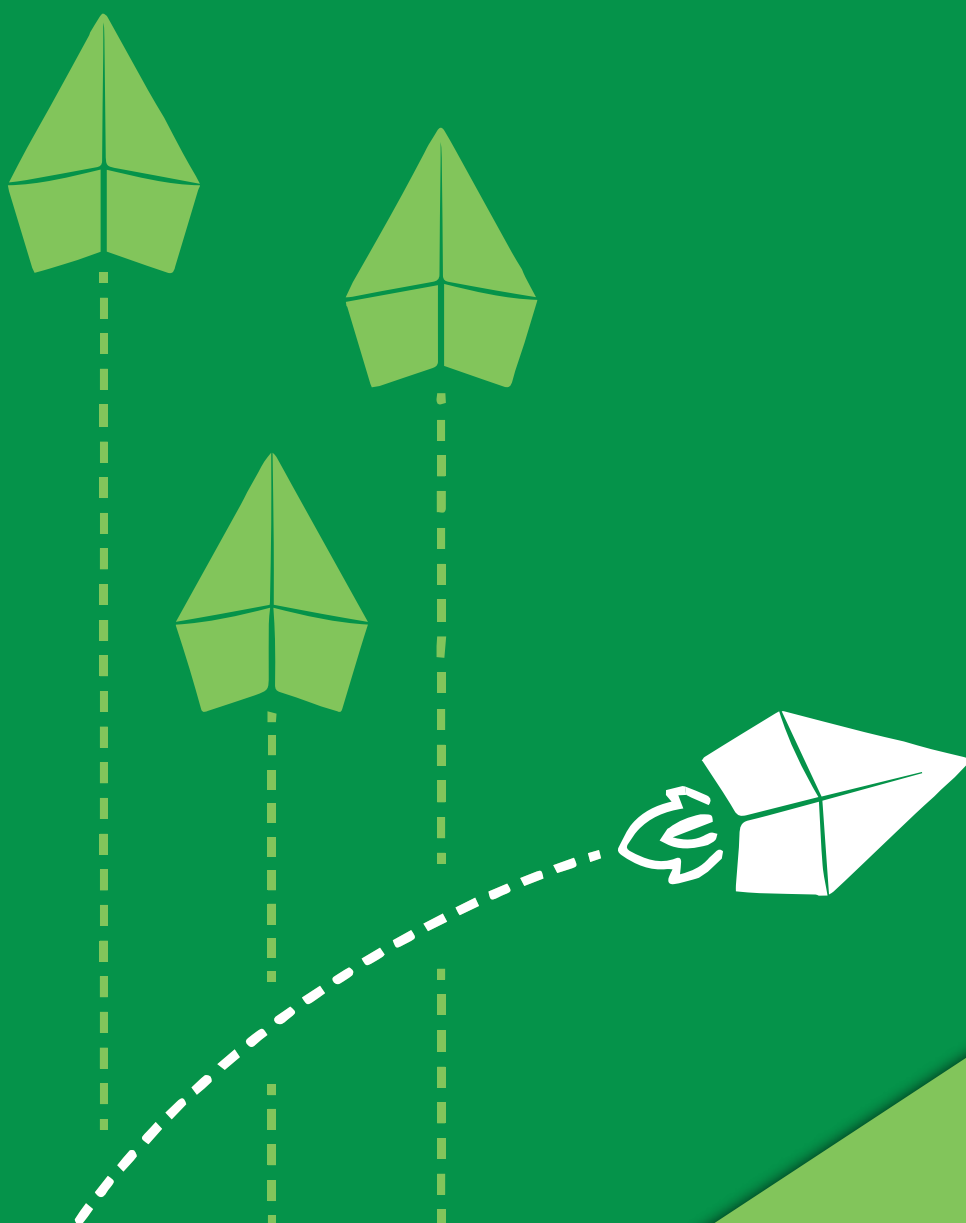
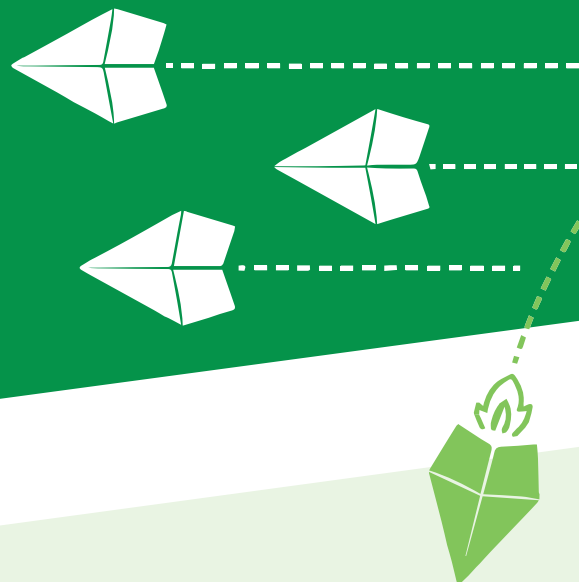


