Framework on
Developing, Reviewing and Retiring Regulatory Guidance

For Professional Standards Councils

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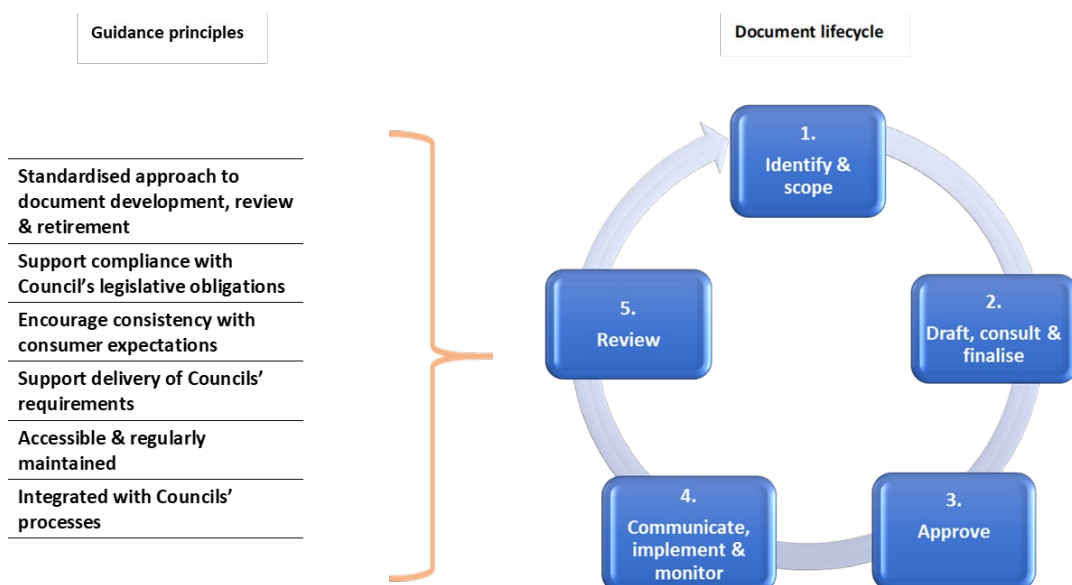
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1. Framework Statement

This Framework details the Professional Standards Councils' process of developing, reviewing and retiring their regulatory guidance issued to inform its decision-making. The regulatory guidance process is designed to achieve the following:

- explain particular aspects of the Councils approach in administering the legislation and regulations

- assist the Councils to exercise their statutory function to publish advice and information about improving occupational standards

- encourage consistency with community expectations through development of self-regulation by occupational associations to better protect consumers

- promote compliance with the general law and relevant legislation, regulation, codes and standards

- raise awareness of significant issues facing the schemes, associations and practitioners including good practice actions to facilitate the management of risk.

This Framework excludes internal guidance on operationally based issues such as financial management and reporting requirements.

2. Purpose

This Framework aims to show how the Councils' process of developing, reviewing and retiring their regulatory guidance is supported by the document lifecycle, as set out below:

Guidance principles

Document lifecycle

- Standardised approach to document development, review & retirement
- Support compliance with Council's legislative obligations
- Encourage consistency with consumer expectations
- Support delivery of Councils' requirements
- Accessible & regularly maintained
- Integrated with Councils' processes

1. Identify & scope
2. Draft, consult & finalise
3. Approve
4. Communicate, implement & monitor
5. Review

The document lifecycle applies to all Councils' regulatory guidance comprising policies, procedures and guidance, and to all Council members and Authority staff who are engaged in developing, reviewing and retiring such documents.

Please refer to **Attachment A** for detail on the types of regulatory guidance.

3. Key Approvals and Review

Exercising the function to publish regulatory guidance

The Councils will approve all new, amended or retired documents and their publication, unless they are routine administrative amendments, whereby the Chief Executive Officer has delegation to approve and publish.

An important part of the approval process is that the Authority's Chief Executive Officer will consult with and incorporate the comments and recommendations of the Councils' Committees and Advisory Groups, such as the Governance and Policy Advisory Group and the Finance, Audit and Risk Management Committees in relation to:

- drafting a new regulatory guidance

- amending existing regulatory guidance to reflect any changes or updates that may affect its objective and/or function

- retiring regulatory guidance if the functions are no longer relevant or fit for purpose.

Review cycle

The Councils will review their regulatory guidance every three (3) years or at times as required in response to either feedback or changes in legislation, policy, practices or issues raised by the Councils' stakeholders. The review will determine relevance, need and operability of the regulatory guidance.

