Department of Water and Sanitation Protocol for the Policy Development Process

2022

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Acronyms

DPME	Department of Planning, Monitoring and Evaluation
DWS	Department of Water and Sanitation
EBPM	Evidence-Based Policy Making
FOSAD	Forum of South African Director Generals
KM	Knowledge Management
MEC	Member of the Executive Committee
NWA	National Water Act (Act 36 of 1998)
NWRS	National Water Resources Strategy
PSP	Professional Service Provider
RIA	Regulatori Impact Assessment
SEIAS	Socio Economic Impact Assessment System
ToR	Terms of Reference
TWG	Technical Working Group
WSSLG	Water and Sanitation Sector Leadership Group

1. Introduction and Background

In the 25 Year Review report (1994-2019), President Cyril Ramaphosa stated that "the review underscores the need for policy coherence to overcome all these difficulties and grow our economy, accelerate our transformation project, consolidate our social compact and advance the ideals of the National Development Plan". Policy incoherence is always cited as a growing concern. This is partly as a result of weak policy design and departments working in silos.

The Department of Water and Sanitation (DWS) is the custodian of South Africa's water resources and the national water and sanitation sector leader. As such, the DWS is primarily responsible for the formulation and implementation of policy governing this sector to ensure robust and sustainable water and sanitation sector institutions that will ensure that national goals and objectives for the sector in South Africa are achieved. The responsibility of developing water services policies, and strategies lies with the Specialist Unit: Water Services Policy, Strategy and Evaluation.

The National Water Act,1998 (Act 36 of 1998) (NWA) provides for the protection, use, development, conservation, management and control of water resources in South Africa. Section 5 of the NWA makes provision for the establishment of a National Water Resource Strategy (NWRS) in order to facilitate proper management of water resources. The strategy provides the framework for the protection, use, development, conservation, management and control of water resource in South Africa. It also provides the framework within which water will be managed at regional or catchment level, in defined water management areas. The NWRS is the legal instrument of operationalizing or implementing the NWA and its binding on all authorities and institutions implementing the NWA. The role of the DWS as a sector policy formulator requires the department to have a robust policy development and approval process in place.

Even though the DWS has produced various policies, strategies and protocols, the processes that were followed were not streamlined over the years due to the policy function not being centralised, and the interpretation of the scope and level of the dimension of policy.The Department does not have policy development framework.This resulted in uncoordinated and misinterpretation policy development processes.

There is an increasing understanding of what evidence-informed policy-making means in South Africa, which reflects both international debates about evidence and South Africa's unique history and current challenges. Government policy-makers have embraced this phenomenon, and now promote Evidence-based policy-making (EBPM) in order to make better decisions, practices and achieve better outcomes, by drawing upon the best available evidence from research, evaluations and other credible sources. This is further aided by the Socio-Economic Impact Assessment System (SEIAS) which is a methodological approach introduced by the Department of Planning, Monitoring and Evaluation (DPME) through a Cabinet decision on 2007. SEIAS assists Government policy-makers in analysing the impact on regulatory propositions through proper problem identification, clearer policy outcomes, evidence-based policy options, sound implementation plan and risk management. It also acts as an analysis tool aimed at improving policy and law-making in South Africa for the reduction of the excessive regulatory and administrative burden placed on different groups of the society. SEIAS adds a requirement that departments analyze risks associated with the regulation and propose ways to mitigate them as such any draft Bill, policy or regulation that requires Cabinet approval would have to attach a SEIAS form on the Bill, policy or regulation to the relevant Cabinet Memorandum.

Policy development is a process that has to be tailored to each individual circumstance and to foster coordination while embracing and enhancing evidence-based policy development. This protocol is intended to provide a standardised approach to the policy development process in the

department, and as such aligned to the recently Cabinet approved National Development Framework.

2. Purpose of the Protocol

The objectives of the protocol are as follows:
- To ensure a standard approach to policy development and approval in DWS;
- To provide a policy advisory role by determining categories and level of policy scope through the Specialist Unit: Water Services, Policy, Strategy and Evaluation;
- To assist and orientate DWS officials in developing policies within the DWS;
- To limit the risks associated with the implementation of policies due to an inadequate policy development process;
- To streamline the SEIAS processes within the policy development process; and
- Promote evidence-based policymaking.

The protocol is informed by a recognised theoretical policy development process.

User information

The protocol is designed to be flexible. Although the protocol is aimed at developing policies, it can be adapted for the development of strategies and regulations. Users are cautioned not to merely apply the principles of the protocol without fully understanding the differences between policies, strategies and regulations.

Difference between a Policy, Strategy and Regulation

Table 1 below briefly outlines the distinction between the three types of documents and explains when each is applicable for development.

Table 1: Difference between a Policy, Strategy and Regulation

Type of Document	Description	Applicability
a. Policy	- A high-level document describing a course of action. - Statement of intent. - Mandates certain action and sets goals.	- Needed when there is no guide as to what decisions and actions to take. - Areas of the government mandate for which there are no or clear policy statements. - Where existing guidance is unclear, outdated or fragmented. - Areas of social activity where there isa need for policy intervention.
b. Strategy	- Provides a detailed outline of how action specified in the is policy to be implemented. - Long-term plan for achieving policy goals with defined targets	- Where means to achieve the stated policy objective not provided. - Where existing strategy is unclear, outdated or fragmented. - Most policy statements require a strategy to ensure implementation.

c. Regulation	• a rule or directive made and maintained by an authority	• Needed to implement and enforce policy and legislation

Policy and strategy documents require stakeholder support and should be developed according to a procedure that ensures high-quality documents.

3. What is a Policy?

Definition of a Policy

According to the World Bank, a policy is defined as, "A plan or course of action, as of a government, political party, or business, intended to influence and determine decisions, actions, and other matters."

In addition to this, within the context of the South African Government, Public policy refers to "all formal and publicly known decisions of government that come through predetermined channels in a given administration".

