



# Draft charter of consultation and regulatory practice

Consultation paper

December 2017



**An appropriate citation for this paper is:**

Essential Services Commission 2017, *Draft charter of consultation and regulatory practice: Consultation paper*, December 2017

**Copyright notice**

© Essential Services Commission 2017



This work, *Draft charter of consultation and regulatory practice*, is licensed under a Creative Commons Attribution 4.0 licence [[creativecommons.org/licenses/by/4.0](https://creativecommons.org/licenses/by/4.0)]. You are free to re-use the work under that licence, on the condition that you credit the Essential Services Commission as author, indicate if changes were made and comply with the other licence terms.

The licence does not apply to any brand logo, images or photographs within the publication.

# Contents

Overview	4
A principles-based approach	6
Regulatory practice	7
Engagement in practice - our guidelines	8
We want your feedback – making a submission	10

## Overview

**The objective of our engagement and consultation is to build respectful, professional and productive relationships that build trust, engender goodwill and provide opportunities for well-informed regulatory practice.**

As the state's leading economic regulator of a range of essential services, our decisions can have far reaching and potentially significant impacts on the lives of Victorian consumers.

Our responsibilities, to the sectors we operate in as well as to the community as a whole, require us to ensure our regulatory work is well-informed and conducted in a way that is transparent and open to scrutiny.

To this end, we are required by law to develop and publish a charter of consultation and regulatory practice. The charter is required to include guidelines on our processes for making decisions and determinations, and conducting inquiries.

Our existing charter of consultation and regulatory practice was adopted in 2013 but is largely unchanged from its original drafting in the early 2000s. Our strategic communication plan adopted in late 2016 identified the need to review and update the charter.

To this end, between June and October 2017, we began internal and external discussions to identify opportunities to modernise the charter. This process resulted in a series of recommendations to update the charter and engagement across the commission.

A key recommendation is to adopt a **principles-based approach** that allows staff to develop engagement strategies that are proportionate to the task at hand, fit for purpose and which supports continuous improvement.

The new draft charter has a strong focus on promoting a culture of engagement which:

- contributes to the achievement of the commission's objectives and regulatory objectives
- encourages relationship building
- we use and are accountable to in undertaking our work
- is meaningful and accessible
- embeds the value of engagement in our work and organisational culture.

This new direction is grounded in the belief committing to a consistent set of principles will:

- provide us with flexibility to design engagement to suit the various sectors we work in and the specific nature of the issue at hand
- enable us to more effectively respond to changes in the regulatory environment, including changing community expectations and new or evolving technologies
- provide predictability and transparency to the regulated entities and our community who rely on our consultation programs to participate in our regulatory processes.

## Engagement versus consultation?

You will notice the new draft charter talks about engagement as well as consultation. This shift mirrors an international shift in the language and practice of how public sector organisations involve stakeholders in their decision-making processes.

When we refer to consultation, we are talking about steps within a decision-making process designed to identify issues, discuss or generate options or test solutions. Consultation might involve meetings or forums, surveys or 'ideas' papers. It can be formal or informal. It might involve multiple stakeholders or at times be limited to particular groups or individuals depending on the issue at hand.

Engagement meanwhile is about the big picture. It's about the ongoing relationships that facilitate understanding between us and the sectors we operate in, and the wider community. Engagement is about ensuring we have a clear understanding of the environment and the issues at hand. It's about being open and transparent, and embedding accountability in our work.

Our draft new charter aims to provide a framework where our engagement and consultation builds respectful, professional and productive relationships that build trust, engender goodwill and provide opportunities for well-informed regulatory practice

We are now inviting comment on the draft new charter, which is available on our website.

In particular we would like to hear from you about:

**Q. 1 - Our principles-based approach** – is this the right direction for the commission?

**Q. 2 - Our principles** – have we got them right?

**Q. 3 - Our approach to regulatory practice** – does this line up with what you would expect from the commission?

**Q. 4 – Any other comments about our approach** to engagement and consultation?

# A principles-based approach

## **We have developed five key principles to guide engagement and consultation**

Our key principles will guide the design and implementation of engagement and consultation in practice, as well as provide a framework to measure our performance.

### **We are transparent and accountable**

We are clear about what, when and how we consult. Our decision-making is visible, accessible and, where appropriate, reported on our website and through sector specific and other channels (media, professional networks etc.).

### **Our engagement is considered, planned and genuine.**

Our projects, reviews and inquiries provide adequate time for meaningful engagement with people affected by our decisions. There is clear purpose to our engagement and it is considered at relevant stages of a project including establishing the best methods of engagement. Our consultation is tailored to the complexity and potential impact of the issue being considered.

### **Our engagement is inclusive.**

We seek perspectives that represent the interests and views of diverse communities. Our decisions are well-informed by seeking input from those affected by our actions including stakeholder groups and individuals with an interest in our work.

### **Our information is clear, accessible and simple to understand**

We present information in plain language that sets out clearly what we are doing and how people can get involved. We aim to be transparent in the way we make decisions.

