



# Guidance Note 2: Preparing Consultation and Decision Regulatory Impact Statements

If your agency **self-assessment** has determined that your regulatory proposal **requires** a formal impact assessment under the Better Regulation Program (BRP), **then the next steps** are to prepare a Consultation Regulatory Impact Statement (CRIS) and a Decision Regulatory Impact Statement (DRIS). Please note: the BRP (CRIS and DRIS process) must be completed prior to going to Cabinet with your regulatory proposal.

**If your agency self-assessment determines that no significant adverse economic impact is likely, for the purposes of the BRP your agency is not required to complete a CRIS or DRIS process.**

## Regulatory Impact Statements

The Regulatory Impact Statement (RIS):

- Facilitates stakeholder consultation and feedback via a CRIS that sets out the proposal's objectives, regulatory options, potential impacts including benefits and risks, consideration of the implementation costs (for each stakeholder) for each option.
- Analyses stakeholder feedback and other information for the decision-maker via a DRIS, which sets out the, the preferred option, its associated impacts, and the implementation, evaluation and review framework.

## Consultation with other government agencies

If a department/agency thinks there's likely to be a **small business impact** as a result of their regulatory proposal, they should contact the Small Business Development Corporation (SBDC) to discuss potential flow-on impacts. Ideally this should happen early in the development of the proposal to enable the SBDC to work with the authoring agency to support consultation with affected small business stakeholders and identify options that limit impacts on the sector.

If the proposed legislation will **create a statutory body**, it is recommended that the Public Sector Commission and, if need be, the Department of Treasury before commencing your consultation.

If the proposed legislation will impact on the *Freedom of Information Act 1992* or the Freedom of Information Regulations 1993, early consultation on the draft CRIS with the Information Commissioner is recommended.

If the proposed legislation will extend or reduce the **jurisdiction of the Supreme Court, District Court, Magistrates Court, Children's Court or State Administrative Tribunal**, referring the proposal to the Executive Director, Court and Tribunal Services or Department of Justice (DoJ) is required so that it can be considered and approved by DoJ and the relevant court or tribunal.

## Key features of the CRIS

Feature	Detail required in a CRIS
<b>Executive Summary</b>  <b>Consultation</b>	<p><b>Summarises the problem or issue, the purpose of the consultation, and the need for reform.</b></p> <p><b>Includes a page – Have your say.</b></p> <ul style="list-style-type: none"> <li>• Informs stakeholders on the consultation process used – for example, online survey, targeted consultation, information forums that explain the consultation process, written submissions, contact details.</li> <li>• Addresses constraints applying to providing written feedback (i.e., stakeholder submissions may be the subject of Freedom of Information), and quotes may be published.</li> <li>• Provides timeframe to provide feedback.</li> <li>• Requests feedback from affected parties on the impacts of the various options identified and encourage additional commentary on any other options that may be suggested.</li> </ul> <p><i>Note: Ensure the consultation methodology applied aligns with the agency’s stakeholder/engagement protocols or agreements preferred by stakeholders.</i></p>
<b>Introduction</b>	<ul style="list-style-type: none"> <li>• Brief paragraph on the problem statement – relevant Act requiring amendment, explain background context on how it impacts stakeholders.</li> </ul>
<b>Policy Issue and objectives</b>	<ul style="list-style-type: none"> <li>• Define the problem, and key issues impacting stakeholders.</li> <li>• Include background context - the imperative for reviewing the current arrangement (noting if it is an election commitment, result of a parliamentary committee finding, Office of the Auditor General, or a Royal Commission finding).</li> <li>• Clearly state areas that are excluded from considerations or feedback.</li> <li>• Note the relevant regulation and demonstrates the deficiencies in the legislation to address the issue. Note: Objectives should not be aligned to or demonstrate a bias for a particular option without evidence to support it.</li> <li>• List the options being considered in summary form, for example,               <ul style="list-style-type: none"> <li>– Option 1. Status quo or base case.</li> <li>– Option 2. Amend the xy provisions to enable abc.</li> <li>– Option 3. Hybrid option.</li> </ul> </li> </ul> <p>The detail for each option will be presented in the next section of the consultation RIS (below).</p>
<b>Options to address the issue</b>	<p>The body of the CRIS should contain for each option:</p> <ul style="list-style-type: none"> <li>• A clear statement on the key features of the option, any assumptions underlying them, the justification for each option and the net benefit to the community.</li> <li>• Analyses whether the option achieves the policy objectives and the evidence to support assumptions and whether the option is proportionate to the risk.</li> <li>• Identifies anticipated economic, environmental, social justice, health, equity, and other relevant impacts on each stakeholder groups.</li> <li>• Identifies the costs and benefits making use of quantitative information where possible, or otherwise qualitatively through objective discussion, noting compliance, administrative or enforcement costs to Government, business or consumers, and assessments as to whether they are reasonable and proportionate to the objectives of the regulation. If an option establishes a government owned (or part-owned) entity to operate in competition with the</li> </ul>

Feature	Detail required in a CRIS
	<p>private sector. The costs of implementation should be included (for all stakeholders).</p> <ul style="list-style-type: none"> <li>Identifies any risks with each option e.g., lack of uptake, creating a market/regulatory failure and impact on stakeholders.</li> <li>Considers whether there is significant existing duplication or incongruity with existing State, Local or Federal laws or policies.</li> <li>Include questions after each option to elicit stakeholder feedback.</li> </ul>

[View example](#) of best practice CRIS.