Definition for the Purpose of this document

In general, the above would be acceptable definitions, however, for the purposes of this document, a policy is defined as satisfying one or more of the following criteria:
- A statement of intent that guides legislation. This is a high-level document from which legislation flows, such as the White paper on National Water Policy, 1997;
- A decision that emanates from legislation such as the Financial Assistance to Resource Poor Irrigation Farmers 2004;
- A proclamation by the executive authority such as the free basic water policy; and
- A mandate based on research and evidence.

Although the document was compiled for the development of a policy, it can be adapted for the development of a strategy or a regulation.

Types of Policies

The protocol is designed to address the different types of policies that can be developed. In general, there are three main types of policies namely:

- **Mandatory policy** - Policies that precede legislation. These are high-level policies which require intergovernmental and public input such as the 1994 White Paper on Water Supply and Sanitation. These policies are approved by Cabinet.
- **Supportive policy** - Policies that affect the Sector. These are policies which usually emanate from legislation and require input from Sector partners such as the 2004 Policy on Financial Assistance to Resource Poor Irrigation Farmers, therefore approved by the Minister.
- **Organisational/Operational policy** - Policies for internal DWS purposes. These are essentially corporate policies, developed to assist DWS to perform its day-to-day functions and therefore approved by the Director-General as the accounting officer of the Department. These policies are within the control of DWS officials such as the Asset Management Policy.

Prior to the development of each sector policy the Specialist Unit: Water Services, Policy, Strategy and Evaluation needs to be consulted for policy advice. Furthermore, it should be noted that all sector policies must be subjected to the SEIAS process.

It is important to understand each policy type prior to the development of the policy for the following reasons:

- There is a different policy approval process for each policy type as highlighted above;
- The process for developing each policy will vary, for instance, the level of consultation will be different on an internal DWS policy as opposed to a sector-based policy; and
- The risks associated with each policy type will also vary.

The Specialist Unit: Water Services, Policy, Strategy and Evaluation will lead to the development of mandatory water services policies and play a supportive and advisory role in the development of supportive policies. The line function will lead and provide human and financial capital for the development of supportive policies. Line function will lead the development of corporate/organisational policies.

4. Key Considerations Before Developing a Policy

Before developing a policy, it is necessary to create an ideal environment for the development of the policy. It is best to consider the principle of an effective policy development process and the variables in the process.

Principles of an Effective Policy Development Process

The following principles must be addressed, prior to the development of a policy, to ensure an effective development process:

- The objectives and the intended beneficiaries of the policy should be very clear;
- The type of policy must be identified i.e whether the policy is intended only for DWS purposes, affects the sector or would result in new or a change in legislation;
- The determination of the likely social and economic costs and benefits through a SEIAS. This will also assist to identify appropriate policy options going forward;
- The person and/or organisation to lead the development of the policy must be identified;
- Confirm consistency with other policies and legislation;
- Confirm that funds are available to develop the policy; and
- Confirm timeframes for the development of the policy.

These criteria are also discussed in detail in the first and second stages of the policy development process. However here it is considered as a filtering mechanism to create an ideal environment for the development of the policy.

Variables to be Considered in the Policy Development Process

Before developing a policy, it is critical to acknowledge that policy development is a dynamic activity that has many variables. Variables that are likely to influence the policy development process and must, therefore, be considered include:

- **The scope of the policy**
  The scope of the policy must be clearly defined upfront. It must be accepted that the scope of the policy may change in response to limited financial resources to implement the policy, outcome of the consultation process and the risks associated with implementing the policy.
- **The time available for the development of the policy**
  A policy should be developed according to a set programme. However, the policy development process must be flexible to accommodate changes to the programme. Delays are usually caused when all parties are not in agreement or when the scope of the policy has been expanded. A change in the programme can impact on the implementation of the policy.

- **Financial considerations**
  It will not be possible to follow the ideal policy development process if adequate funds are not made available. Additional funds may be required it the consultation phase is extended or if additional studies are required to support the policy.

The above-mentioned variables will influence the policy development process as it unfolds. Unfortunately, it may not always be possible to determine the impact on process but this is no reason for not considering and/or pre-empting the potential risks associated with each variable on the policy development process.

5.   How to Develop a Policy?

The process of policy development begins with an identified need for intervention. The need for an intervention could be triggered by a statement of intent, legislative mandate, a proclamation by the executive authority and/or informed research.

Table 2: Policy-making stages, Policy-making activities,expected standards and standard duration According to National Development Framework

