



Government of **Western Australia**  
Department of **Treasury**

# Better Regulation Program

## Agency Information Paper

December 2023

### **Acknowledgement of Country**

This report was prepared by the Department of Treasury (WA Treasury) on the traditional Country of the Wadjuk people of the Noongar Nation.

WA Treasury respectfully acknowledges the Traditional Custodians of Country throughout Western Australia and their continuing connection to Country, Culture and Community.

We pay our respects to all members of Western Australia's Aboriginal communities and their cultures and to Elders past and present.

We acknowledge and pay tribute to the strength and stewardship of Aboriginal people in sustaining the world's oldest living culture and value the contribution Aboriginal people make to Western Australia's communities and economy.

We recognise our responsibility as an organisation to work with Aboriginal people, families, communities, and organisations to make a difference and to deliver improved economic, social and cultural outcomes for Aboriginal people.

Further information relating to this report may be obtained by emailing

[betterregulation@treasury.wa.gov.au](mailto:betterregulation@treasury.wa.gov.au)

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# Introduction

The Better Regulation Program (BRP) guides the development, design, and implementation of regulatory proposals in Western Australia.

This information paper provides agencies with essential information on the BRP and how it can be used to develop and design regulatory proposals that support improved economic, environmental and social outcomes for Western Australians. Guidance Notes provide further detail and information to those who are unfamiliar with the process of developing regulatory proposals and impact statements.

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## *What is a regulatory proposal?*

A regulatory proposal is a proposal to amend or introduce regulatory instruments including primary legislation approved by the Cabinet and enacted through the Parliament, and subordinate legislation enacted through the Governor in Executive Council, and remaining forms of subordinate legislation.

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Regulatory proposals brought to Cabinet are required to complete the following process:

1. Apply the [Better Regulation Principles](#) to the policy problem and potential solutions when developing a regulatory proposal.
2. Conduct an agency self-assessment using the [template](#) to determine if the regulatory proposal has or may have a significant adverse [economic impact on stakeholders](#).
3. Determine if any [exclusions](#) apply to undertaking a consultation regulatory impact statement or decision regulatory impact statement to the proposal.

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If a regulatory proposal may have a significant adverse economic impact on stakeholders, agencies must undertake a formal public consultation with stakeholders and complete a full assessment of the regulatory impact of the proposal.

This requires the preparation of a Consultation Regulatory Impact Statement (CRIS) and a Decision Regulatory Impact Statement (DRIS).

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4. Prepare a [CRIS](#)
  - Better Regulation Unit (BRU) reviews the CRIS and issues a Letter of Advice to the agency.
5. Agency and Treasury publish the CRIS.
  - Consultation proceeds and agency analyses feedback.
6. Prepare a [DRIS](#)
  - BRU reviews the DRIS
  - BRU issues a Letter of Advice to the agency

The information included in this paper should be considered in conjunction with the Better Regulation Unit (BRU) guidance notes and requirements set out in other documents including the Parliamentary Counsel's office [Getting Government Legislation Drafted and Enacted](#), [Executive Council Guidelines](#) and the [Cabinet Handbook](#).

# The Better Regulation Unit

The BRU provides advice, guidance, and training to state government agencies on the development of regulatory proposals and how to apply best practice regulatory principles when preparing regulatory impact statements such as a CRIS and DRIS.

## Early engagement

Agencies are encouraged to engage early with the BRU throughout the planning, development and approval process for the regulatory proposal. This will save time and allow adequate preparation of the necessary regulatory impact statements for approval by the agency's decision-maker.<sup>1</sup>

## Urgent proposals

If your regulatory proposal is urgent and/ or is likely to have a significant adverse economic impact on stakeholders, please contact the Unit as early as possible. The BRU assists agencies with information and guidance on the process to complete both the consultation and decision regulatory impact statements in a timely manner.

## Treasurer's Exemption

[Treasurer's Exemptions](#) are usually sought if an emergency regulatory response is required. Where a Treasurer's Exemption is granted, agencies will be required to complete a Post-Implementation Review within three years of implementation.

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<sup>1</sup> In instances where a minor typographical amendment is required on a regulatory instrument, agencies are advised to consult with their legal team as to whether other options are available to progress the amendment without referral to the Parliament under the *Legislation Act 2021*.

# The Better Regulation Program

The BRU adopts a collaborative and agency-led approach to developing regulatory instruments.

The BRU administers the Cabinet endorsed BRP which adopts the principles-based approach to regulatory design and practice. This encourages agencies to apply best practice principles relating to administration and management, and evaluation and review when designing or developing their regulatory proposals. These principles should be applied to all regulatory proposals regardless of their economic impact.

