

Guidelines for Local Laws:

AN OVERVIEW FOR COUNCILLORS AND SENIOR EXECUTIVES



Message from the Minister for Local Government



The *Better Practice Local Laws Strategy*, which I released in December 2008, identified a strong need for Councils to apply a more robust and consistent process for Local Law making.

Over the past 12 months, Local Government Victoria (LGV) has worked closely with Council representatives and peak bodies to address this need and develop comprehensive support for the sector.

I am now pleased to provide a range of resources to help Councils to implement better practice Local Laws

and to meet the accountability, consultation, and transparency standards that the community expects from its regulators. The resources aim to assist Councils from the preparation phase right through to the revision and amendment of Local Laws.

Recent amendments to the *Local Government Act 1989* will further strengthen the sector's capacity for Local Law making. As Minister for Local Government, I will be able to make guidelines and directions to improve the consultation process and accessibility of Local Law materials.

Better practice Local Laws are a core stream of the Councils Reforming Business (CRB) initiative being delivered by LGV and the sector.

I encourage you, as leaders, to champion better practice Local Laws in your Councils.

Richard Wynne
Minister for Local Government

Resources suite for Councils

Councils use Local Laws to respond to issues and community needs within a local context and to achieve key strategic policy objectives. They are also intrinsically linked to State Government legislation and policy implementation.

The Guidelines for Local Laws resources recognise local government as a distinct and essential tier of government best placed to make Local Laws in the interests of Victorian communities. The resources seek to equip Councils to undertake best practice Local Law making and achieve a consistent level of performance, rather than impose rigid uniformity.

An Overview for Councillors and Senior Executives is part of a suite of resources designed to guide Councils through the processes of preparing for, creating, implementing, enforcing and reviewing Local Laws.

The purpose of the overview is to outline why and how better practice should be adopted and to demonstrate the need for a whole of Council approach to Local Laws. It is designed to highlight issues Councillors should consider in their role as regulators and policy makers, and to explain other important matters to Councillors, CEOs and senior staff.



Local Law Community Impact Statement



The resources introduce the concept of the Local Law Community Impact Statement (LLCIS) to foster better practice.

The LLCIS is both a checklist tool for Council to work through the Local Law processes and an explanatory document to give to the community about a proposed Local Law.

Councillors and senior executives should be involved in most aspects of the LLCIS:

- Identifying the problem sought to be addressed
- Relating the problem to Council objectives
- Measuring the success of a Local Law
- Considering alternatives to a Local Law
- Adopting a risk management approach
- Deciding the regulatory approach
- Ensuring least burden/greatest advantage
- Considering restrictions on competition
- Setting penalty levels
- Dealing with permits and permit conditions
- Setting fees
- Adopting a performance-based approach
- Comparing with neighbouring and like Councils
- Ensuring compatibility with the *Charter of Human Rights and Responsibilities Act 2006*
- Consulting with the community
- Considering submissions - either by the Council or a committee established for the purpose and preferably prior to the meeting at which Council proposes to adopt the Local Law.

The other Guidelines for Local Laws resources target Council officers who coordinate or participate in the Local Law process:

- Manual: step-by-step operational document
- Resource Book: supplement to the manual with case studies and examples
- Training: workshops and online resources being developed with LGPro.

These resources educate Councils about what they must do to comply with legislative provisions; what should be undertaken to achieve better practice; how matters can be best explained to the community; and how the accessibility and understanding of Local Laws can be enhanced.

The full suite of Local Laws resources is available at www.localgovernment.vic.gov.au

The process

Better practice regulation requires an understanding of multiple processes and contexts, a significant time investment and a commitment to the principles of engagement and consultation. It also needs a 'whole of Council' approach. Taking anything less than the full journey will dilute better practice and compromise the quality and efficacy of the Local Law.

The following diagram details the general sequence and major stages of the Local Law process.

The trigger for Councillors and senior executives to become actively involved is the "Completing the Cycle: Review, Amendment & Sunsetting" part of the sequence. This stage feeds into what should be a continuous and ongoing process.

The diagram on the final page provides a more detailed view of the process and how the stages are interrelated.

The role of Councillors and senior executives in relation to Local Laws

Council as a whole is responsible for its Local Laws in their entirety: they are not the province of any individual department(s) within Council. Accordingly, Local Laws require a “whole of Council” approach.

Councillors and senior executives need to be actively involved in a number of areas (even though a considerable body of work will be done by Council officers). This includes broad issues, such as determining the needs of the community in relation to Local Laws, down to specifics, such as formulating permit conditions and setting fees and penalties. These need to be consistent within Council and should be consistent with like or neighbouring Councils unless reasons for difference can be articulated.

Councillors and senior executives need to support the Local Law making process to ensure it is thorough and effective.

Checklist for Councillors and senior executives

- Conduct an overview of the process including legislative requirements
- Understand the timeline required for developing and implementing a Local Law
- Devote sufficient and appropriate resources to ensure the work can achieve the characteristics of better practice Local Laws
- Provide resources and support to officers carrying out the mechanics of the process (including use of the Guidelines for Local Laws Manual, Resource Book and associated training)
- Provide timely input, particularly in specific areas which need direction i.e. consultation, leadership, policy
- Understand the components of the Local Law Community Impact Statement (LLCIS).

Council must make sure information about its Local Laws is accessible to the community. CEOs must ensure that Local Laws and all associated materials are available on the website (and in hard copy) in accordance with legislation and the guidelines.

The timeline for Local Laws

Developing a project plan is the first step in planning to review or introduce new Local Laws, taking into account Council’s particular situation. The timeframe for the project, along with assigned responsibilities, needs to be agreed to by relevant parties and monitored.

Better practice is for the Council review process to commence not less than 12 months before the sunset date to allow adequate time to undertake proper regulatory processes. This applies particularly where Council has an “omnibus” Local Law.

The actual time required to develop and implement a Local Law will, however, depend on a number of factors including the:

- Complexity of the Local Law (e.g. covering all areas or topic specific)
 - This will impact on reviews against the *Charter of Human Rights and Responsibilities Act 2006* and National Competition Principles
- Stakeholders, which will impact on:
 - the degree of consultation required
 - the assessment of burden on business and the community
- Need for incorporated documents to be available with the Local Law, which might include:
 - Policies
 - Codes of Practice
 - Conditions of permits
- Need for Council to set fees and charges and penalties
- Resources available to Council.

Council will need to be conscious that some of the most crucial stages, including consultation and possible amendment, occur later on in the cycle and factor this into timelines.

Council itself must undertake many processes even if the drafting or checking of a Local Law is outsourced to lawyers.

Council’s approach will also have an impact on project management and timings. Council may be prepared to leave the bulk of the work to officers but Councillors will still need to make decisions along the way, such as approving a draft Local Law. Council may decide to set up a committee, and Council itself will need to make relevant decisions and give approvals.

Input

Councillors and senior executives will need to provide input to the project plan model and make key decisions along the way. If the project plan is to stay on track, these inputs and decisions need to be made in a timely fashion. Who makes the decisions will be determined by Council’s own arrangements. Required input and decisions will cover:

- The range of problems to be addressed to determine what the Local Law will cover
- The measures of success of the Local Law
- Risk management assessment allocating priorities to Local Law provisions
- The type of regulatory approach
- Fees and penalties
- Conditions for permits required under the Local Law
- Consultation: determining with whom, when, how extensive and how it will be conducted
- Policies and guidelines to be incorporated into Local Laws
- Authorisations and delegations to be made under Local Laws.

Key steps in Local Laws