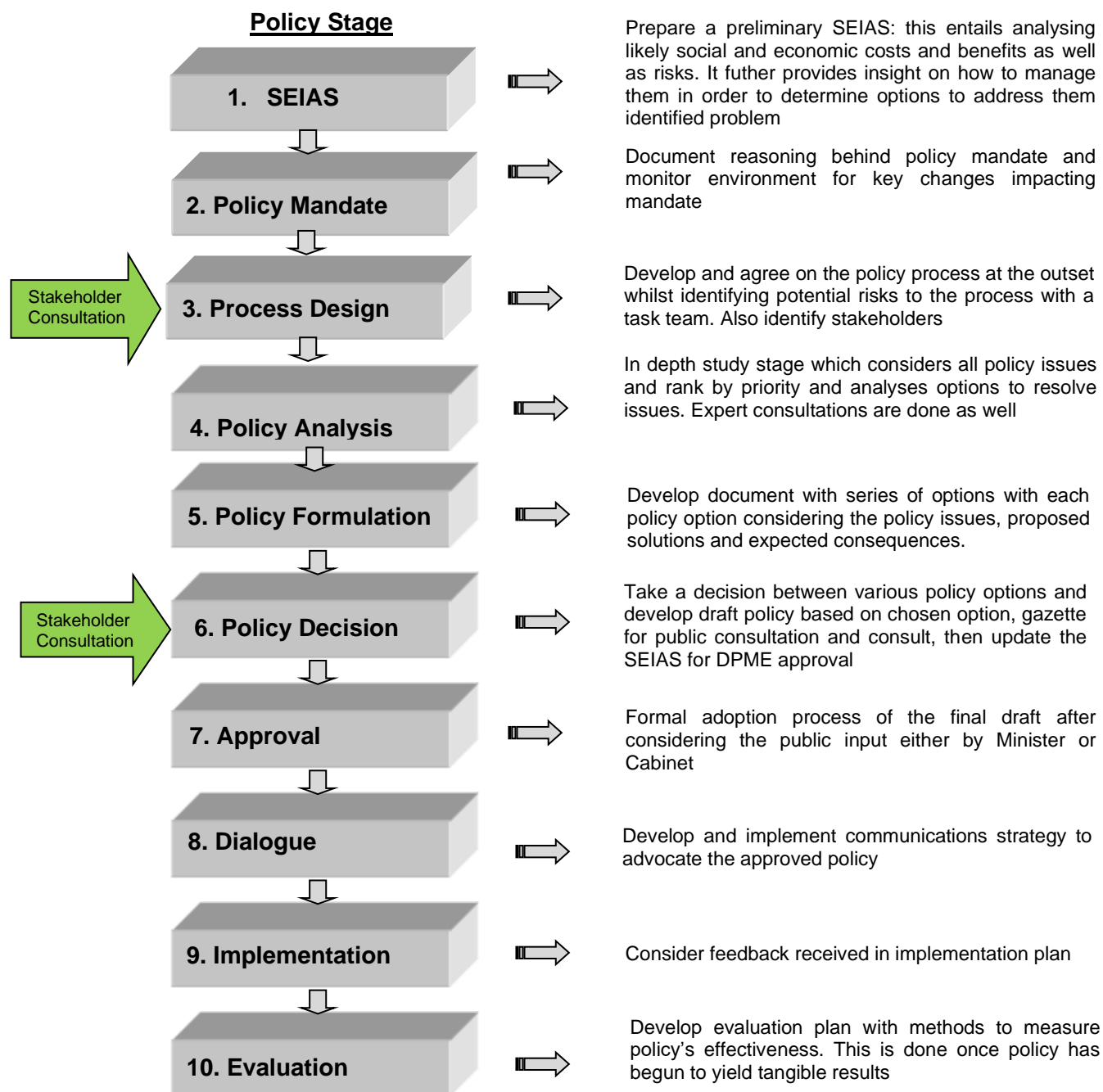| Policy Making Stages	Policy Making Activities	Expected Standard
Problem diagnosis and option analysis	- Identification of problem/opportunity - Causal analysis - Policy research, early consultation, policy objectives, alternative policy options (initial impact assessment)	- Discussion document (green paper) that outlines the nature of a problem, its root causes and tested options - Initial Impact Assessment Report
Policy Design	Designing: - Theory of Change and Log frame - Policy Objectives and expected outcomes - Policy options and key focus areas - Subjecting the draft policy to SEIAS Final Impact Assessment	Draft Policy with the following content: - Foreword and Executive Summary; - Definitions; - Introduction & Background (Why the policy and process followed on its development) - Vision and Principles; - Policy linkages and its relevance; - Evidence based problem statement; - Theory of Change and Log frame; - Clear objectives and expected outcomes; - Policy Focus Areas (Outputs) linked to each problem statement; - Implementation: Resources, Roles and responsibilities and Governance issues; - Monitoring and Evaluation Framework; and - Conclusion A Preliminary (before broader public consultations) Final Impact Assessment

Policy Making Stages	Policy Making Activities	Expected Standard
		Report
Policy Implementation	• Translating the policy into implementation. • Identifying resources for implementation, clarifying roles and responsibilities and communication strategy	• A costed implementation plan for the policy as well as the communication strategy
Policy Monitoring	• Developing set of outputs, indicators targets in line with the objectives and focus areas of the Policy • Collecting data indicators on policy inputs, activities, outputs & outcomes	• SMART Indicators and targets aligned to the policy objectives • A system that will be used to collect performance data and the frequency from various authors • The system should have a form of verification and early warnings to assist in decision making and addressing policy related bottlenecks • In the system information collected should be synthesized and used to guide decision making.
Policy Evaluation	Systematic evaluation of policy design and implementation against the set policy objectives	Developing an evaluation processes and plan and decide on the type of evaluation e.g. implementation or impact evaluation. This should be done in line with the National Evaluation Policy Framework

Below is a policy development model designed by De Coning which consist of 9 stages
1. Policy Mandate;
2. Policy Process Design;
3. Policy Analysis;
4. Policy Formulation;
5. Policy Option Decision;
6. Approval;
7. Policy Dialogue;
8. Implementation; and
9. Evaluation.

The dynamic policy environment has prompted the government to adopt SEAIS as a tool to enhance evidence-based policy development process. This is to determine the need for a policy. For the purpose of this protocol, it is mandatory for the SEIAS to precede the above stages of the policy development process, making it the first step

These 10 stages are illustrated in the diagram on the next page, following which each stage is discussed in detail.

Figure 1: Stages in the Ideal Policy Process

Policy Stage

1. SEIAS

Prepare a preliminary SEIAS: this entails analysing likely social and economic costs and benefits as well as risks. It futher provides insight on how to manage them in order to determine options to address them identified problem

2. Policy Mandate

Document reasoning behind policy mandate and monitor environment for key changes impacting mandate

Stakeholder Consultation

3. Process Design

Develop and agree on the policy process at the outset whilst identifying potential risks to the process with a task team. Also identify stakeholders

4. Policy Analysis

In depth study stage which considers all policy issues and rank by priority and analyses options to resolve issues. Expert consultations are done as well

5. Policy Formulation

Develop document with series of options with each policy option considering the policy issues, proposed solutions and expected consequences.