4. Actions to Achieve Implementation of this Framework

For **new and amending** regulatory guidance, the document lifecycle requires the following:

STEP 1: Identify and scope

- *Identify the need*

  - Consider the needs of the Councils, the Authority and their stakeholders.

- Check whether any existing documents serve the same purpose, and whether amending an existing guidance is more appropriate than issuing a new guidance.

- Consider any synergies in developing/reviewing related regulatory guidance at the same time.

- *Planning*

  - Develop a communication and implementation plan.

  - Clarify the purpose and objectives of the regulatory guidance.

  - If applicable appoint a sponsor or reference group of Councils to guide and endorse the new/amending process.

  - Subject to the Councils' and the Authority's strategic objectives, set a realistic timeframe and planning for approval dates.

- *Legal and governance issues*

  - Consider obtaining legal advice when drafting new or amending existing regulatory guidance, to ensure consistency with national/state legislation or regulations.

  - Consult with staff in the Authority that may be familiar with the legal or policy requirements.

  - If applicable consult with the appointed sponsor or reference group of Councils to the issue, who may also provide an authorising environment to seek legal advice.

- *Research*

  - Gather information about the regulatory guidance from relevant stakeholders and resources.

  - Undertake research into good practice models from other regulators/institutions.

  - Keep a reference list of research data for ease of access and circulation to stakeholders if required.

STEP 2: Draft, consult and finalise

- *Drafting*

  - Allocate responsibilities within the Authority to scope and draft the regulatory guidance in accordance with data received from Step 1.

  - If proceeding to stakeholder engagement seek the Councils, Advisory Group or the Committee's endorsement.

- *Stakeholder engagement*

  - Identify and consult with relevant parties on the draft regulatory guidance in accordance with the Councils' *Stakeholder Engagement Framework.*

  - Keep detailed records of stakeholders that were consulted, and any feedback provided on the draft regulatory guidance.

  - Implement any stakeholder feedback into the draft if deemed appropriate.

  - If applicable report back to the sponsor or reference group.

STEP 3: Approve

- Obtain endorsement for the draft guidance from the Councils' relevant Committees and/or Advisory Groups, before proceeding to recommending final approval of regulatory guidance by the Councils at their meetings.

- Obtain endorsement for draft routine administrative amendments from the Director Professional Standards Regulation before proceeding to recommending final approval and publication of regulatory guidance by the Chief Executive Officer.

- All revisions, whether approved by the Councils or the CEO, will be recorded in the Revision History table.

STEP 4: Communicate, implement and monitor

- The Authority to upload on the Councils' website and take any other steps necessary to communicate the guidance to the relevant stakeholders.

- Monitor the need for updating or a new document where a need is identified.

STEP 5: Review

- Monitor the document's due date to make sure the document is issued for review with plenty of time to complete the review cycle.

For **retiring** regulatory guidance, the document lifecycle requires the following:

STEP 1: Identify and scope

- *Identify the need*

  - Consider the needs of the Councils, the Authority and their stakeholders.

  - Check whether any existing documents serve the same purpose, or if the purpose of the regulatory guidance is no longer relevant to stakeholder needs.

STEP 2: Review, consult and finalise

- *Reviewing process*

  - Consider any synergies in developing/reviewing related regulatory guidance.

  - If a published guidance is:

    i. under review to consider retiring, the document must be labelled: 'UNDER REVIEW'

    ii. superseded by a new regulatory guidance that is yet to be published, the document must be labelled: 'INACTIVE'.

- *Legal and governance issues*

  - Consider obtaining legal advice when retiring existing regulatory guidance to ensure consistency with national/state legislation or regulations.

  - Consult with staff in the Authority who may be familiar with those requirements.

  - If applicable consult with the appointed sponsor or reference group of Councils who may also provide an authorising environment to seek legal advice.

STEP 3: Approve

- Obtain endorsement for the retirement of published guidance from the Councils' relevant Committees and/or Advisory Groups, proceeding to obtain approval to retire regulatory guidance from the Councils at their meetings.

  (Note: the authority of the Chief Executive Officer, under delegation from the Councils to remove or archive without consultation, regulatory guidance from the Councils' website deemed to be misleading or incorrect)

STEP 4: Communicate and implement

- The Authority to remove the regulatory guidance from the Councils' website and take any other steps necessary to communicate its removal to the relevant stakeholders.

- Place the retired document in the archive of the Authority's document management system and mark as 'INACTIVE'. The same process to occur for superseded versions of regulatory guidance documents.

