

Submission Writing for Policy and Law Reform

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Environmental Defender's Office NSW (EDO)

- A community legal centre specialising in public interest environmental law
- Mission: The EDO's mission is to promote the public interest and improve environmental outcomes through the informed use of the law.
- Part of a network of 9 EDOs across Australia
- Non-government, not for profit

Environmental Defender's Office

- Initial focus on litigation and legal advice
- Now a multi-disciplinary office with over 20 staff
- Functions:
 - Legal Advice and Representation
 - Scientific Assessment and Advice
 - Policy and Law Reform
 - Community Education
- International program established 10 years ago
- Capacity-building in the Pacific and Asia across all functions

Outline of workshop

- Introduction to ‘policy and law reform’
- The value of submission writing
- Tips for effective submission writing
 - Preparation: research and consultation
 - Drafting the submission
 - Post-submission follow up
 - EDO example

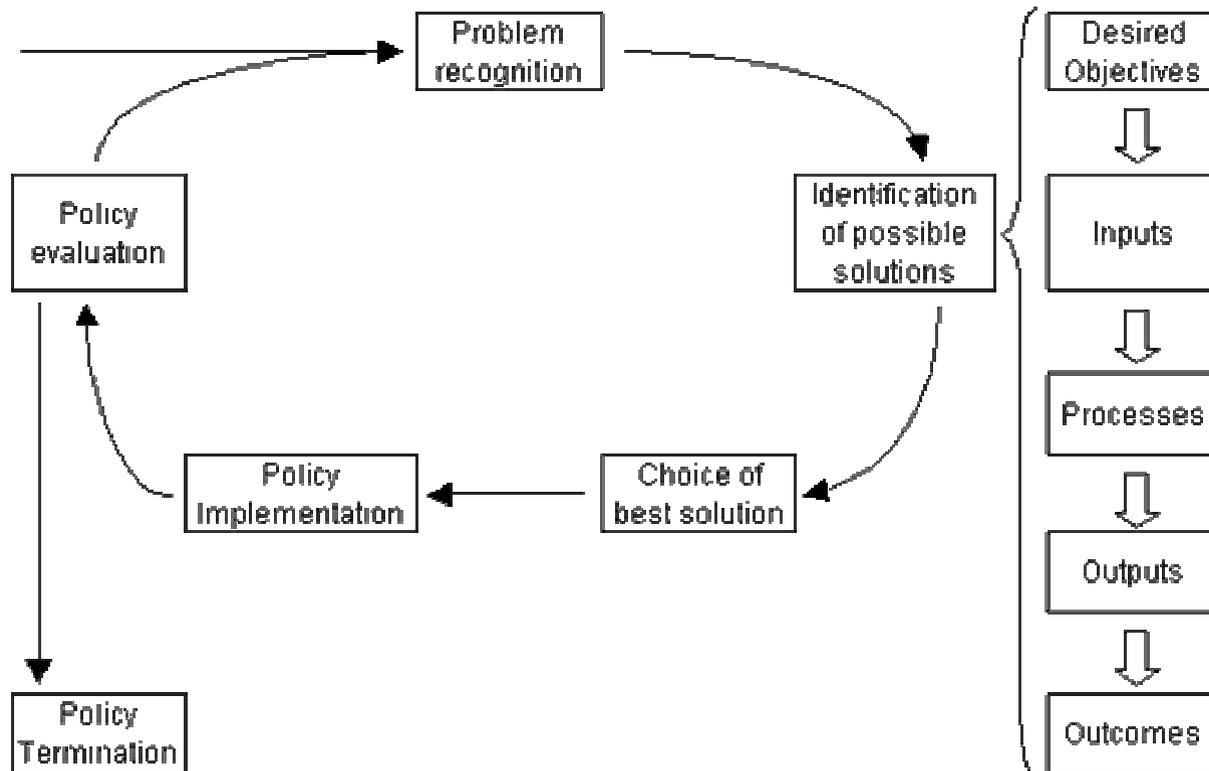
Engaging in Policy and Law Reform Processes

- What do we mean by ‘policy and law reform’?
 - A ‘policy’ can be defined as:
 - ‘a purposive course of action to deliver a positive impact on the community’
 - ‘a course or line of action adopted and pursued by a government, ruler, political party or the like’
- For our purposes, ‘policy and law reform’ refers to proposals for legislation, regulations and other guidelines put in place by government to prescribe a course of conduct
- Policy ‘tools’ include law, regulations, standards, incentives, funding programs, market mechanisms etc

Engaging in Policy and Law Reform Processes

- The policy development process
 - A comprehensive process is necessary to ensure that a policy achieves its objectives
- Key steps include:
 1. Recognising and defining the problem or issue
 2. Identifying possible solutions: gathering and analysing information, consulting with stakeholders
 3. Choosing the best solution
 4. Implementing the policy
 5. Evaluating the policy
- Each step likely to be complex

Policy development process



Stakeholder engagement in the policy process

- Stakeholders include NGOs, community members, other government bodies, media, technical experts
- Where do stakeholders fit?
 - At all stages, especially 1 - 3
 - Most input will probably occur at stage 2 (consultation processes)
 - Early engagement with policy makers is vital
 - Stakeholder consultation can include: public forums, surveys, public information campaigns, interdepartmental committees, focus groups, inviting written submissions
 - Important to maintain an ongoing working relationship

EDO policy & law reform program

- The EDO is a specialist legal centre in NSW
- We do not campaign or lobby
- However, we frequently put forward policy proposals suggesting ways that the law or a policy can be improved
- We currently work across 6 ‘priority areas’
- We utilise guidelines to help us decide what policy work to take on