Stakeholder Consultation

6. Policy Decision

Take a decision between various policy options and develop draft policy based on chosen option, gazette for public consultation and consult, then update the SEIAS for DPME approval

7. Approval

Formal adoption process of the final draft after considering the public input either by Minister or Cabinet

8. Dialogue

Develop and implement communications strategy to advocate the approved policy

9. Implementation

Consider feedback received in implementation plan

10. Evaluation

Develop evaluation plan with methods to measure policy's effectiveness. This is done once policy has begun to yield tangible results

Step One: Undertake a Socio Economic Impact Assessment System process (SEIAS)

In February 2015, Cabinet introduced SEIAS to replace Regulatory Impact Assessment (RIA) and it was approved in October 2015. SEIAS is a tool to assess policies, laws and regulations in line with government priorities and it ensures that prescripts are better formulated, unintended consequences are minimised and implementation thereof is not delayed.

Poor policy/law making results in poor programme design and other related interventions and therefore persisting inequality, poverty, spatial imbalances and environmental degradation. SEIAS thus prepares policymakers/ law drafters to proactively /anticipate/ think upfront the implications and implementation in relation to the problems identified.

The primary objective of SEIAS is to assists departments to better formulate policies, legislation & regulations and ensure:

- Alignment with national priorities in promoting inclusive growth, addressing inequality, spatial imbalances, and environmental degradation. Risks associated with the implementation of such laws are thereof mitigated, thus unintended consequences are minimised

- Costs of implementing such prescripts are reduced while benefits by the deprived service recipients are optimised; and

- The regulatory burden is reduced, thus better and efficient administrative mechanisms of implementing the national priorities.

All draft Bills, policies and regulations that require Cabinet's approval would have to attach a SEIAS certificate on the Bill, policy or regulation to the relevant Cabinet Memorandum and should be assessed using the standard template which is explicitly linked to the priorities of the government.

SEIAS consists of a set of common procedures and supports institutions for assessing the socio-economic impact of new or to be amended policies, regulations and legislation. In that process, a policy-developer/policy-specialist must within the initial assessment identify options for addressing the problem and conduct a rough evaluation of the costs and benefits of each option for different social and economic groups. The development of the final impact assessment must have a detailed evaluation of the likely effects of the policy in terms of implementation and compliance costs as well as the anticipated outcomes. The assessment is not a once-off exercise but rather an on-going analytical process that happens alongside and informs the development of policies, legislation and regulations. The figure below illustrates the application of SEIAS for both the initial and final impact assessments:

Figure 2: Application of SEIAS
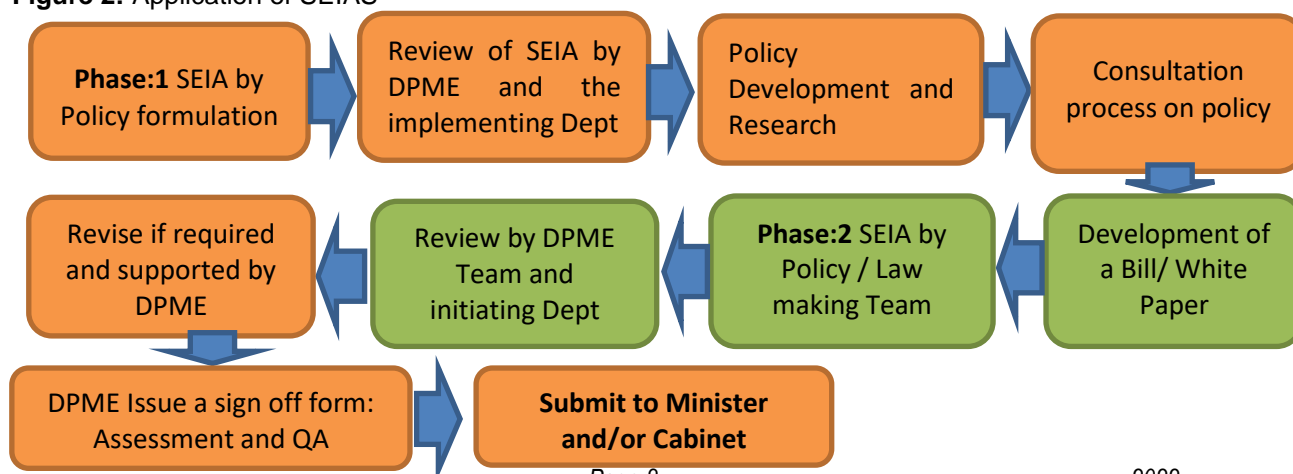
As depicted above, the SEIAS process requires a two-fold assessment, known as the initial impact assessment and the final impact assessment. The initial impact assessment alludes to identifying and defining what the problem is, it looks at the root causes of the problem and identifies stakeholders affected and impacted by the problem. Furthermore, it looks at the costs, benefits and impacts of the problem on national priorities, and looks at how risks can be mitigated. The conclusion in the initial assessment recommends what option is most desirable to address the problem identified.

The final impact assessment, on the other hand, is a summary of the proposal that was agreed upon in the initial assessment conclusion (be it a policy, bill, regulation or any other appropriate response). At this level of assessment, the problem and root causes are clearly defined. The intended outcomes, benefits and cost are clearly determined and the behaviours that need change and mechanisms to be implored are stipulated. At this level of assessment again, consultation would have been conducted. From the arising consultation disputes, mechanisms to deal with such would have been determined. Cost of changing behaviour and benefits from this change are also determined as well as the measures to mitigate risks. A monitoring and evaluation plan should also be conceptualised to further minimise risks and cost whilst maximising benefits.

Step two: Establish the Policy Mandate

Step two provides the fundamental rationale for developing the policy. The mandate is the most basic reason for the policy to be developed. The policy mandate is also considered prior to the policy development process through a rigorous assessment through the SEIAS to determine the need for a policy to be developed.

