

BRIEFING NOTE

TO: Council

FROM: Governance Committee

DATE: October 7, 2019

SUBJECT: Updates to the Draft Council Decision Making Policy 4-35

☒ For Decision

☐ For Information

☐ Monitoring Report

Purpose:

To review the updates to the draft Council Decision Making Policy 4-35 re:

1. Amendments made to clarify that task forces and committees typically collect information to support policies, not Council.
2. Amending the consultation process to include that the Registrar can request stakeholder feedback before a committee begins working on an issue

Background:

Amendment No. 1

On December 3, 2018, Council directed the Governance Committee to amend the draft Council Decision Making Policy 4-35, clarifying that task forces and committees typically collect information to support policies, not Council. Council decided by consensus to direct this policy back to the Governance Committee for further review. These amendments appear in the attached draft policy in purple typeface.

Amendment No. 2

On May 28, 2019, Council adopted a new consultation process to allow the Registrar to seek input from various stakeholders at an early stage before a committee begins working. The Council Decision-Making Policy 4-35 has been updated to reflect this change. These amendments appear in the attached draft policy in red typeface. Council further requested the Governance Committee review the matter and do the following:

- Fully define the approach
- Determine specifically when and how it will be used

Review by Governance Committee

Governance Committee met on September 19, 2019 to further review the Policy and to consider Council's direction to fully define the consultation approach that will be used by the College. A fulsome literature review was carried out to review best practices on stakeholder consultation. This information was reviewed by the Governance Committee and is summarized below for Council's consideration.

BNs for council should be coming from a committee or committee chair or the deputy/registrar (regardless of who has ghostwritten it). BNs for committees should come from the manager or another committee.

For Consideration:

On December 5, 2017, Council approved Policy 3-03 Delegation to the Registrar, CEO, which reads, in part:

“The Council will not prescribe organizational means (i.e., prescribe what means to use or how to do the job) delegated to the Registrar, CEO. The Council will instruct the Registrar, CEO on means through limiting the means, i.e. through identifying the boundaries of Executive Authority.”¹

The following is a summary of the literature review that was carried out regarding best practices for stakeholder consultations and the level of stakeholder engagement that is available:

Levels of Stakeholder Engagement

There are various levels of engagement, ranging from simply informing people about what you plan to do to actively seeking consent and placing the final decision in their hands. This range, presented in Figure 1, is typically presented as a “spectrum” or continuum of engagement from the least to most amount of engagement with stakeholders.

Each level of the Spectrum: Inform, Consult, Involve, Collaborate, and Empower has value; no one is “better” than the other. When selecting the level of stakeholder participation, it is important to assess our goals, external and internal expectations, and our needs.

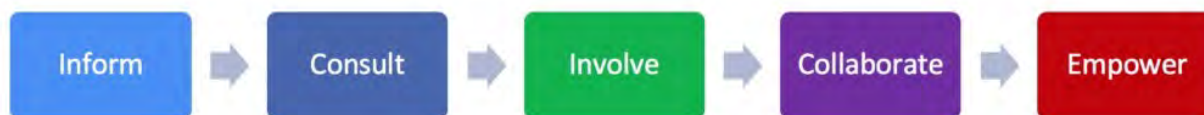


Figure 1 Spectrum of stakeholder engagement

Depending on the type of project, the potential impacts and the types and needs of stakeholders, we may engage in a number of levels and strategies of engagement across this spectrum using a variety of different tools (see below):

1. **Inform:** Provide stakeholders with balanced and objective information to help them understand the project, the problem, and the solution alternatives. (There is no opportunity for stakeholder input or decision-making.)
2. **Consult:** Gather feedback on the information given. Level of input can range from minimal interaction (online surveys, etc.) to extensive. Can be a one-time or ongoing/iterative opportunity to give feedback to be considered in the decision-making process)
3. **Involve:** Work directly with stakeholders during the process to ensure that their concerns and desired outcomes are fully understood and taken into account. Final decisions are still made by the College, but with well-considered input from stakeholders.

¹Delegation to the Registrar, CEO 3-03, pg. 39-40 (Nov. 2018) COO Council Policy Manual. See Appendix 1 below

4. **Collaborate:** Partner with stakeholders at each stage of the decision-making, including developing alternative solution ideas and choosing the preferred solution together. Goal is to achieve consensus regarding decisions.
5. **Empower:** Place final decision-making power in the hands of stakeholders. Voting ballots and referenda are common examples. This level of stakeholder engagement is rare and usually includes a small number of people who represent important stakeholder groups.²

A full stakeholder engagement process as presented above, would at a minimum, move the needle forward to seek “involvement” from the public/stakeholder groups in which it operates. Broader stakeholders would be consulted where appropriate.

Please note that a complete Consultation Guide is being prepared for staff to use in the future.