### **We will listen and learn to improve our consultation and engagement**

We will involve stakeholders in developing our approaches to engagement and consultation. We will evaluate and monitor our engagement and consultation processes and report on our performance through key channels like the annual report, the website and sector newsletters.

# Regulatory practice

## **We believe engagement is fundamental to good regulatory practice**

We believe building respectful, professional and productive relationships that generate trust and engender goodwill are critical to effective regulatory practice. This means promoting ongoing engagement and open communication with those affected by our decisions.

We believe good stakeholder engagement will help us identify emerging issues or trends that affect the sectors we work with. These beliefs guide how we approach our work to achieve the objectives under our Act and relevant industry-specific legislation.

### **We will ensure our regulatory regimes are designed to promote outcomes that are in the interests of consumers.**

Our regimes will help ensure regulated groups focus on delivering services in a way that considers the interests of consumers.

### **We will create effective and efficient incentives for businesses to perform.**

We will use regulation to further motivate regulated groups to deliver value to their customers. We will also monitor markets to gauge the performance of service providers and the effectiveness of competition in markets.

### **We will deliver high quality advice to government on issues related to economic regulation.**

Our reports and decisions will be accessible, understandable, achievable and defensible. This will give the government a clear, evidence-based foundation for their decision making processes.

### **We will be an organisation that promotes thought leadership and delivers great performance.**

We will be innovative, original and willing to challenge conventional ways of working in the pursuit of more efficient and effective outcomes. We will also invest in people and systems that support great performance.

### **We will continue to improve the way we engage with key stakeholders.**

We understand our work can have an impact the cost of doing business. Our communication will focus on helping the government, businesses and the public understand our roles, responsibilities and objectives as a regulator. We will ensure our internal communication supports high levels of staff engagement and performance.

### **We will encourage better engagement practices.**

Where appropriate, we will promote better engagement practices in the sectors we regulate by demonstrating the value of good engagement.

## Engagement in practice - our guidelines

The new charter provides high level principles to guide engagement and consultation in practice. At an organisation level, the new charter will promote excellent stakeholder engagement by:

- establishing an engagement framework to promote consistency and provide clear direction and guidance for staff. The framework will include:
  - staff guidelines and a toolkit to promote consistency and provide clear direction for staff on expectations and standards
  - a capability development program including a community of practice to share lessons learned, training and professional development opportunities
  - standard tools to evaluate and report on consultation
  - accountability and reporting against performance goals at a project, sector and organisation level.
- publishing our annual work program to ensure anyone who is interested in our work is aware of the major projects and upcoming programs of activity
- measuring and reporting on our performance on key stakeholder reputation measures
- reviewing the charter to ensure its meeting its objectives annually and updating where required.

### **Tailored strategies will be developed for each project and program**

The following guidelines would also apply at the program level.

- Tailored strategies will be developed as part of the annual operational plan for each program area identifying:
  - their main stakeholders and communication channels (e.g. regular briefings, email/digital communication)
  - processes for distributing and receiving information
  - how stakeholders can contribute to or comment on the work program
  - how program engagement is to be evaluated and reported.

At the project level, the following guidelines would also apply:

- Engagement strategies will be tailored to fit the task at hand according to the scale and complexity of the problem to be solved and the time available.
- We will publish timeframes and opportunities to provide input on key activities.



We will hold public hearings where required by legislation or ministerial directive (e.g. as part of the terms of reference for an inquiry) or where we believe there is value in facilitating a broader community discussion on the issues.

- We will publish information about our decisions and processes as well as using channels targeting interested stakeholders and regulated entities.
- We publish submissions unless requested otherwise. We will not publish confidential or commercially sensitive information without first seeking consent (unless required to do so by law).
- Engagement strategies will be evaluated against standard criteria and reported to the board.

# We want your feedback – making a submission

We invite you to comment on the draft new charter. In particular, we would like to hear from you about:

**Q. 1 - Our principles-based approach** – is this the right direction for the commission?

**Q. 2 - Our principles** – have we got them right?

**Q.3 - Our approach to regulatory practice** – does this line up with what you would expect from the commission?

**Q. 4 – Any other comments about our approach** to engagement and consultation?

## How to make a submission

Submissions on this consultation paper close on **29 January 2018**.

Please email submissions to:

[communication@esc.vic.gov.au](mailto:communication@esc.vic.gov.au) with subject title

**‘Submission on draft charter of consultation and regulatory practice’**

or fax to:

**Fax to 03 9032 1303**

or mail to:

**Attention: Strategic Communication**

**Essential Services Commission**

**Level 37, 2 Lonsdale Street**

**Melbourne VIC 3000**

Any questions regarding this consultation paper can be directed to:

**Michelle Bryne, Senior Manager Strategic Communication**

**on 03 9032 1300**

## Publication of submissions

We **publish all submissions on our website** unless asked not to. If your submission contains confidential or commercially sensitive information you do not wish to be disclosed publicly, please clearly identify the specific information in the submission.