Tips for Local Government

# UNDERSTANDING BYLAWS – REPRESENTING LOCAL COMMUNITIES



***Bylaws provide a useful enforcement tool for Councils and can provide an effective way of responding to issues.***



## **Bylaws are a well-known intervention tool and a core component of local government.**

Bylaws provide a useful enforcement tool for Councils when managing a particular problem and can provide an effective way of responding to a range of issues.

This guide covers everything you need to know about bylaws, from why they are needed, to timeframes and processes, implementation, reviewing, and more.

## **Why do local councils have bylaws?**

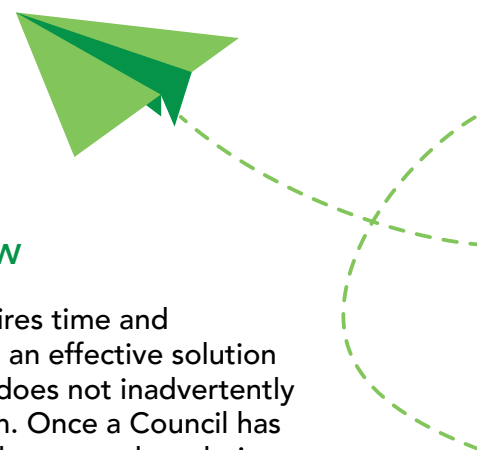
Usually, there are statutory-driven imperatives behind making a bylaw, and there can be a convergence between local government bylaws and central government regulations.

As a result of this convergence, bylaws can be a useful tool for increasing the role of national regulations and protections through targeting them to the specific needs of individual communities.

## **Reasons for creating a bylaw include:**

- ***Managing public nuisances,*** such as animals in urban areas.
- ***Promoting public health and safety,*** such as liquor ban areas.
- ***Minimising potential*** for offensive behaviour in public places.
- ***Protecting public infrastructure,*** including water and wastewater services.
- ***Regulating activities in public places*** and land controlled by Council.





## Timeframes and processes

The bylaw process is cyclical in nature. Councils are required to review bylaws periodically; in the case of existing bylaws, they must be reviewed every 10 years to remain active. New bylaws must be reviewed five years after coming into effect, and every 10 years thereafter.

To create a bylaw, Council needs to go through a special consultative procedure; this is the same process that councils follow for long-term plans and other significant council priorities.

## When is a bylaw necessary?

Bylaws are a targeted instrument, and local councils are in a good position to know what problems are facing their community and how a targeted response can be developed. The decision between whether Council creates a policy or a bylaw to deal with a particular issue often comes down to whether an enforcement backstop is needed; if a bylaw is breached, enforcements can control and respond to the issue more directly than is possible with a policy.

In many cases, it is a good idea for Council to establish what the policy issue is before looking to the regulatory instrument they want to use to address the issue. There are a range of non-regulatory responses that councils can implement, such as education or signage.

***Making a bylaw requires time and investment to ensure an effective solution is implemented that does not inadvertently create a new problem.***

## Making a bylaw

Making a bylaw requires time and investment to ensure an effective solution is implemented that does not inadvertently create a new problem. Once a Council has defined the issue and proposed a solution, they need to consider how it will make the bylaw work, how it will be enforced, and how it will be monitored. This is where consultation comes in – engaging with the impacted community will deliver key insights as to whether the proposed bylaw will actually address the issue at hand.

The special consultative procedure is a statutory requirement for creating a bylaw, but Council has the ability to go above and beyond the minimum requirements in terms of community engagement. Discussions around possible response options raises the community's awareness of the issue, builds community capability, and enables those in the community with differing views to reach a consensus before the bylaw goes through the formal Council process.

Furthermore, community consultation can serve to help Council realise that the problem initially identified is not, in fact, the main problem at play. Additional problems may also be identified, and a thorough consultation process and high-quality community engagement can build a pathway to more enduring solutions.

