity

- An estimate should be given of the total cost of providing the good or service.
- A breakdown of the costs and the costing methodology used (along with any assumptions made) should be included.
- Evidence that the estimated costs are efficient should be provided.



2.3 Designing options

Paying for the activity

The 'beneficiary pays principle' (Box 3) can help to determine who should pay for the provision of the good or service.

Box 3 'Beneficiary pays' principle:

Those individuals and groups who benefit from the provision of a good or service should pay for it, notwithstanding a government's policy decision to subsidise specific groups. The beneficiaries of goods and services for which charges are made should be identified to assist in making decisions on how these groups can best be charged.⁴

The two main justifications for applying this principle are:

- It is equitable for those who benefit from a service to pay for it.
- Resources will be used more efficiently if those who consume a service bear the costs of providing it.

In the case of regulatory services, the principle implies that those whose actions give rise to the need for government regulation should pay for it. It is often the consumer of a regulated product or service who benefits from regulation. However, it may not be feasible to charge the consumer directly, and in such cases the charge is often imposed on producers. They will not necessarily bear the charge, however, as they may be able to pass some or all of it on to their customers.⁵

The Full IAS should include a description of the individuals, organisations or group(s) the agency intends to charge and the rationale for charging these group(s).

The Full IAS should also include the rationale for the proposed level of cost recovery (if it has been decided prior to the release of the fees Full IAS).

If the proposal is to increase a fee, be sure to examine whether other options could be pursued. This could be looking for efficiency or productivity improvements or changing the level of provision of the activity.

Fee structures

Options should reflect variety. A review of fee options should consider the following:

- variations on fee structures, such as flat fees or variable fees
- whether fees should be tailored between small and large stakeholders
- options that are distinct, rather than being variations of a single option. For instance, it is recommended to look at a broad range of options that will result in different impacts on the stakeholders paying the fees (Box 4)
- the type of charge that can be used—that is, a fee or a levy
- the type of charge the enabling legislation allow for.

Box 4 Fee practices—further examples

When formulating fee options, the following structures may also be considered:

- **differential pricing**—different users may be charged different prices for the same output
- **cross-subsidisation**—where a group of consumers is charged more to subsidise lower charges for another group/s.

⁴ Queensland Treasury, *Principles for fees and charges*, Queensland Government, 2021.

⁵ The characteristics of the market is an important factor in determining who bears the incidence of the charge. If the market is very competitive and demand is very sensitive to changes in prices, then affected firms may have little ability to pass on any fee costs.



RIA Requirements for identifying option

- The Full IAS should identify a range of feasible options to recover the level of fee recovery (which has already been decided).

2.4 Impact analysis

The impact analysis presents the expected impacts for each identified option. The analysis should provide a transparent and consistent comparison between the options to help identify the preferred option.

This section should, for each of the proposed fee options:

- **identify** all stakeholders affected and the respective potential impacts—for example, the number of people or businesses that will be impacted
- **present all existing fees (if applicable) and the proposed new fees** for each option, providing stakeholders with information on how fees are proposed to change
- **indicate whether the new fee structure is likely to change behaviour.** Introducing or increasing a fee or charge may change stakeholders' behaviour. For example, it may reduce demand for the associated good or service. A secondary objective of a fee may be to encourage a behaviour (in addition to the objective of raising revenue). For example, fines and penalties are usually imposed to regulate behaviour.⁶ A significant change in behaviour may also affect how much revenue the fee raises
- **assess distributional impacts of the fee**—for example, whether the fee will impact on disadvantaged groups. Factors to consider when assessing distributional impacts include:
 - the size of the new fee relative to the income of the affected party/parties
 - whether the new fee is incurred once or periodically
 - the cumulative impact on stakeholders of this fee and the other key government fees and charges.
- **estimate the cost to government of administering the proposed fee structure.**

The consultation process can be used to elicit feedback from stakeholders about impacts on and potential changes in behaviour.

RIA Requirements for impact analysis

- The stakeholder groups that will be charged the fees should be identified.
- The level of the fees for each of the options should be presented, including an analysis of existing fees and proposed fees.
- Distributional or equity issues and potential changes in behaviour should be discussed where relevant.
- Potential impacts on competition should be described.

⁶ Queensland Treasury, *Principles for fees and charges*, Queensland Government, 2021.



2.5 Recommended option

The Full IAS about fees should propose a recommended fee option and explain why the option is preferred.

For example, the Full IAS should demonstrate how fees and charges under the proposal are both effective and efficient in recovering the cost of delivering government processes and programs (Box 5), and how they align with the policy objectives.

Box 5 Effectiveness and efficiency

Options should be examined to check if they are:

- **effective**—does the option promote the outcome/objective being sought by the activity? Is the level of funding fit for purpose? Does it enable the cost recovered activity to be delivered to a level of quality that is appropriate for the circumstances?
- **efficient**—are decisions on volume and standards of services, and costs to recover and when to recover, consistent with the efficient allocation of resources? What efforts have been made to ensure that there are reasonable constraints on charging, to demonstrate efficiency, particularly in the context of variable or hourly fees? Have options for pricing been considered in terms of what would be efficient?⁷

2.6 Consultation

Those who pay for a good or service will have an interest in the design, delivery and cost of that good or service, as will other stakeholders directly or indirectly affected.

Ideally, there will be ongoing engagement with stakeholders throughout the development of the Full IAS. This enables interested stakeholders to understand the basis for the fees and to comment on the reason for the fees, the cost of delivering the good or service and the appropriate fee structure.

The Full IAS is also required to undergo a period of formal public consultation.