Figure 3: Components of a Policy Mandate
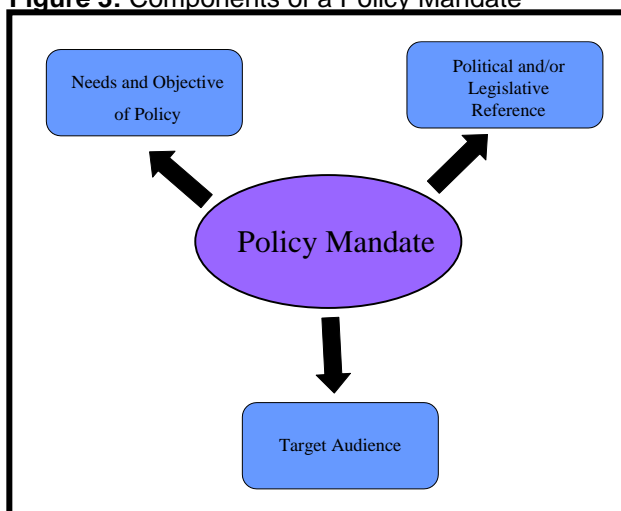
The policy mandate must be clear as to the:
- Political or legislative reference for the policy;
- The need and objective of the policy; and,
- The audience of the policy.

All three aspects should be clearly and succinctly documented. This forms the basis of the policy. The policy will be evaluated against these criteria to determine the success of the policy.

The policy formulators must be knowledgeable of the political or legislative reason for the policy. If the policy is in response to a political commitment, the policy formulators must ensure that there is no change in political view before the policy is developed.

The policy mandate must also consider the timeframe for developing the policy and ensure that financial resources are available for developing the policy.

Step Three: Policy Process Design

Policy Development Process

The policy development process needs to be adapted in line with the type of policy being developed. For instance, Mandatory policy or Regulation will follow a different process compared to the supportive policy.

Task Team

A government task team is necessary upon inception of policy intervention. The composition of the task team must be determined to ensure an inclusive representation of expertise on the subject matter.
Terms of reference must be developed to determine the memberships, roles and responsibilities.

Discussion paper

It is necessary to develop a discussion paper for further research and solicit input. All task team members are required to comment on the discussion paper. The discussion paper must be based on the policy mandate.
The discussion paper must explicitly state the following:
- The vision of the policy;
- The objectives of the policy;
- The scope of the policy;
- The roles and responsibilities of each party;
- The timeframes for development and a detailed policy programme including implementation;
- Level of stakeholder consultation;
- The risks, constraints and opportunity associated with policy; and
The format of all deliverables.

Stakeholder Consultation

The importance of a transparent and detailed stakeholder consultation process cannot be overemphasised. Many of the risks associated with policy development and implementation are related to a lack of consultation.

Below is a possible approach to be taken when carrying out stakeholder consultation. This diagram includes categories of stakeholders that could be consulted depending upon the policy under development. The overall approach to stakeholder consultation is to identify the relevant stakeholders, identify the relevant stages for stakeholder input, engage with the stakeholders and to finally give feedback to stakeholders on the end product. Before this process is undertaken, endorsement of the discussion document by Top Management is required.

Table 2: Stakeholder Consultation Process

	Steps		Activity
STAKEHOLDER CONSULTATION PROCESS	**Step 1: Identify Stakeholders**		1. The Private Sector including Civil Society (Labour Unions, NGOs, CBOs, Associations, Universities, Banks, Donors) 2. Government Departments and their Entities
	Step 2: Identify Relevant Stages in the Development Process for Stakeholder Input		Stakeholder input is required at different levels of the development process. It is important to identify the input required at each stage to ensure the following: • stakeholder consultation is adequate; • the relevant information is solicited; • limited risk of over consultation; • limited risk of under consultation; • stakeholders do not feel like they are wasting their time; and • the correct stakeholders are consulted at each stage for instance at the policy planning phase input may be required from the policy and strategy officials while at the implementation phase input will be required from the operations and maintenance officials.
	Step 3: Consultation Process		1. Workshops 2. Meetings 3. Presentation at Existing Forums 4. Media Releases and Publications 5. Open Days 6. Questionnaires/Surveys 7. Newsletters
	Step 4: Feedback		1. Workshops 2. Meetings 3. Open Days 4. Letters

The degree of consultation and the potential stakeholders will vary depending on the different types of policies. It may be possible to consult stakeholders through existing forums such as the Water and Sanitation Sector Leadership Group (WSSLG), Sector Forums, etc.

Step Four: Policy Analysis

Policy analysis will ensure that issues raised by the proposed policy are studied in depth. These issues might range from the impacts of the policy, the institutional arrangements required for implementation, the necessary components of the policy and the various approaches that could be taken to achieve the policy mandate. It is possible at this step that the need for additional specialist studies may be required to support the need for the policy.

During the analysis of the policy, the various issues to be addressed must be ranked in order of priority. Once this is done, options to resolve these issues should be studied and analysed. At

this point, it is appropriate to consider the consequences of the proposed solutions and engage in the prediction of the likely impacts of the various possible policy choices.

In order to conduct this stage effectively, stakeholder involvement might be appropriate. Stakeholders may have views as to the issues to be addressed by the policy and have opinions or have experience of, the impacts of the various proposed solutions.

This phase of stakeholder consultation could have the additional aims of gaining support for the development process and to highlight fatal flaws that may render the project redundant, unnecessary or extremely difficult to implement.

Stakeholder consultation should take place according to the principles covered in step 2 above. Stakeholder comments should be recorded as part of a comments register. The development team must also keep a register of how the comments from stakeholders were included in the various draft versions of the policy.

Step Five: Policy Formulation

Once the policy issues and resolution options have been considered, the policy should be developed.