The principles can be found in the [Design Principles](#). (Exploratory questions for agencies to consider when developing a regulatory proposal can be found in [Appendix 1 – Better Regulation Principles](#).)

Agencies undertake their own initial assessment of their regulatory proposal using the Agency Self-assessment Template to assess the economic significance of their proposal.

In regulatory assessment, impact is a broad measure of the direct and indirect economic effects on a wide range of stakeholders, including but not limited to, industry, business, consumers, peak bodies, training institutes, retail, academic, communities of practice and government.

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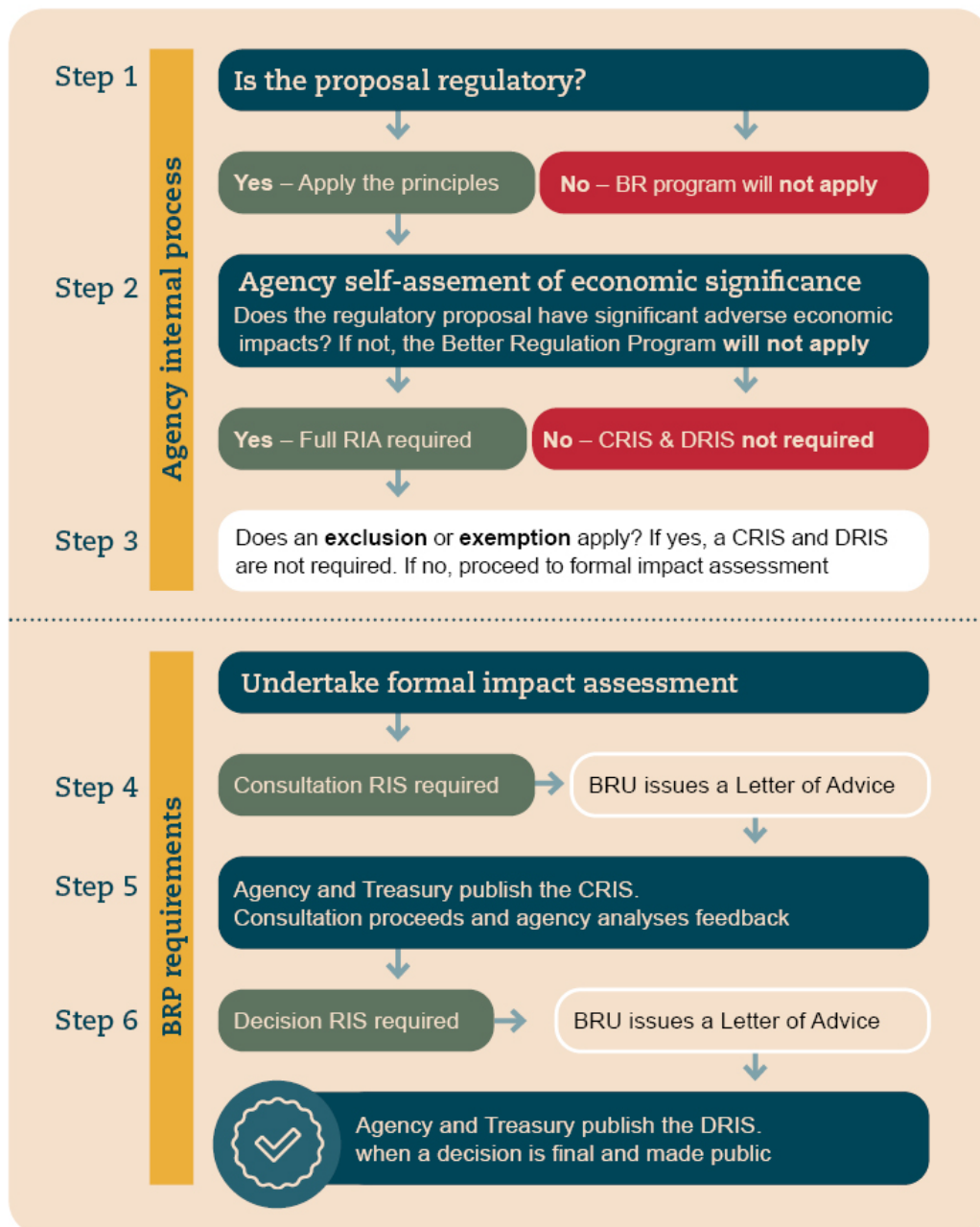
Only regulatory proposals that may have a **significant adverse economic impact** require formal consultation and assessment with impacted stakeholders.