Recommendation:

That Council approve the Council Decision Making Policy 4-35, as amended.

References

Carol-Ann Morgan, B2B International. Stakeholder Research & Consultation: Keep your Ears to the Ground. Retrieved <https://www.b2binternational.com/publications/stakeholder-research/>

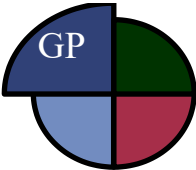
EPA Public Participation Guide: Introduction to Public Participation from https://www.epa.gov/sites/production/files/2014-05/documents/ppg_english_full-2.pdf

Hardy, M. (2015). Reflections on the IAP2 Spectrum [Blog post]. Retrieved 13 February, 2017 from <http://maxhardy.com.au/reflections-on-the-iap2-spectrum/>

Sarno, D. (Producer). (2013). Selecting the right level of public participation: The Spectrum. [PowerPoint presentation] Retrieved 13 February, 2017 from <https://www.epa.gov/sites/production/files/201405/documents/sarno3.pdf>

²https://cdn.ymaws.com/www.iap2.org/resource/resmgr/pillars/Spectrum_8.5x11_Print.pdf

FIGURE 1 PROPOSED NEW POLICY

POLICY TITLE: Council Decision-Making Policy	POLICY SECTION: GOVERNANCE PROCESS	POLICY NO: 4-35	
APPROVED BY: COUNCIL	REGULAR COUNCIL POLICY REVIEW FREQUENCY: EVERY 5 YEARS	MONITORING OF COUNCIL COMPLIANCE WITH POLICY CRITERIA FREQUENCY: EVERY 2 YEARS	
DATE APPROVED: •	PRESIDENT’S SIGNATURE:		
DATE REVIEWED / REVISED:			

The Council is committed to ethical, information-based, generative, strategic, and transparent decision making in the best interest of the beneficiaries (the public who use COO services), the ownership (the public including members), and the organization.

The Council's decision-making process is based on ensuring the following principles are applied:

1. The Council actually needs to make a decision or policy decision on the issue (i.e. that it is not an operational means issue covered by an existing Operational Boundaries Policy)
2. Identification of the need for a new Council Policy/Council Decision can come from several sources, including:
 - a. Registrar/CEO
 - b. Government Regulation
 - c. Council/Committee discussion; Council/Committee Members
 - d. Legal Advisors / Governance Consultant
 - e. Public/Registrants
 - f. Other Boards/Experts in the Sector
 - g. Regular Policy review
3. The Council assigns a committee, small group, task force, or expert to seek out information to analyze and support its decision.
4. Broader stakeholders/the ownership will be consulted where appropriate. The Registrar, CEO and/or a committee may engage in initial stakeholder consultation before presenting a proposed policy to a committee or Council.
5. When making a policy/decision, the Council will follow these critical steps:

- a. Listen to the issue for consideration.
 - b. If more information is required, identify who, which committee, person or group will further research the matter and prepare a briefing memo for Council
 - c. When making a decision, the Council will work to achieve consensus
 - d. Final Council decisions are made by using a motion and a simple majority voting process
6. The Council fully discusses all aspects of the decision/policy decision and its implications. The Council will take sufficient time to consider significant policy decisions and will not rush. This may require additional Council meeting time or alternative meeting formats (e.g. teleconferences)
 7. All policy decisions are recorded in the Council minutes and where applicable, the Council Policy Manual after the Council decision has been made
 8. Council Members will respect the diverse views of their colleagues
 9. Once a motion of decision is determined through a vote, all Council Members will support the Council's decision/policy

The COO Framework for Ethical Decision-Making provides the guidelines for Council decision-making.

Note: Council briefing notes are prepared to inform Council regarding significant matters requiring a Council decision or policy direction or to brief Council on information about the regulatory sector to build their knowledge for future decision-making. The briefing note should contain information on recent developments, environmental scan, chronology, data analysis, implications of possible decisions, and input from subject matter experts where relevant.

Council briefing notes are designed to provide sufficient information to support decision-making and policy direction decisions. They are used to achieve understanding and build consensus and direction for policy development.