The policy should be developed based on the requirements of the approved discussion paper. At this stage of the policy development process, the document would present a series of draft versions for selection. The policy issues would be developed in some detail and the resolution options presented for final selection. This section would be presented as a series of proposals which contain details of the proposed resolution as well as the expected consequences should the proposal be adopted. For instance, during the development of a policy for the provision of free basic services various options would be presented to the task team. The option with the least risks and the biggest impact would be selected.

Step Six: Policy Option Decision

The policy may highlight constraints that require input from the MEC for Local Government, the Director-General and the Minister. At this stage, a decision between the various resolution options is taken. The decisions made should be justifiable and be able to achieve the policy aims set out during the design phase. Once the decision is taken, the policy document can be finalised. At this point, the policy document will be known as a "Draft".

A submission must be prepared for Minister to approve and sign the gazette request. The approved request is then submitted with the document to be gazetted to supply chain for a quotation and creation of an order with the government printers. National Government publishes the Government Gazette as a tool to communicate messages of national importance to the general public. It contains information of a legal, administrative and general nature.

Consideration should be given to holding additional stakeholder consultations at this level as stakeholder consensus is ideal. This stakeholder consultation aims to provide feedback on the "Draft Policy".

This level of stakeholder consultation may result in comments that change the content of the draft policy. Should there be proposed changes, the changes should be debated by the policy development team to determine whether or not they should be included in the final policy document. In the event that there are no changes or change is rejected it should be documented and responded to accordingly and move to the next stage.

The final version of the policy should be reviewed and fact-checked, preferably by a third party.

Step Seven: Approval

The final document should be submitted for formal approval (see Figure 5: Typical Approval Process for High-Level Policy). Once the policy has been formally approved it would be available for communication and implementation.
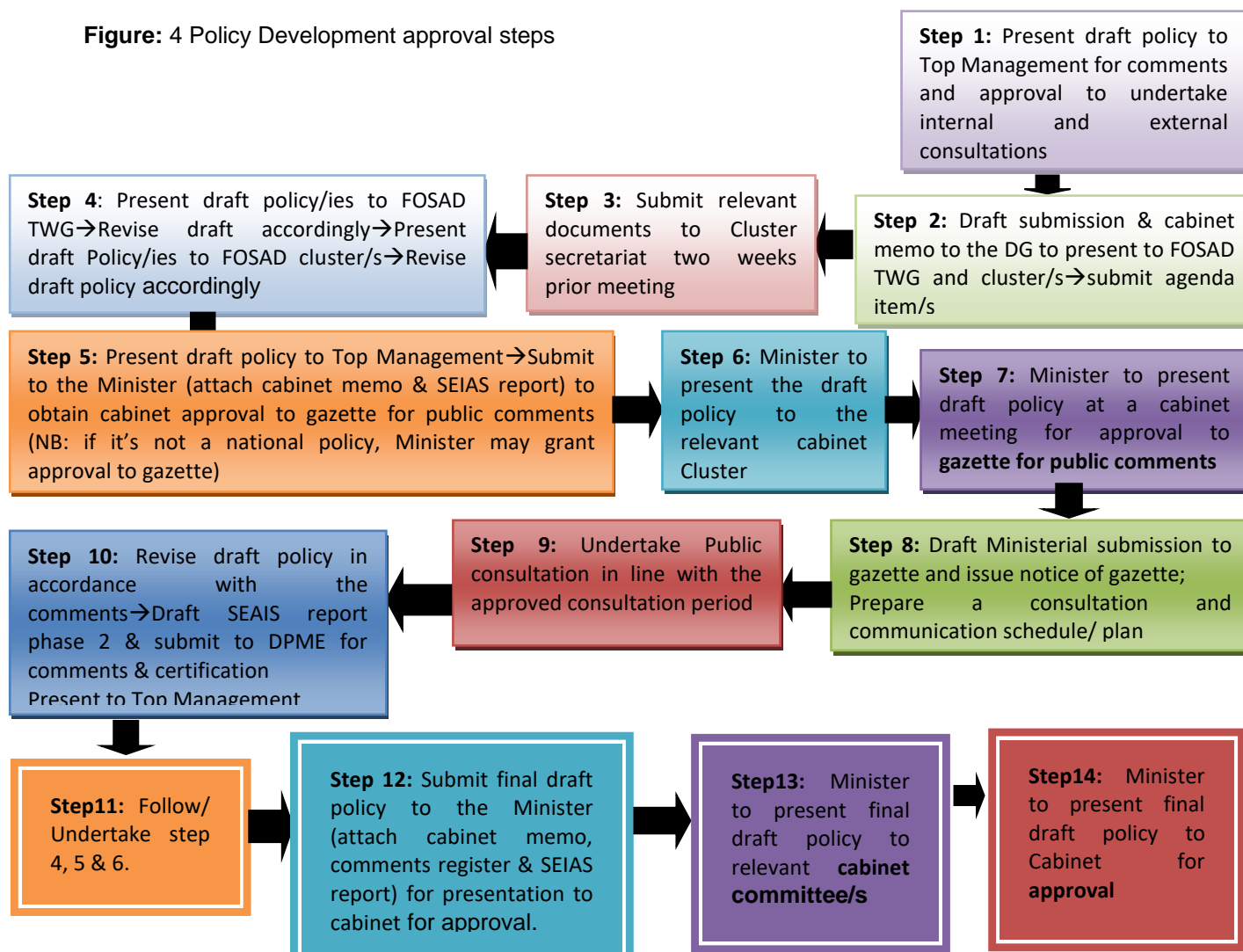
Levels of Approval

As mentioned earlier in the protocol, there are different levels of approval depending on the type of policy. From past policy development experiences in the department, the following principles should apply when considering the policy approval process:

- The appropriate level of approval should be established at the beginning of the policy development process;
- The final level of approval required depends on the:
  - Financial resources needed to implement the policy;
  - Institutional change needed;
  - Human Resource requirements;
  - Economic implications for the market economy.
- The level of approval increases as the scope of the policy increases.