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The BRU assists agencies to identify potential economic impacts and their significance on stakeholders. It is expected that there will be alignment between agencies and the BRU about the economic significance of the impacts associated with regulatory proposals before they are considered by Cabinet or the Governor in Executive Council.

Agencies are reminded that the Cabinet submission template requires confirmation that the agency has followed the relevant Better Regulation Principles.

# Steps to preparing a regulatory proposal



The next section provides guidance on the steps involved in developing and progressing a regulatory proposal.



## Step 1: Developing a regulatory proposal

When developing their regulatory proposal, agencies are required to apply the Better Regulation Principles.

### Better Regulation Design Principles

The Design Principles provide broad and high-level guidance for agencies on the outcomes to be achieved through regulation.

These Principles should be considered throughout the design, implementation, and evaluation of regulatory proposals.

Regulatory proposals should consider options to reduce duplication, deliver maximum net benefits for the public and consider the best interests of all stakeholders.

There is no requirement for agencies to apply every Principle in exhaustive detail. It is more important to consider the degree of alignment between the regulatory proposal and the outcomes implied by the Principles. For example, proposals that support policy objectives and deliver large benefits are preferable to those that have a weak policy rationale and impose costs.

#### The Better Regulation Design Principles

Best practice encompasses good design, proportionate compliance and enforcement measures, and a commitment to continuous review and improvement.

Consistent with the Principles, regulation should be designed to:

1. support policy objectives and deliver maximum net benefits to the community;
2. allow for risk based regulatory assessments and decision making focused on outcomes;
3. provide clarity and certainty for affected parties, recognising that different groups may be affected differently;
4. avoid duplication or conflict with other existing or proposed regulations; and
5. allow for well-considered, efficient, and effective administration and enforcement arrangements.

## **Principle 1: Support policy objectives and deliver maximum net benefits to the community**

Regulation must be focused on the problem and how it can achieve its intended policy objectives with minimal side-effects.

A well formulated problem definition will explain the gap between the current situation and the outcome the agency is aiming for.

A problem definition should:

- be clear and well defined.
  - provide evidence of the scale and scope of the problem and identify who is affected.
  - identify the key causes of the problem.
  - state whether any relevant regulation, or alternate form of action, is in place to address the issue.
- identify any risks of an adverse outcome; and
- state the case for government intervention or additional intervention.

Common pitfalls in identifying problems are:

- Seeing only part of the problem or not looking at the possible causes.
- Lack of evidence that clearly demonstrates the scale of the problem.
- Dealing with effects rather than causes.
- Taking a populist view and accepting ‘solution confirmation’.
- Viewing the problem through the lens of a particular stakeholder group without seeing the broader picture.
- Not considering innovative non-regulatory solutions that are being practiced or applied in other jurisdictions.

Except where they are self-evident or widely accepted, each aspect of the problem definition must be justified with evidence, deal with emerging trends or foreseeable changes.

The problem definition needs to do more than identify the gap between status quo and objectives: it should discuss its size and importance.

This involves identifying the costs and benefits of the current arrangements, including:

- the nature and probability of the adverse outcome/s that will arise in the absence of further intervention, and
- who is likely to be affected by the adverse outcome, how widespread it is likely to be, what harm is likely to occur, and the magnitude of these impacts.
- Impacts should be quantified to the extent possible and also valued in monetary terms where possible and appropriate.

Analysis of the problem should, if possible, link it to one of the generally accepted reasons for government intervention such as regulatory failure, market failure or social equity. The case for introducing any regulation will be stronger if the problem definition and analysis is clear enough.

The following questions should be asked:

- “What will happen if government does not intervene?” and
- “How will the proposed regulation remedy, solve or reduce the impact of the problem?”.

The regulatory proposal should have a clear purpose and offer the greatest net benefit for the community.

Sometimes, non-regulatory options can offer the greatest net benefits and may in these circumstances be preferable such as:

- Targeted information and awareness campaigns may assist in reducing the problem. For example, road rules may be poorly understood by some groups and these groups may benefit from a targeted education program or focus.
- The role of self-regulation to change behaviours typically through Codes of Practice or guidance notes to the industry. Some sectors impose accreditation requirements to raise standards or have introduced quality assurance schemes.

## **Principle 2: Allow for risk based regulatory assessments and decision making focused on outcomes.**

Risk-based regulation enables a focus on issues involving greatest concern (e.g. risk of harm), while applying a light (or zero) regulatory touch for issues that are low risk.