FRAMEWORK FOR ETHICAL COUNCIL POLICY/DECISION-MAKING PROCESS

The Council will generally follow the relevant steps below when making policy decisions:

1. Describe the need to make the decision or to solve the problem. What problem are we trying to address? Why do we need to make a choice? What policy area do we need to address?
2. Identify the appropriate committee, individual or task force to address the policy issue.
 - a. The Committee or other assigned person or group will gather data as necessary to understand the problem/issue. What general information do we need to understand the problem? What are the main issues to consider in making the decision? Describe the values to be considered and outline any potential conflicts between values.
 - b. The Committee/assigned person or group will identify relevant stakeholders, say how they may be affected, and consult with them where possible and appropriate.
 - c. The Committee/assigned person or group will develop alternatives and consider their impacts. What are the alternatives to be considered? Project the consequences and the opportunity costs of each alternative, both short term and long term. Identify the values conflicts inherent in the various alternatives.
3. Apply criteria for decision making and evaluate alternatives or options.
 - a. Apply the value of achieving as much benefit as possible for the public.
 - b. Make the decision/policy decision. Based on the information and decisions from the “most benefit” analysis and considering that on balance key values as defined have not been violated, the best decision is...
 - c. Record the Council’s decision in the minutes and in the Council Policy Manual.
 - d. Communicate regarding the Council decision to appropriate stakeholders.
 - e. Evaluate the decision over time through regular policy review.
4. Make the decision/policy decision. Based on the information and decisions from the “most benefit” analysis and considering that on balance key values as defined have not been violated, the best decision is...
5. Record the Council’s decision in the minutes and in the Council Policy Manual.
6. Communicate regarding the Council decision to appropriate stakeholders.
7. Evaluate the decision over time through regular policy review.

APPENDIX 1

PART 1 – CURRENT POLICIES COUNCIL-STAFF RELATIONSHIP

POLICY TITLE: DELEGATION TO THE REGISTRAR, CEO	POLICY SECTION: COUNCIL-STAFF RELATIONSHIP	POLICY NO: 3-03	
APPROVED BY: COUNCIL	REGULAR COUNCIL POLICY REVIEW FREQUENCY: EVERY 4 YEARS	MONITORING OF BOARD COMPLIANCE WITH POLICY CRITERIA FREQUENCY: TBA	
DATE APPROVED: DEC 5, 2017	PRESIDENT’S SIGNATURE:		
DATE REVIEWED / REVISED:			

BACKGROUND

In keeping with Council policy IV-01, Governance Approach Policy, the Registrar, CEO has the responsibility for achieving specific results and the authority necessary to carry out this work. The purpose of this policy is to outline the manner in which the Council delegates authority to the Registrar, CEO.

All Council authority delegated to staff is delegated through the Registrar, CEO, so that all authority and accountability of staff is considered to be the authority and accountability of the Registrar, CEO.

POLICY

The Council instructs the Registrar, CEO through written policies that prescribe the organizational Ends to be achieved and that limit the means (i.e., that describe organizational situations and actions to be avoided establishing governance risk tolerances). The Registrar, CEO is to use any reasonable interpretation of these policies.

Accordingly:

1. The Council will develop policies directing the Registrar, CEO to achieve specified results, for specified recipients at a specified worth or priority. These policies will be developed systematically from the broadest, most general level to more defined levels, and will be called Ends policies. All issues that are not “Ends” issues as defined above are “Means” issues.
2. The Council will develop policies that limit the latitude the Registrar, CEO may exercise in choosing the organizational means. These limiting policies will describe those practices, activities, decisions and circumstances that the Council would find unethical or imprudent, and therefore unacceptable, even if they were to be effective. These limitations policies will be developed systematically from the broadest, most general level to more defined levels and they will be called Operational Boundaries policies.

PART 1 – CURRENT POLICIES
COUNCIL-STAFF RELATIONSHIP

The Council will not prescribe organizational means (i.e., prescribe what means to use or how to do the job) delegated to the Registrar, CEO. The Council will instruct the Registrar, CEO on means through limiting the means, i.e. through identifying the boundaries of Executive Authority.

3. Once the Council establishes either an Ends or an Executive Limitation Policy, the Registrar, CEO is expected to develop an interpretation of that policy in order to develop the approach to 'operationalize' the policy. In the case of Ends Policies, the Council will review the Registrar, CEO's interpretation for reasonableness. This interpretation will contain operating definitions, which include measurable operating outcomes including appropriate targets where applicable. The Ends Interpretation can be updated at any time by the Registrar, CEO, who should notify the Council of any material updates. For Operational Boundaries Policies, the Registrar, CEO's interpretation can be provided at the time the Monitoring Report is delivered to the Council for review and evaluation for reasonableness.
4. As long as the Registrar, CEO uses *any reasonable interpretation* of the Council's Ends and Operational Boundaries policies, the Registrar, CEO is authorized to establish all further operational policies, make all decisions, take all actions, establish all practices, and develop all activities. Such decisions of the Registrar, CEO shall have full force and authority as if decided by the Council. This does not prevent Council from obtaining information in the delegated areas except that which the legislation identifies as confidential and/or personal information.
5. The Council may change its Ends and Operational Boundaries policies, thereby shifting the boundary between Council and Registrar, CEO domains of authority. As long as any particular delegation is in place, and as long as the Registrar, CEO's decisions are reasonable, the Council will support these decisions.