Figure 5 below represents a typical approval process for a high-level policy. The approval process for other policy types may stop at different stages in the approval process as presented below.

Figure: 4 Policy Development approval steps

Step 1: Present draft policy to Top Management for comments and approval to undertake internal and external consultations

Step 2: Draft submission & cabinet memo to the DG to present to FOSAD TWG and cluster/s→submit agenda item/s

Step 3: Submit relevant documents to Cluster secretariat two weeks prior meeting

Step 4: Present draft policy/ies to FOSAD TWG→Revise draft accordingly→Present draft Policy/ies to FOSAD cluster/s→Revise draft policy accordingly

Step 5: Present draft policy to Top Management→Submit to the Minister (attach cabinet memo & SEIAS report) to obtain cabinet approval to gazette for public comments (NB: if it's not a national policy, Minister may grant approval to gazette)

Step 6: Minister to present the draft policy to the relevant cabinet Cluster

Step 7: Minister to present draft policy at a cabinet meeting for approval to **gazette for public comments**

Step 8: Draft Ministerial submission to gazette and issue notice of gazette; Prepare a consultation and communication schedule/ plan

Step 9: Undertake Public consultation in line with the approved consultation period

Step 10: Revise draft policy in accordance with the comments→Draft SEAIS report phase 2 & submit to DPME for comments & certification Present to Top Management

Step11: Follow/ Undertake step 4, 5 & 6.

Step 12: Submit final draft policy to the Minister (attach cabinet memo, comments register & SEIAS report) for presentation to cabinet for approval.

Step13: Minister to present final draft policy to relevant **cabinet committee/s**

Step14: Minister to present final draft policy to Cabinet for **approval**

Step Eight: Policy Dialogue

This stage of the policy development process involves the communication of the approved policy to the broader audience. This communication phase is a prelude to implementation. It is important to include the possible implementing agencies in the communication process.

Depending on the type of policy, a formal communications strategy may be required. All feedback received during the dialogue/communication phase should be documented. The feedback received may need to be included in the implementation phase.

To ensure an effective policy dialogue, there are key elements of Knowledge Management (KM) which need to be implemented, in recognition of the fact that KM is considered as an appropriate tool to provide mechanisms and techniques for gathering and sharing information to the right people at the right time. The key elements of KM that are necessary for the policy dialogue are as follows:

- **KM Processes and Tools**: this will be achieved through the utilisation of the water sector policy database, where the policy will be made available to both internal and external stakeholders.

- **Knowledge Sharing and Learning**: this will be achieved through the active advocacy programme where the policy will be presented in various relevant platforms to create awareness in the sector.

- **ContentDevelopent and Distribution**: this will be achieved through development of summaries or shorter and easily readable versions of the policies i.e phamphlets and poster, printing, packaging and distribution to the DWS Provincial Offices/or Contact Centres on an on-going basis. Also distributing as part of content for the different policy dialogues.

Step Nine: Implementation

Once the policy has been approved and communicated to the relevant stakeholders, it needs to be implemented by the relevant Line Function. A separate implementation plan must be compiled. The implementation phase may need to be phased in. The plan must indicate the financial resources, human resources, programme and activities required to implement the policy.

Step Ten: Evaluation

Policy evaluation is the final step in the policy development process. It is through evaluation that the policy developer learns lessons from the policy process and is able to develop more effective policies in the future.

The policy must be evaluated against the policy mandate to determine its effectiveness. The policy may need to be revised depending on the feedback received during the evaluation phase. Knowledge Management elements alos feature on this step as follows:

Knowledge Harvestingis also to be achieved through development of a closing report after each policy development process, to ensure capturing of lessons learnt, challenges, highlights and so on as part of evaluation. This will help to ensure learning from past projects and not repeat the same mistakes in projects of similar nature. This will also help as part of handing over when a new official takes over the policy development role and ensure continuity.

6. Risk Management and Policy Development

Principles for Approaching Risk Management

The following basic principles should be borne in mind when addressing risks within the policy development process:

- Risk is the **probability that an event will occur multiplied by the consequences** if it does occur;
- Policy developers need to **balance the probability of an occurrence with the consequences** of an occurrence;
- **Uncertainty,** which contributes to risk, can be **reduced by monitoring and evaluation** of policy programs and learning from outcomes and mistakes made;

Address risks with the **highest probability of occurrence and the highest potential consequences** first.

Key Risks in the Policy Development Process

There are a number of typical risks associated with the policy development process. These risks must be proactively mitigated.

a. Loss of key staff during the process;
b. Loss of political support, either externally or internally;
c. Professional Service Provider (PSP) approach/viewpoint adopted differs from that of the client;
d. Risk of public outcry by stakeholders;
e. Over-consultation with stakeholders leading to highly watered down or unfinalised policy;
f. Under-consultation with stakeholders leading to no buy-in;
g. Lack of participation from identified stakeholders;
h. Policy inappropriate or not accepted;
i. Policy obsolete due to lagging behind issues it is meant to address;
j. Policy not implementable;
k. Policy-based on incomplete, inaccurate or biased information;
l. Policy in incorrect format for adoption;
m. Policy in conflict with existing policy documents or legislation;
n. Legal impact due to the policy being incompatible with existing policies in the sector;
o. Depleted budget for the completion of the policy as inadequate funds made available for the development of the policy; and
p. Lack of budget for the implementation of the policy.