5.   Stakeholder Engagement

The Councils have adopted stakeholder engagement principles as a fundamental part of designing and implementing regulatory guidance (see Councils' *Stakeholder Engagement Framework*).[1]

Consulting and engaging with stakeholders ensure the Councils' regulations are in the public interest by involving all affected parties. In addition public understanding and quality of the regulatory guidance is tested through stakeholder engagement, facilitating user-centred regulation and co-design initiatives that are responsive to the needs of regulated parties.[2]

Exposure drafts

At the Councils' discretion, some regulatory guidance may be issued initially as an exposure draft to stakeholders for consultation and feedback. Following this consultation, the draft regulatory guidance is progressed for approval and publication in line with the document lifecycle steps.

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[1] Professional Standards Councils, *Stakeholder Engagement Framework* (Policy, August 2019).
[2] OECD, *OECD Best Practice Principles on Stakeholder Engagement in Regulatory Policy* (Public Consultation Draft, 12 June 2019).

The decision to engage with stakeholders by way of an exposure draft will depend on:

- direction to the Authority by the Councils' Advisory Group or Committee

- the guidance itself

- *Stakeholder Engagement Framework* principles

- whether it is an internal or external facing document.

6.   Publication of Regulatory Guidance

To ensure accessibility of information to stakeholders and the public, the Councils utilise a wide range of communication methods that are relevant to the audience and purpose of the regulatory guidance. Platforms to communicate new, amending or retired regulatory guidance include, but are not limited to:

- Councils' website

- Email

- Targeted correspondence with stakeholders

- Professional Standards Forums.

7.   Accountabilities

Responsible Officer	
Contact Officer	

8.   Supporting Information

Document number	TBA
Legislative Compliance	This Framework supports the Councils' compliance with the following legislation: • *Professional Standards Act 1994* (NSW) • *Etc*
Supporting Documents	Internal • Template – Frameworks • Template – Process External • Template – Councils' Policy • Template – Procedures

	• Template – Guidance
	• Template – Sample paper
	• Templates Forms
Related Documents	
Superseded Documents	Policy Framework Policy, v2.3

9. Definitions and Acronyms

Authority	The Professional Standards Authority
Committee	The Councils' Finance, Audit and Risk Management Committee
GPAG/Advisory Group	The Councils' Governance and Policy Advisory Group
PSCs/Councils	PSC NSW PSC VIC Etc
Professional Standards Legislation	Professional Standards Acts and Regulations or equivalent in each state and territory
Regulatory guidance	Documents which are internal and external, as identified in this Framework

Attachment A: Types of regulatory guidance

The Councils' regulatory guidance is distinguished between internal and external facing documents.

Internal documents

Internal documents guide the Councils' decision-making processes and set parameters to their considerations that are required to administer the legislation. Internal documents also guide the Authority to administer the Councils' decisions and obligations on behalf of the Councils.

Type	Purpose of internal document
Framework	Sets the authorising environment to outline and support the Councils' policies and guidance to occupational associations, eg the scheme's application process, risk management requirements. Supports the administration of professional standards legislation and regulations to achieve better regulatory outcomes by facilitating and promoting consumer protection, through the improvement of professional standards.

Process	Describes the operational processes and actions that are required to enable the implementation of requirements set out in the Framework documents.
	Compliance with processes is mandatory.

External documents

External documents provide guidance to occupational associations on how they can meet their obligations under professional standards legislation and regulations. External documents may also outline the Councils' interpretation or administration of professional standards legislation, or how they apply regulatory requirements to stakeholders. This includes guidance on the scheme application process, association's annual statutory reporting, and an association's obligations under professional standards legislation or regulations.

Type	Purpose of external document
Councils' Policy	Prescribes the methods or principles that govern and guide the Councils' decision-making in administering their legislative functions or activities.
	Aims to provide stakeholders with transparency on what obligations they are expected to meet.
Procedures	Outlines the mandatory steps and actions required to be taken by the associations to enable the implementation of the Councils' policies.
	Also ensure that activities are executed by the Professional Standards Authority with delegation, consistency, transparency and consideration of the Professional Standards Legislations' objects.
	Includes the release of research papers to stakeholders.
Guidance	Provide guidance to occupational associations by:
	• explaining Councils' interpretations of the legislative and regulatory obligations of occupational associations; and
	• providing practical guidance to occupational associations e.g. describing the elements required to set up a compliant complaints and discipline
Template: sample paper and forms	Provide a standardised format for documents which an occupational association may need to submit to the Councils as part of their scheme application or annual association reporting.