Consultation Full IAS about fees

The consultation Full IAS about fees should include the following:

- a description of the consultation undertaken to that point, including the names of parties who have been consulted and a summary of their views
- an explanation of the length of the public consultation period, including any further planned consultation.

The Policy notes that public consultation must be undertaken on a consultation Full IAS for a minimum of 28 days.

Decision Full IAS about fees

The decision Full IAS about fees should demonstrate how stakeholder feedback has been considered and whether changes are subsequently required to the options, analysis or recommended option. It should describe the central themes that emerged during the consultation and the key areas of agreement and disagreement.

The discussion should:

- summarise the public consultation activities undertaken for the consultation Full IAS
- describe the issues raised in the submissions received during the consultation process

⁷ The Treasury, *Guidelines for Setting Charges in the Public Sector*, New Zealand Government, April 2017.



- respond to the issues raised in submissions
- explain the key changes to the preferred option (identified in the Consultation Full IAS), and the reasons for those changes (including where the changes are the result of responses to consultation).

RIA Requirements for consultation

- The way the consultation was conducted should be described in detail (including when, how and with whom).
- The views of those consulted should be articulated, including any substantial disagreements.
- The way stakeholder views were taken into consideration should be outlined (in a decision Full IAS).

2.7 Competition impacts

The Policy requires that any proposed restrictions on competition are considered as part of the development of a Full IAS.

The requirement to assess competition impacts reflects the agreement among all levels of government that legislation should not restrict competition, unless it can be demonstrated that:

- the benefits of the restrictions to the community, outweigh the costs
- the objectives of the regulation can only be achieved by restricting competition.⁸

The Policy⁹ includes the OECD's Competition Checklist, which can be helpful in identifying whether a proposed fee, or increase in fees, will restrict competition. The questions in the checklist most relevant to a Full IAS about fees are:

- Would the proposal significantly raise the cost of entry or exit by a supplier?
- Would the proposal significantly raise costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants)?

More details on what to include in this section of a Full IAS can be found in the Policy and the separate OBPR guidance note *Assessing competition impacts*.

RIA Requirements for competition impacts

- An assessment of the consistency of the proposed regulation with clause 5 of the Competition Principles Agreement should be provided.
- Reasons for any inconsistencies with the agreement should be stated.

⁸ See the Competition Principles Agreement—11 April 1995 in COAG, *Competition Policy Agreements*, Part 1, p. 13, <https://www.pc.gov.au/inquiries/completed/access/files/ncpagreement.pdf>.

⁹ Box 6



2.8 Implementation and evaluation

A Full IAS about fees should include both an implementation and compliance plan—detailing how the preferred charging regime will be implemented and enforced—and a process for effective and ongoing monitoring of the new (or revised) fees.

Implementation and enforcement

An implementation and enforcement plan should detail:

- whether adequate governance arrangements are in place, ensuring the agency is accountable for the costs being recovered
- how the agency proposes to manage implementation of the fee in sensitive situations, such as when fees will be increased significantly or introduced for activities that may have traditionally been provided without charge
- when a proposed new fee (or increase in an existing fee) should be introduced—for example, whether the fee is being phased in over time, and if so over what period
- if transitional arrangements or assistance is proposed to reduce the impact on stakeholders
- whether there has been adequate engagement with stakeholders and if not, what further engagement should be introduced
- the process by which fees will be increased over time
- whether training is required.

Agencies should consult with affected stakeholders during the development of the plan. The level of detail included in the plan should be proportionate to the scale of the proposed fees.

Monitoring and evaluation

Monitoring is used to determine if:

- cost recovery charges continue to be based on efficient costs
- incentives for efficiency improvements over time are sufficient
- significant over- or under-recovery is occurring
- the quality of the good or service has been affected.

The extent of ongoing monitoring depends upon the significance of the cost recovery arrangements and the impact on stakeholders.

Box 6 Monitoring and review principle¹⁰

Undertaking regular monitoring and review of fees and charging regimes can ensure that once fees and charges are in place:

- inefficiencies are not entrenched
- the fees remain relevant
- any emerging issues can be identified and addressed early.

It is also recommended that agencies undertake a comprehensive review of existing fees and charges at regular intervals (for example, every five years).

¹⁰ Queensland Treasury, *Principles for fees and charges*, Queensland Government, 2021.



Key components of the monitoring process should include:

- ongoing consultation with stakeholders and affected parties to obtain feedback on cost recovery arrangements
- mechanisms to monitor efficiency of costs
- transparent reporting and monitoring of detailed actual cost and revenue information
- measuring and reporting on the quality of the good or service.

RIA Requirements for implementation and evaluation

- The proposed implementation plan should be described, including any implementation issues or risks that may arise.
- Any guidance or compliance support strategies to mitigate issues or risks should be listed.
- A monitoring and evaluation strategy to ensure effectiveness and relevance over time should be included.

3.0 Approval and publication

Once a Fees Full IAS has been completed, it should be provided to the relevant Minister and Director-General to confirm it meets the Policy requirements. The Minister should also approve the IAS for submission to Cabinet for consultation and decision.

A Consultation Fees IAS should be prepared and released for a minimum period of 28 calendar days for public consultation. Once the agency has completed public consultation on the Consultation IAS, it should prepare a Decision IAS:

- strengthening the analysis to reflect evidence collected to ensure it meets the RIA requirements
- outlining feedback from stakeholders and responses to issues raised.

Fees IASs must be published on the departmental website and a copy provided to the OBPR for its records following final approval of the regulatory proposal by the relevant decision-making body (such as Cabinet or Governor-in-Council). Fees IASs should be maintained on the departmental website.

Further details on approval and publication of an IAS are provided in the Policy.