Risk-adjusted requirements can be an important element of good practice regulation that achieves desired outcomes at lowest cost. Regulation should be applied fairly, be proportionate to the risk, evidence based, and data driven that considers preventative approaches and designed to achieve desired outcomes at the lowest cost.

Regulation should have identifiable outcomes and, unless prescriptive requirements are unavoidable in order to ensure public safety, include performance-based requirements that specify outcomes rather than inputs or other prescriptive or inflexible requirements.

### **Principle 3: Provide clarity and certainty for affected parties, recognising that different groups may be affected differently**

Regulation should be clear and predictable to create a stable regulatory environment and foster confidence. The regulatory approach should be applied consistently across regulated parties with similar circumstances.

It is important that each of the parties subject to the proposed regulation have a clear sense of how they are affected and how they can comply.

### **Principle 4: Avoid duplication or conflict with other existing or proposed regulations**

Regulation should be consistent with other policies, laws and agreements affecting regulated parties. It should also be designed to minimise overlaps and competing or conflicting requirements.

### **Principle 5: Allow for well-considered, efficient, and effective administration and enforcement arrangements.**

It is essential that agencies consider how the proposed regulation will be administered and enforced as part of the design phase. The administration and enforcement of regulation should be risk-based, fair, consistent, and transparent, involve appropriate consultation with stakeholders and co-regulators and minimise unnecessary compliance costs or 'red tape.'

Administration and Management of regulation should:

- achieve outcomes and support regulated parties;
- be transparent and fair;
- encourage digital and online solutions for improved efficiency;
- be streamlined;
- ensure regulatory staff develop and maintain appropriate capabilities; and
- encourage a culture that embraces information sharing and collaboration across agency lines.

Evaluation of regulatory proposals should:

- be designed to allow for periodic monitoring and review, and reform where necessary, to ensure continued efficiency and effectiveness;
- be proportionate and designed in collaboration with key stakeholders;
- consider the perspective and experience of regulated parties and affected stakeholders, as well as cross jurisdictional developments;
- transparently measure and clearly demonstrate net benefits for Western Australians as a whole; and
- allow for adjustments or withdrawals as circumstances change.

## Step 2: Agency Assessment of the Regulatory Proposal

### Determine if the regulatory proposal may create a significant adverse economic impact

Agencies self-assess whether their regulatory proposal is likely to have significant adverse economic impacts (direct and indirect) on a wide range of stakeholders including government, industry, business, and consumers.

It is recommended that the [Agency Self-assessment Template](#) is completed for each part of the new regulatory proposal and is signed/approved at the Executive level by the agency. The template is a decision-making aid for the agency.

There is no requirement to provide the BRU with a copy. However, engagement with the Unit may assist in refining the approach to be taken in relation to consultation and engagement and whether the proposal may have a significant adverse economic impact.

The outcome of the agency self-assessment and the supporting rationale will need to be explained in the 'Regulatory Impact Assessment' section of the Cabinet submission for all regulatory proposals that are intended to be considered by the Cabinet.

### Economic Significance

Economic significance is a broad measure of the impact of a regulatory proposal and includes the direct and indirect economic impacts on a wide range of stakeholders, including government, business, and consumers.

The economic significance of the impact associated with a regulatory proposal should not be confused with the significance of the underlying policy problem or issue – for example, while a policy problem could be significant, the impacts associated with the proposed regulatory response may not be significant.

Determining economic significance can be challenging, especially because it can involve judgements about the potential impacts of regulatory proposals where there is limited data, ambiguous information, or uncertainty.

Ultimately, the agency self-assessment of economic significance will involve a degree of judgement, especially if there is high uncertainty, limited data, or ambiguity.

Judgement is informed by considering whether a regulatory proposal could:

- negatively affect a significant number of businesses.
- have a concentrated negative effect on a group, region or industry.
- have a large aggregate negative impact on the Western Australian economy.

- create a disincentive to private investment.
- add significantly to business costs.
- place Western Australian businesses at a competitive disadvantage with interstate and overseas competitors.
- disproportionately impact groups, such as small business or low-income households.
- impose restrictions on firms entering or exiting a market.
- introduce controls that reduce the number of participants in a market.
- affect the ability of businesses to innovate, adopt new technology, or respond to the changing demands of consumers.
- impose higher costs on a business activity or type of product or service.
- lock consumers into service providers, or make it more difficult for them to move between service providers; and/or
- impose restrictions that reduce the available range or price or service quality options.