EDO policy & law reform program

- Main areas of EDO policy and law reform work:
 - Preparing submissions on draft legislation and regulations, and proposed policies
 - ‘Proactive’ work: discussion papers, roundtable discussions, letters to government agencies, ministers etc
 - Advice to clients on law reform and policy issues
 - “Key stakeholder” role eg advisory committees

Deciding which policy work to do

- Some matters you could consider:
 - Does the matter accord with identified priority areas?
 - Does the matter raise legal or policy issues that are within your field of expertise?
 - Is matter is of international, national, or state/provincial significance?
 - Does the matter have nation-wide implications (such as a pilot or the first application of a new policy or instrument)?
 - Does the matter raise issues that extend the reach of environmental law, and the ways of thinking about the environment and the legal framework?
 - Does the matter provide opportunities for working in partnership with other environmental and non-environmental organisations?
- Consider areas outside of your traditional 'sphere' eg. Tax law reform can have an environmental angle

Value of policy & law reform work

- If you don't engage, who else will represent your views?
- Governments listen because stakeholders:
 - have practical knowledge, experience and expertise
 - alert policy makers to less obvious issues
 - transparency and accountability in process
 - help to predict responses to a policy and possible problems with implementation

Value of written submissions

- Written submissions are effective:
 - On the public record
 - Can contain well-ordered, considered and researched opinions
- Ongoing/recurrent nature of environmental policy issues: enables a body of work on an issue to be established
- Provide a good resource for new governments

Preparing a submission

- Outline:
 - Preparation: research
 - Preparation: consultation
 - Drafting the submission
 - Post-submission
 - EDO Example

Preparing a submission

- Research steps include:
 - Read the policy document, discussion paper
 - Read proposed legislation and analyse legislation, if applicable
 - Research relevant case law, if applicable
 - Read any previous submissions made by your organization on the topic
 - Research relevant journal articles and text books ('literature review')
 - Research information on government websites, eg data and statistical information, research papers
 - Research 'best practice' examples from other states/provinces or international jurisdictions
 - General internet searching

Preparing a submission

- Consultation steps include:
 - Consult internally, eg with solicitors involved in relevant litigation
 - Consult with other interested organizations or groups
 - Consult with other experts if necessary eg specialist lawyers or non-lawyers (economists, scientists etc).
 - Request meeting if possible with government body proposing the changes to discuss rationale of proposal
 - Participate in any forums or attend meetings that are part of the consultation process

Drafting an effective submission

- General tips:
 - Avoid emotional language: objective argument can be more persuasive
 - Use inter-state and/or international examples
 - Focus on key issues, rather than minor or technical issues or errors
 - If the timeframe is short, it may be worthwhile asking for an extension

Drafting an effective submission

- General drafting tips:
 - Introductory paragraph: explain your organisation and your interest in the topic, and on whose behalf your submission is written eg. from landowner/ client perspective
 - For long submissions (over 10 pages), an executive summary and a contents page are preferable
 - Clearly state your recommendations for amendment throughout the document, and in a summary format (executive summary or conclusion)
 - Use case studies and factual examples of how the proposal will impact on community/environment, to put issues in practical context, eg litigation experience

Drafting an effective submission

- Submissions on legislative amendments:
 - Use precedents from other jurisdictions - this can help persuade governments if your suggestion has been implemented elsewhere
 - State proposed amendments clearly, and in a way that could be logically included in existing legislation
 - Check whether key issues in 'legislative checklist' have been addressed
 - Support proposed amendments with objective scientific and factual data
 - Check how proposed amendments will affect other parts of the Bill or other legislation

Drafting an effective submission

- Submissions on discussion papers and policy documents:
 - Clearly state any recommended changes you propose
 - Make it clear the Terms of Reference you are addressing in your submission
 - Use case studies and comparative examples, where possible
 - Use objective scientific and factual data to support submission
 - Check key issues (legislative checklist) are addressed, as applicable

Drafting an effective submission

- Formatting and language:
 - Use frequent headings
 - Use bullet points
 - Write clearly and concisely in plain language
 - Spell check, and get someone else to read it
 - Long quotations, and sections of legislation, should be indented
 - Make sure legislation and regulations are in *italics* and provide a date
 - Ensure title, date and contact person are correct, preferably on a cover page
 - Ensure any abbreviations and acronyms are properly defined
 - Make sure you meet any formal requirements

“Post submission” follow up

- Confirm receipt of your submission
- Make publicly available eg on website and in your newsletter or bulletin
- Consider whether community education workshop would be useful
- Consider whether material could be utilised for newspaper opinion or journal article
- Monitor outcome of the policy or law reform proposal or project
- Record any references to your submission

EDO Example – National Human Rights Consultation

- Independent committee appointed by Government
- EDO process: advertised in weekly bulletin; consulted internally; prepared discussion paper to stimulate public interest and engagement; drafted submission
- Submission:
 - Executive summary & dot point recommendations
 - Introduction to the EDO; our interest in the topic; the perspective we write from
 - Body of submission: Each part contains discussion of issue/option, analysis, EDO opinion
- Post submission activities: presented at a conference; presented at televised public forum
- Committee presented report; Government is now deciding how to respond

Contact Us

- For more information on the EDO's policy work and copies of all written submissions, see our website:
<http://www.edo.org.au/edonsw/site/policy.php>
- We welcome requests for assistance.
- If you would like help or more information from the EDO, contact us:
 - email me at gillian.duggin@edo.org.au
 - call +61 2 9262 6989



Thank you

Any questions?