

COOPERATIVE REGULATORY REFORM

PRACTICE NOTES FOR
LOCAL GOVERNMENT

UTS:IPPG
INSTITUTE FOR PUBLIC POLICY AND GOVERNANCE

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Practice note for cooperative regulatory reform in local government

The Centre for Local Government, at the University of Technology Sydney (UTS:CLG) was engaged by the NSW Office of the Small Business Commissioner to develop a streamlined policy and supporting guidelines on outdoor fitness training for Randwick, Waverley and Woollahra Councils. The project was initiated by the Office of the NSW Business Commissioner with support from participating councils. This was an exciting opportunity for UTS:CLG to model a collaborative and cooperative approach to the development of a policy and regulatory framework.

Informed by a review of good practice material and with support from the Office of NSW Small Business Commissioner, UTS:CLG developed the following practice note for local governments who seek to engage in the process of cooperative regulatory reform.

The following practice note is intended to provide guidance to local governments as well as outline a recommended process for engaging in collaborative and cooperative regulatory reform. These practice notes have been developed to reflect **policy** as a main deliverable of cooperative regulatory reform, but similarly other deliverables can be applied and developed with these practice notes.

Practice note for local government

Designate a single point of contact responsible for coordinating the harmonisation and standardisation of policies

Undertaking cooperative regulatory reform can be challenging, it is important to designate a single agency or department responsible for coordinating, leading and/or steering the project. It is also important to understand the system and decision-makers involved in the process.

This is not to say only one agency will be involved in the process or provide input into the reform. Cooperative regulatory reform is a collaborative process, requiring the direct input and support of all parties who are ultimately responsible for any deliverables of reform. This will likely involve collaboration between multiple Councils and/or Council staff. It is important to establish the role of elected officials in the project.

Define the roles and responsibilities of those involved in the project can avoid confusion, ensure consistency, and lead to provide better coordination of activities and communication.

Independent facilitation of the process can be useful. A person or organisation, independent from the council can assist with objectivity and collaboration.

Define the scope and objectives

Understand the key issues; define your objectives and the scope of the reforms to be addressed. Ensure that the key issues and objectives are confirmed by others involved in the reform.

Clarify existing issues and key objectives, as this will assist in defining the scope of the reforms and enable innovative thinking.

Refer back to key issues and objectives when developing and undertaking other aspects of

the reform. Identifying the key issues should be done early in the process.

In collaboration, discuss the following questions when defining scope and objectives:

- > What are the key issues that need to be addressed?
- > How will they be affected by the reform?
- > What objectives is the reform trying to achieve?
- > Have other attempts to reach the same objectives been unsuccessful? How and/or why were they unsuccessful? How can I learn from previous experiences?
- > Who are the key stakeholders?
- > What is the most effective way to engage key stakeholders that appropriately addresses their interest and level of influence in the reform?

Consider good practice examples, resources and benchmarks,

Best practice methods increase the effectiveness and success of regulation and it is useful to utilise best practice methods in reform. Consider the recommendations and guidelines to inform the reform.

Consider best practice resources to enhance the efficiency and raise the standards of performance in the reform process. If best-practice resources are not available, ensure that other forms of evidence are reviewed. It is important that all conclusions are supported with evidence and thoroughly checked facts.

Consider all the viable options, including the option of not regulating¹

Consider all viable options available, including the option of not regulating. The no-regulation option should be given thoughtful and serious consideration.

Understand and assess the overall impact and benefit of each option. Only options that deliver a net benefit without placing substantial burden on stakeholders should be considered.

Consult with key stakeholders through genuine, timely and appropriate methods

It is important to consult with key stakeholders, both internal and external through genuine, timely and appropriate methods. Key stakeholders can provide invaluable knowledge, insight and expertise into the project.

Key stakeholders and methods for consultation and engagement should be decided early in the process.

Stakeholder engagement methods should reflect the appropriate levels of engagement and can be determined by mapping the level of interest and influence of each group of stakeholders.

- > **Internal stakeholders** should provide input early in the process. Internal stakeholder's experiences, understanding of the issues, concerns and insights will be critical in shaping the dialogue and outcomes of following stages in the process. The community should be consulted at this stage.
- > **External stakeholders** can provide key insight, new information and can have particular expertise that assist in developing a broader picture. External stakeholders may hold

critical information on similar effective policies and guidelines.

Allow for the community to engage with the reform

Local governments work best when providing opportunities for people who are affected or interested to participate in the Council's decision-making process².

Communities play an important role in delivering reform and decision-making more broadly; this includes the development and implementation of any new, updated or significant policy or deliverable. It is crucial to allow opportunities for the community to provide feedback into any key deliverables.