Quantitative evidence to support conclusions about these impacts, should be used if available.

The economic significance of a regulatory proposal is determined by the impacts:

- breadth – affecting a wide range of activities in the economy; or
- depth – profoundly affecting only one industry (or even one part of an industry).

A simple framework for understanding and determining the economic significance of the impacts associated with a regulatory policy is presented below.

Proposals that are likely to have significant adverse economic impacts are typically complex, contentious, impose new or onerous requirements, and create clear groups of winners and losers.

### Economic significance framework for regulatory proposals

Low economic impact	High economic impact
<p><b>Relevant considerations</b></p> <ul style="list-style-type: none"> <li>• Identifiable but minor impacts on business, consumers, and government</li> <li>• Proposals not controversial or broadly supported</li> <li>• Impose limited or minor additional costs</li> <li>• No interdependencies or broader linkages</li> </ul>	<p><b>Relevant considerations</b></p> <ul style="list-style-type: none"> <li>• New, unique, or bespoke policy design Complex effects on multiple parties or systems</li> <li>• Applies unequally to different groups Imposes high or onerous costs</li> <li>• Proposal is controversial and could be contested</li> </ul>
<p><b>Indicative examples</b></p> <ul style="list-style-type: none"> <li>• Prohibiting importation of blank firing firearms</li> <li>• Reinstatement of annual fee for private aircraft operators using Rottnest airport</li> <li>• Amendments to Tobacco legislation as part of national approaches to protect public health</li> </ul>	<p><b>Indicative examples</b></p> <ul style="list-style-type: none"> <li>• Introduction of a container deposit scheme</li> <li>• Strata title reforms</li> <li>• Residential tenancies reforms</li> <li>• On-demand transport reforms and taxi compensation scheme</li> </ul>

### What happens if the regulatory proposal is likely to have a significant adverse economic impact?

When a regulatory proposal is assessed by the agency as having a significant adverse economic impact, the proposal requires a formal impact assessment under the BRP.

A Regulatory Impact Statement can then assist government to consider a range of options in a transparent manner, assisting stakeholder input and confidence in government’s regulatory decision making.

If a regulatory proposal is assessed as **not** having a significant adverse economic impact, there is no requirement to undertake formal impact assessment (i.e. a CRIS or DRIS).

The status of the regulatory proposal (as not having a significant adverse economic impact) should be briefly explained in the ‘Regulatory Impact Assessment’ section of the Cabinet submission template.

## Step 3: Does an Exclusion or Exemption apply?

### Possible Exclusions

All agencies are required to undertake an agency self-assessment on a regulatory proposal; however, some regulatory proposals may be excluded from this assessment because they typically involve minor or standard changes to regulatory instruments or go through some form of consultation and assessment process that is broadly equivalent to the approach expected under the BRP. These include:

- Regulatory proposals that are machinery of government or administrative in nature, including those relating to:
  - the administration or procedural arrangements within or between agencies; or
  - the consolidation of legislation, minor legislative amendments, and/or correction of drafting errors.
- Regulatory proposals that are related to the management of the public sector.
- Regulatory proposals relating to:
  - police powers and general criminal laws with no impact on business; and/or
  - the administration of justice, such as rules of court and sentencing.
- Regulatory proposals which relate to increases in existing fees and charges, in line with a standard index (such as the Consumer Price Index) and/or that maintain cost recovery, since the last adjustment.
- All regulatory budget and taxation proposals are referred to the Expenditure Review Committee unless the Committee requests further consultation and assessment.
- Standing Rules and Orders of Legislative Council and Legislative Assembly.
- Regulatory proposals that concern, or are related to, electoral rules.

Agencies may not be required to complete a full regulatory impact assessment in the following circumstances:

- A **Treasurer's Exemption** has been granted for a regulatory proposal with significant adverse economic impacts. Agency Ministers can seek a Treasurer's Exemption in exceptional circumstances. For example, where an emergency response or immediate action is required and there is only one option.

An application for a Treasurer's Exemption must be made in writing by the responsible Minister to the Treasurer and should outline the impacts of the proposal and sufficient evidence to enable the Treasurer to form a considered decision.



It is recommended that agencies contact the BRU prior to applying for an exemption. If a Treasurer's Exemption is granted the proposal may proceed to the decision maker (without being subject to full regulatory impact assessment) and the resulting regulatory instrument must be subject to a Post Implementation Review (PIR) within three years of implementation.

The PIR aims to provide evidence that the benefits of the regulation (implemented as a result of the proposal) outweigh the costs, and that the objectives can only be achieved by this regulation. The PIR should identify that the regulation remains an appropriate, effective, and efficient method of achieving the policy objective.

