

NSW to require public interest test for all new legislation

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A pioneering public interest test for all new policy in NSW, requiring politicians to answer detailed questions on need, costs and evidence supporting new legislation, will be watched as a potential model to be rolled out in other jurisdictions.

Peak bodies and public interest groups welcomed the new legislation that all but obliges all government bills to include a detailed public interest statement.

Under legislation passed by the NSW Legislative Council on May 18, the public interest statement must address several questions including the need for the policy and its objectives, and must include a detailed cost-benefit analysis of the policy and its alternatives.



NSW Labor MP Penny Sharpe introduced legislation for a new public interest test for policy. **Kate Geraghty**

The statement is not compulsory, but bills submitted without one have the potential to be put on ice indefinitely, due to provisions that force the MP introducing the bill to state whether it includes the statement.

Bills without the statement can either be forced to lapse until one has been tabled, or be referred to a committee for probing.

Peak bodies and public interest groups say the new test has the potential to boost public accountability, policy outcomes and transparency in state and federal jurisdictions.

“This public interest test will increase transparency of policy decisions, which will help alleviate the risk of undue influence,” Centre for Public Integrity executive director Han Aulby told *The Australian Financial Review*.

“The public has a right to know the rationale behind policy decisions that will affect them.”

BCA, IPA applaud the initiative

Business Council of Australia chief executive Jennifer Westacott applauded the test and the more rigorous approach to decision-making, which she said was commonplace throughout business.

“Anything that prompts governments to institutionally consider if new legislation or policy is needed, whether stakeholders including industry have been consulted and if unintended consequences can be avoided, is a good thing,” she said.

Institute of Public Affairs executive director John Roskam said the model should be watched by other governments around the country. He said it would strengthen policy by forcing legislators to be more rigorous in the planning stage to canvass alternatives, weigh the risks and costs, and to consult more broadly with the public and stakeholders.

“Governments around the country should see how this works in action with an open mind,” Mr Roskam said.

“Policy in Australia is often made on the run, motivated by short-term political gain, and consequently produces mediocre outcomes.

“A statement of public interest can help policymakers face the challenge of limited knowledge, by gathering evidence on the nature of the problem, alternatives to fix the problem, and undertake public consultation on the impact of policies.”

Lobbying effort

The legislation is the culmination of a three-year lobbying effort by the Evidence-Based Policy Research Project, a not-for-profit governance advocacy group spearheaded by former NSW Treasury secretary Percy Allan.

The Labor leader in the Legislative Council, Penny Sharpe, introduced the motion for the bill, which was then moved by independent MP Mark Latham. It was endorsed by the Greens and Liberals, and Finance Minister Damien Tudehope endorsed the test as a template for policy proposals to cabinet.

Ms Sharpe said the new test differed from existing policy requirements such as community impact statements and regional impact statements because it forced MPs and public servants to rigorously consider the public interest from the earliest steps of policy formation rather than an afterthought when it has been drafted.

“The requirement for an SPI [statement of public interest] gives a clear signal to ministers, public servants and others to address a simple evidence-based framework when developing policy,” she said.

“It sets and defines the need to explicitly respond to the public interest in policy development. That is a new and important development.”

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