Risks and Mitigation Measures

The table below describes important mitigation measures that can be used to effectively manage the risks during the policy process

Table 4: Risks and Mitigation Measures in the Policy Process

Risk	Mitigation Measure(s)
a. Loss of key staff	• The policy development process must be documented. A detailed documentation and filing system must be maintained. • Distribute knowledge and experience of the policy process widely within policy team. • Ensure an orderly and formal handover process.
b. Loss of political support	• The policy mandate should be sound and supported by the current political framework; • Keep politically influential people involved in the process

Risk	Mitigation Measure(s)
	and informed of progress. Document all correspondence in this regard. • Reduce timeframe between policy initiation and policy finalisation. Try not to develop a policy in one election period and implement in another election period. Ideally, policy development and implementation should occur within the same election period.
c. PSP and client approach divergence	• Where applicable, appoint PSPs on the strength of a fixed ToR. • The ToR must be used as the point of departure for evaluating the PSPs contribution.
d. Risk of public outcry	• Identify all influential stakeholders and involve in the policy process. • Take note of dissatisfaction and pre-empt outcry. • Provide weak constituencies with a potential stake in the policy process.
e. Overconsultation	• As consultation net spreads wider, chances of all stakeholders agreeing to a policy decrease. • Develop mechanisms to resolve conflict rather than to achieve absolute agreement.
f. Policy not accepted or appropriate	• Develop a policy mandate fully before commencing with the policy process. • Fully develop and approve ToR and document structure. • Conduct thorough stakeholder consultation in accordance with principles for effective consultation.
g. Policy Obsolete	• Arrange site visit for policy developers or highlight activities that the policy would address. Thus, establish a link between policy development and the impacts of inaction. • Ensure the policy approval process understood and incorporated from the outset. • Establish project timeframe at the start of the process and follow formal project management procedures.
h. Policy not implementable	• From early in the process, implementation of the policy must be properly interrogated by the Task Team.
i. Policy Inaccurate/ Biased	• Conduct extensive literature review from a variety of sources to promote objectivity. • Need for policy and impacts of policy prescriptions should be based on empirical evidence. Make use of and document case studies to inform policy. • Policy development process and information sources should be documented to justify policy decisions.
j. Policy in incorrect format for adoption	• Identify the correct form for the document at outset. • Ensure policy approval process understood and incorporated in policy process and design.
k. Policy in conflict with existing policy/ legislation	• Review policy and legislation in the same or similar field. • Engage stakeholder knowledge to identify key potential conflicts.

Risk and the Ideal Policy Process	The ideal policy development process outlined in the protocol, followed by the use of the mitigation measures indicated above, is designed to minimise risk and to maximise learning and adaptive changes in order to refine policy.

There are a number of risks associated with not following the correct policy process. These include, but are not limited to:

a. Policy approval process not considered at outset – considerable time delays may be experienced, the policy may be rendered obsolete and/or the policy may not be approved;

b. If the scope of the project is not correctly assessed and developed between Stages 1-5, then the budget developed for the project may be inaccurate or insufficient;

c. It is important to develop the timeframe for the project early on (Stages 3 & 4), in order to allow for effective planning purposes;

d. If affected stakeholders are not consulted, such as in Stage 4: Policy Analysis, there is a risk that the policy will not be accepted, or indeed, that a public outcry may occur;

e. If a review of existing policy and legislation impacting the policy is not conducted, there is a risk that the policy will not be approved, be rejected by stakeholders or result in unintended consequences;

f. If the policy is not officially adopted there is a risk that it will not carry any authority or be enacted either internally or externally;

g. If a communications strategy is not effectively developed and implemented, widespread awareness and adoption of the policy may not occur, and the benefits of the policy not understood or realised;

h. If evaluation mechanisms are not brought into the policy process and implemented, then it will be difficult to judge a policy's effectiveness. Evaluation is critical for assessing whether a policy achieves its aims, as well as to adapt and refine policies to render them more effective.

7. Proposed Standard Policy Structure or Format

I PREFACE-MINISTER

- The overall vision of the policy

- Provide context in terms of problems faced by the sector or country in relation to the policy

- How does the policy briefly address the problem and how doe it talk to other high-level policies, national priorities, strategies or even plans

II PREFACE- DEPUTY MINISTER

- Give the details of the projects in relation to the policy

- Provide the problem that the policy is trying to address

III FOREWORD-DIRECTOR GENERAL

- Context of the policy

- Aims of the policy

- Innovative solutions that the policy comes up with

- Acknowledge those who contributed to the policy

In essence, the foreword is an executive summary of the policy which explains when the policy was initiated and summarise the policy positions and emphasise on policy objective and implementation

ACRONYMS

Explain the meaning of acronyms

DEFINITION

Define the terminology used in the document

1   INTRODUCTION

Give the policy introduction and background

1.1   Problem statement

Give the background of the identified problem that triggered policy review or development

1.2   Purpose of Policy

Elaborate the purpose of developing the policy

1.3   Policy Principles

Provide principles that talks to the policy

2   OVERVIEW OF POLICY AND RELEVANT LEGISLATIVE FRAMEWORK

Give the overview of the policy and brief summary of relevant existing legislation that precedes the policy or underpins the policy

3   POLICY POSITIONS

3.1   Problem statement

Give the background of the problem that led to policy review or development

3.2   Current policy and legislative position

Give the background of current policy and legislation in relation to an identified problem or proposed policy position

3.3   Proposed policy position

Explain the proposed policy position direction

4   WAY FORWARD

- Elaborate way forward of the policy and highlight recommendations

- State the review period of the policy

- Highlight recommendations on implementation and related matters such as funding

8. Conclusion

Following the correct policy process does not guarantee that the final policy content adopted will be without fault and necessarily achieve its aims.

However, a logical and considered policy process, such as that outlined in the protocol, *does* play a key role in the development of an effective policy. Following the ideal policy process, as well as the various principles for policy development, stakeholder consultation and risk management highlighted above, can ensure that a policy is clear in its aims, widely accepted, takes cognisance of the necessary issues, is accurate and objective, and learns from policy implementation and policy impacts to refine future policy development.

The ideal policy development process uses ten steps to achieve a policy document. The steps include a hold point to ensure that policy development does not run ahead of acceptance of the policy documentation. It is hoped that this document, suitably adjusted to suit individual circumstances, will be used by future policy developers to produce a policy that is sound, accepted and effective.