- The regulatory proposal is subject to processes the BRU considers are consistent with the formal consultation and assessment requirements of the BRP. For example, the proposal was examined by an Economic Regulation Authority or Productivity Commission inquiry and this process also considered or discussed Western Australian impacts.
- The regulatory proposal involves the adoption of an Australian or international protocol, standard, code or Intergovernmental Agreement and an adequate assessment of the costs and benefits (to Western Australia) has already been made, and the assessment was made for, or is relevant to Western Australia.
- Where the regulatory proposal relates to a formally announced election commitment and is considered to have significant adverse economic impacts, consultation and assessment will only need to focus on implementation options rather than the policy rationale for the election commitment.

# Formal impact assessment

When a regulatory option or proposal is assessed as likely to have a significant adverse economic impact, agencies are required to prepare a Regulatory Impact Statement at both the consultation and decision phase.

**Guidance Note 1** details the key attributes of effective consultation, the value of consultation, assessing stakeholder influence and the options relating to the form of consultation available and the best practice processes. Some agencies have consultation agreements in place with key stakeholders that stipulate how consultation will generally occur. It is usual practice for agencies to develop their stakeholder engagement plan, communications plan and project plan before they embark on the consultation phase required for the consultation regulatory impact statement.

**Guidance Note 2** provides further details on the different policy considerations that need to be incorporated into the CRIS and the DRIS.

## Step 4: The Consultation Regulatory Impact Statement

The CRIS should feature the following elements:

- Consultation methodology, how, when, where, closing, request feedback.
- Policy problem to be addressed.
- Objective of taking action to resolve the problem or issue.
- Range of potential options that could address the policy problem including key features and how it might operate in practice.
- Expected costs and benefits of potential options including implementation costs.
- Considerations relevant to implementation and transitional arrangements.
- Strategy or method for evaluating the effects of the options.
- Specific questions relating to each option presented to elicit stakeholder response.

The extent of work involved in preparing a CRIS and consultation process should be proportionate to the scope of the proposal and its impacts.

In some cases, an initial phase of targeted engagement (through the establishment of advisory committees or technical reference groups) may help inform the scope of the problem and the range of regulatory options under consideration, before finalising your consultation paper.

Alternative documentation, such as discussion papers or reform proposals could also satisfy the consultation and assessment requirements for regulatory proposals with significant adverse economic impacts, if they provide information and analysis that is adequate and current enough to support stakeholder consultation and well-informed decision making.

A CRIS should include a summary of other consultation strategies used to engage with and seek stakeholder feedback.

The publication of a CRIS document is not the only method of consultation available to agencies. For example, many agencies also provide online surveys via their website and/or hold workshops with stakeholders and raise awareness through social media.

Agencies must send their CRIS to the BRU for assessment before the document is released for consultation.

## **Step 5: Agency and Treasury publish the CRIS and Letter of Advice**

The agency will be provided with a Letter of Advice on completion of the BRU analysis at which time the CRIS document can be published on the agency website and consultation may commence.

## **Step 6: The Decision Regulatory Impact Statement**

The DRIS sets out the final position on a regulatory proposal, its associated impacts, and the implementation and evaluation framework. The DRIS provides an evidence-based recommendation for regulatory change and includes an implementation and evaluation plan.

The DRIS builds on the CRIS, highlighting and analysing stakeholder views on the regulatory proposal and discusses, where relevant, details of how this feedback has been incorporated into the final design of the proposal.

Agencies must send their DRIS to the BRU for assessment and will be provided with a Letter of Advice on completion of the BRU analysis.

## Approval processes

Once the CRIS and DRIS have been completed, proposals can progress through your agency's channels to Cabinet, or the Governor in Executive Council with the DRIS and the BRU Letter of Advice attached.

Regulatory proposals brought to Cabinet are required to:

- apply the Better Regulation Principles;
- undertake formal impact assessment for proposals that have a significant adverse economic impact; and
- explain the economic significance of any impacts associated with the proposal.

The [Cabinet Handbook](#) provides further detail on the requirements for regulatory proposals submitted to Cabinet.

## Completing the Cabinet Submission

Proposals submitted to Cabinet must include the fully completed Cabinet Summary Sheet (refer to Cabinet Handbook).

The Cabinet Summary Sheet requires agencies to comment on whether the proposal is a regulatory proposal, include the BRU ID number and whether a Treasurer's Exemption has been obtained.