Consultation should also occur with neighbouring councils. Many councils will be facing similar issues, so seeing what approaches have been taken by other councils can be applicable to Council's particular circumstances. Consistency between councils is also important for harmonious and efficient governance. However, the differing time cycles for reviews across councils means it can be hard to achieve harmony. Thus, it is helpful for Council to reach out to their neighbouring councils and encourage them to update and modernise their bylaws at the same time, providing opportunities for efficiency.

## Tips for consultation

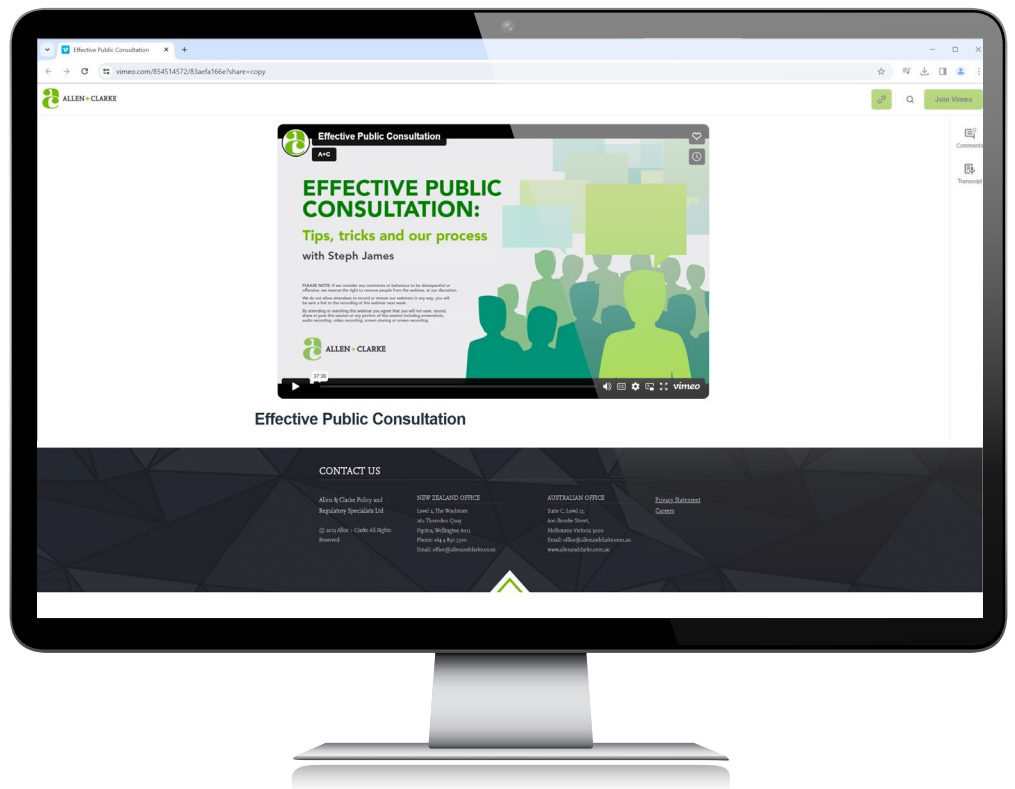
Effective consultation requires Council to actively reach out to the community. While this means more work and more time, the quality of information gained will be invaluable. When undertaking the consultation process, Council should consider what are currently the channels that reach communities, and how meaningful engagement can be achieved. Media such as official Council websites and social media can be useful for disseminating messages, but connections to other organisations can help get the message across to more people.

Furthermore, stakeholder groups will have their own networks – this is a good way of raising awareness outside of Council.

It is important for Council to remember that there will be vulnerable communities within the broader community and that intermediaries should be used to reach out to them. This should begin with identifying the groups Council should talk to, especially those who will be most affected by the bylaw. Also remember to seek out a diversity of perspectives, including younger and older people and mana whenua.