Utilise all your knowledge to develop a draft

Bring together all the knowledge from every previous stage in the process and develop drafts of any deliverables. Deliverables could be a draft policy, guidelines, reporting document or plan. Ensure that drafted documents satisfy any necessary legislative and regulatory requirements.

Negotiate the key issues together, face-to-face if possible and keep this session closed

At an appropriate time, bring all the parties responsible for delivering on the reform together to negotiate key aspects of the new policy or the intended deliverable.

When possible, negotiation sessions should be made face to face. It is important that negotiations are led by an experienced facilitator.

Keep negotiation sessions closed to outside parties who are not directly responsible for delivering on reform. Influence from outside parties during negotiations carries the risk of increasing the complexity of negotiations and may be inappropriate.

Councils may have unique issues due to geography, demography or other unique characteristic. Look at these issues separately and ensure that outcomes to context dependent issues are appropriate.

While it is important for regulatory reforms to avoid unnecessary redtape, it is simultaneously important that outcomes are appropriate and respond to local and/unique issues.

Shop around and finalise key deliverables

'Shop' around deliverables to relevant personnel and/or Council departments, and the community for input and feedback. Negotiate key issues appropriately and confirm any outcomes. Finalise the key deliverables by:

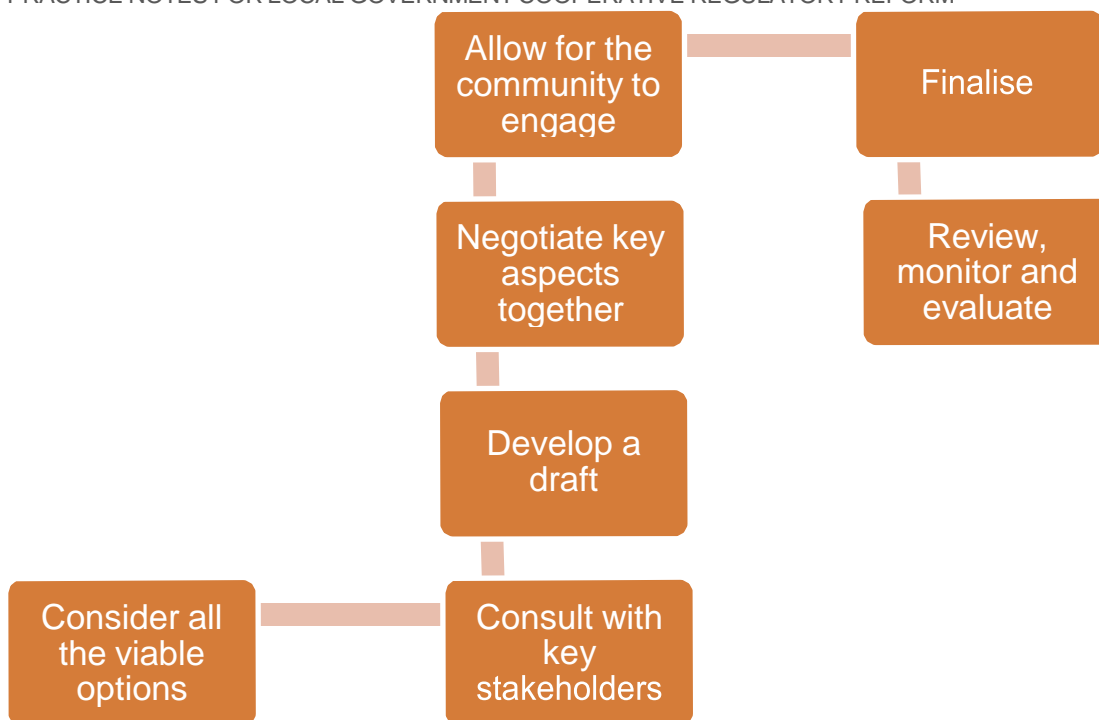
- > Considering various sources of knowledge and analysis of any feedback received when engaging stakeholders, including community feedback
- > Ensuring the key issues identified have been addressed
- > Ensuring the policy or deliverable presents the best option and has considered all other practical and viable alternatives

Review, monitor and evaluate

Review the experience of the drafting process, and provide feedback on the process, learnings and outcomes. Review actions, engagement methods and drafting process and evaluate how efficiently and effectively the project met key objectives.

Policy is a product of contexts and requires regular monitoring, it is necessary to periodically revisit policy to ensure that it remain relevant.

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1 Australian Government 2014 *Guide to regulation*

2 Australian Centre of Excellence for Local Government 2011 *Local Government and community engagement in Australia. Working paper no. 5*. Australian Centre of Excellence for Local Government, University of Technology Sydney.



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