Agencies are required to confirm whether the proposal is Regulatory by ticking YES or NO.

The RG ID# is the Identification Number which can be found on the Letter of Advice received from the BRU after completion of each regulatory impact statement. If you are unsure contact the BRU to confirm the number.

If the agency has received a Treasurer's Exemption that does not require the agency to complete Regulatory Impact Assessment, then the agency must record the date the exemption was obtained from the Treasurer in the Treasurer's Exemption Obtained section. If in doubt, contact the BRU.

The Consultation and Regulatory Impact Assessment section of the Cabinet Minute must also be completed.

The Consultation section of the Minute requires agencies to describe the consultative processes undertaken to engage with government agencies and all other stakeholders on the regulatory proposal.

Agencies must consider the application of the Better Regulation Principles (found in the Agency Information Paper) and confirm whether they have been applied and whether they have assessed their regulatory proposal as having an economically significant impact. This means that the agency must have a record of a completed agency self-assessment template that details the likelihood that the regulatory proposal will have a significant adverse economic impact on stakeholders.

Once the regulatory proposal is approved by the decision maker the DRIS (in PDF format) should be published on the agency's website with a copy provided to the BRU.

Drafting instructions and explanatory memorandum should not be finalised until appropriate consultations have been conducted with persons and bodies likely to be affected by the proposal. The Joint Standing Committee on Delegated Legislation requires the explanatory memorandum to provide details of consultations undertaken, a summary of their comments and any action taken in response<sup>2</sup>.

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<sup>2</sup> Guide for Ministerial and Departmental Staff 2021 [Microsoft Word - 2021 Guide for Ministerial and Departmental Staff \(www.wa.gov.au\)](http://www.wa.gov.au)

# Help and support

If you are unsure about any aspect of the BRP, or regulation more broadly, please email the BRU at [betterregulation@treasury.wa.gov.au](mailto:betterregulation@treasury.wa.gov.au).

# Appendix 1 – Better Regulation Principles – Considerations when developing a regulatory proposal

## Better Regulation Principles

### 1. Principles for the Design of Regulation

#### ***To support policy objectives and deliver maximum net benefits:***

- What is the purpose of the regulation – what is it trying to change or achieve?
- Can government intervention be justified?
- Should a different approach to regulation, or even a non-regulatory option be employed?
- Are the regulations tailored to accommodate local conditions (e.g. dispersed population, small, isolated communities)?
- Can you link the regulation to one or more of the policy's objectives?
- Has there been detailed analysis of the (indirect and direct) costs and benefits of the regulation?
- Will there be adverse regulatory impacts and if so, will those parties seek compensation (e.g. parties that made decisions assuming a previous regulation would continue)?

#### ***To allow for risk-based regulatory assessments and decision making focused on outcomes:***

- What is the likelihood and cost of any harm or negative impacts from the regulation?
- Can the outcomes be balanced and justified against the risks?

## Better Regulation Principles

***To provide clarity and certainty for all affected parties, recognising that smaller businesses and larger businesses may be impacted differently:***

- Ensure the regulations are sufficiently specific to enable parties to know how to comply with them
- Ensure the regulations are drafted in plain language where this can be done without losing precision
- Ensure the regulations are able to be communicated in various forms for culturally and linguistically diverse and those with disabilities and communication difficulties
- Ensure regulations for small business are streamlined enough considering their limited resourcing capacity

***To avoid duplication or conflict with other existing or proposed regulations:***

- Ensure the regulations complement/support/streamline rather than duplicate/conflict with existing regulations

***To allow for well-considered, efficient, and effective administration and enforcement arrangements:***

- Can the regulations be easily administered, monitored, and enforced?
- Are there processes in place to allow staff to record and store suggestions and feedback?
- How will regulatory efficiency and effectiveness be monitored? What are the indicators of success?
- Allow for early planning, identifying for stakeholders, what will be measured, how will it be measured and why.
- How will breaches of regulation be identified, defined, located, and tracked?
- Can new technologies be used to help with regulatory enforcement?

## 2. Principles for the Administration and Management of Regulation

***To achieve outcomes and support regulated parties:***

- Does administration/management of the regulation include mitigation of risks?
- How will the regulation be clearly and consistently communicated to stakeholders?
- How will regulated parties be supported to meet their obligations (e.g. can regulated parties contact your agency without fear of penalty if they are unsure of compliance requirements)?



## Better Regulation Principles

### ***To be transparent and fair:***

- Can your agency publish its service standards or service charter if available to assist regulated parties understand how your agency may deal with any regulatory breaches?
- Do your agency's service standards explain discretionary powers and how they apply?
- Will your agency provide a complaint and review process that is accessible and efficient?