**For more tips on conducting public consultation, check out our Effective Public Consultation webinar**

  
**Click here to see the video**



## Bylaw reviews

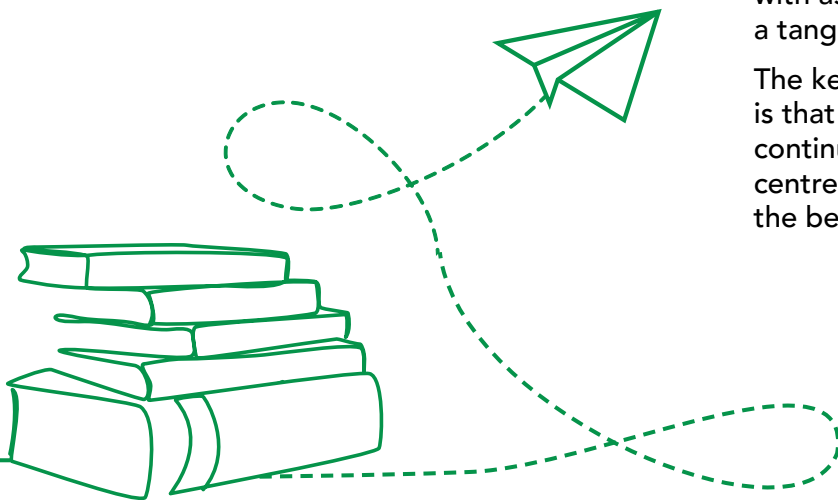
The Local Government Act gives councils the ability to be more proactive, and as such, continually evaluating bylaws is important. When reviewing a bylaw, Council should reflect on what the original problem was, and whether the problem still exists now. Council also needs to have strong evidence as to how the problem is being managed and whether the bylaw is providing an effective solution.

Some councils struggle to have good data on their day-to-day activities, but having a system in place to keep track of the monitoring and enforcement of a bylaw is beneficial when it comes to review time. Putting in place a simple tool for recording information about the implementation of the bylaw will be very helpful when it comes to future reviews.

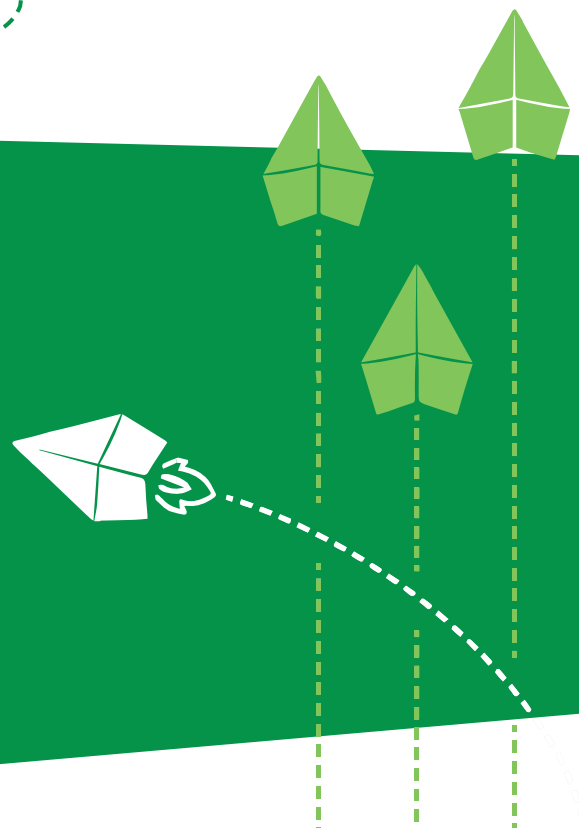
***Bylaw reviews should centre on consultation in order to get the best results.***

Consultation is also a key part of the review process, and should include not only community members but other key stakeholders too; for example, if Council is reviewing a liquor control bylaw in which the police are involved in enforcing the bylaw, the police should be consulted with as to whether the bylaw has made a tangible difference.

The key takeaway for reviewing bylaws is that it is a process that should happen continuously, and bylaw reviews should centre on consultation in order to get the best results.



***Consultation is also a key part of the review process and should include not only community members but other key stakeholders too.***



# Implementation of bylaws

*Considering how a bylaw will be implemented is critical to the development process. When developing a bylaw, Council should ask itself the following questions:*

1

How is this bylaw going to be implemented?

4

How will you communicate with the community that a bylaw is coming into effect?

2

Will you need to increase the budget of your enforcement?

Will you need to bring in new enforcement officers for this bylaw, or train your existing ones in new procedures?

5

How will you respond to the community and others who may be impacted by the bylaw?

3

How will your budget be affected by this bylaw?

Will you need to put money aside for prosecutions?

*These questions are helpful in helping Council decide whether resourcing for the bylaw is sufficient, or if more work needs to be undertaken.*