## National consultations

In some cases, the Federal Government develops a regulatory proposal and regulatory impact statement for consideration by the States.

Additional consultation is not required if the proposed regulation is part of a broader national set of regulations and has already undergone consultation with local stakeholders. For example, Australian Standards are developed by technical advisers after wide consultation with stakeholders nationally.

However, if the agency's analysis determines that the proposal's impact does not specifically address Western Australia's circumstances, the Better Regulation Unit (BRU) might ask you to prepare a short form CRIS to:

- demonstrate the level of consultation that has occurred.
- outline the proposal's potential impacts on WA stakeholders; and
- publish on your agency's website after the regulations have been approved.

BRU is available to advise on additional consultation to ensure that the outcomes of it are equivalent to a CRIS and will properly inform your DRIS.

## What happens next?

- Share your draft CRIS with the BRU as early as possible.
- The BRU will work with your agency to help finalise the CRIS document.
- Once finalised the BRU will issue a Letter of Advice confirming the better regulation process has been applied.
- Your agency should then publish the CRIS and the Letter of Advice on your website and commence consultation using the CRIS.
- Provide a PDF of the document to the BRU.

**The next stage is required to be completed before drafting instructions are approved by the Minister and must include a Decision Regulatory Impact Statement.**

## Preparing a Decision RIS

The DRIS document provides decision makers (the responsible Minister and Cabinet) with information on the regulatory options available incorporating stakeholder feedback from the consultation regulatory impact statement. The DRIS clearly states the preferred option being recommended, with the analysis supported by details of costs and benefits for stakeholders and government.

As your agency's DRIS is intended to inform the decision-maker (Minister and Cabinet), it is provided to the decision-maker prior to Approval to Draft and the development of drafting instructions.

At a minimum, your agency's DRIS should include the considerations detailed below.

### Key Features of the DRIS

Feature	Detail that should be included in the DRIS
<b>Executive Summary</b>	<ul style="list-style-type: none"> <li>Provides a clear and transparent summary of the key findings and the proposed way forward.</li> </ul>
<b>Statement of issue/Problem</b>	<ul style="list-style-type: none"> <li>Identifies and defines the policy issue or problem that requires a regulatory intervention (by way of new or amending legislation).</li> <li>Summary of the review process (consultation undertaken)</li> <li>Stakeholder response to the CRIS - summary of the respondent's preferred options.</li> <li>Defines the policy objective of the intervention and the outcomes to be achieved.</li> </ul>
<b>Assessment of Options and Impact Analysis</b>	<ul style="list-style-type: none"> <li>Presents the range of options for addressing the issue and assesses all the direct and indirect impacts for each option, including economic, social, and environmental impacts to determine the most beneficial solution as well as stakeholder feedback from the consultations. Includes implementation costs for each stakeholder and evaluation costs.</li> </ul>
<b>Preferred Option</b>	<ul style="list-style-type: none"> <li>Identifies the preferred option that is most effective in achieving the policy objectives of the intervention, having regard to whether there are significant concerns raised by stakeholder and how these concerns can be addressed.</li> </ul>
<b>Implementation and Evaluation</b>	<ul style="list-style-type: none"> <li>Explains how the preferred option will be implemented, how it will be monitored and reviewed to ensure the regulations remain effective and relevant over time.</li> <li>Outlines the costs of implementation (administratively and operationally).</li> </ul>
<b>Compliance and Enforcement</b>	<ul style="list-style-type: none"> <li>Explains compliance expectations/ obligations for regulated entities (e.g. reporting requirements) and enforcement arrangements.</li> </ul>
<b>Next Steps</b>	<ul style="list-style-type: none"> <li>Provide information on the next steps to be taken by the Department.</li> </ul>

[View example](#) of best practice DRIS.

## What happens next?

Share your draft DRIS with the BRU as early as possible and preferably before it goes to your decision-maker and before the development of drafting instructions. Any drafting instructions will need to be approved by the relevant Minister.

Remember to include essential analysis information in your Cabinet submission, including a copy of your DRIS and the BRU Letter of Advice (that confirms compliance with the BRP).

Your agency will need to publish the final DRIS together with the BRU Letter of Advice on your agency website when the Bill is introduced, or at the time the Regulation is gazetted and provide a PDF of the document to the BRU.

## Help and support

The BRU can work with agencies to advise on the development of a Regulatory Impact Statement. Email us at [betterregulation@treasury.wa.gov.au](mailto:betterregulation@treasury.wa.gov.au).