### ***To encourage digital and online solutions for improved efficiency:***

- Can the regulation be administered and accessed electronically to ease the administrative burdens of both government and the regulated parties?
- Can application-based regulations use on-line processes which will help applicants and help with data and information collection?

### ***To be streamlined:***

- If the regulation involves approval processes, how can the number of steps required to obtain the approval be safely minimised?
- Where information is required from applicants can it include guidance about where to find the information (e.g. if a birth certificate is required, can a link to the Western Australian Registry and its equivalent in other States be provided)?
- Will you consult stakeholders when designing an approval process including testing of any online systems and processes?

### ***To ensure regulatory staff develop and maintain appropriate capabilities:***

- How will the skills required of regulatory staff be identified, inform any new recruitment, and be included in any new training?
- For example, does your agency's regulatory staff understand the relevant industry and activities being regulated and have knowledge of specific regulations and processes?

### ***To encourage a culture that embraces information sharing and collaboration across agencies:***

- Are there any impediments to information sharing and collaboration that require a regulatory amendment?
- If there is a shared responsibility for the regulation across agencies, how will this be managed, and any diverging views or practices be reconciled?
- How will any common processes or requirements for information be handled across agencies so that regulated parties can provide information once for multiple agencies?
- How will enquiries from parties impacted by multiple regulations and/or agencies be addressed?

## Better Regulation Principles

### 3. Principles for the Evaluation of regulation

***To be designed to allow for periodic monitoring and review, and reform where necessary to ensure continued efficiency and effectiveness:***

- Have you factored in opportunities to check in with stakeholders on how effective the proposal is?

***To be proportionate and designed in collaboration with key stakeholders:***

- What are the objectives of the evaluation from a government, industry, and community perspective and what are the evaluation parameters (i.e., what is in/out of scope)?
- Will the design of the evaluation consider the views of stakeholders and how?
- How will you assess the need for, and scale of the evaluation including the cost to government and stakeholders, the number of stakeholders affected and the potential net benefits?
- Does the planned frequency and type of review reflect the significance/complexity of the regulatory proposal?
- Have you considered whether ongoing and routine processes such as renewal of licences have data sets that can be used for an evaluation at a later stage?
- How and when will the evaluation collect information and how will it be analysed and used?
- Are there processes in place to allow staff to record and store suggestions and feedback?

***To consider the perspective and experience of regulated parties and affected stakeholders, as well as cross jurisdictional developments:***

- How will you evaluate the continued suitability of the regulations (e.g. by incorporating the views of stakeholders via feedback mechanisms or gathered during formal consultations)?
- How will you engage as wide a range of stakeholders as possible for the evaluation, especially as one purpose of the evaluation should be to identify any impacts of the regulations that were not anticipated when they were initially developed?
- How can you determine interstate or overseas trends that may currently or soon be impacting on Western Australia's regulatory environment?
- How will you evaluate whether regulatory solutions in other jurisdictions can and should be applied here?

## Better Regulation Principles

### ***To transparently measure and clearly demonstrate net benefits for Western Australians as a whole:***

- Is qualitative data and information required and how will it be used?
- How will regulatory efficiency and effectiveness be monitored? What are the indicators of success?
- Have there been significant changes to the regulations during its operation and if so, what information exists to clarify and articulate the reasons for and impacts of the changes?
- How will the outcomes and any findings of the evaluation be used?
- Should a different approach to regulation, or even a non-regulatory option, be employed?
- Has the evaluation uncovered unexpected impacts and issues (e.g. the regulations are duplicative or have become redundant because of new technological advancements)?
- Can any unexpected impacts and issues be incorporated into an updated cost benefit analysis or similar assessment, and used to inform evaluation, improvement, and any replacement of the regulation?
- Is the right data being collected to monitor implementation and facilitate future review?
  - What existing data sources can be used for monitoring and review?
  - How will new data, if needed, be collected? Consider both quantitative and qualitative data)
- What other adjustments might be required based on the evaluation of the regulation?

### ***To allow for adjustments or withdrawals if circumstances change:***

- Should a different approach to regulation, or even a non-regulatory option, be employed?
- Has the evaluation uncovered unexpected impacts and issues (e.g., the regulations are duplicative or have become redundant because of new technological advancements)?
- Can any unexpected impacts and issues be incorporated into an updated cost benefit analysis or similar assessment, and used to inform evaluation, improvement, and any replacement of the regulation?

