Association of Ontario Land Surveyors Policy Development Policy

Version Number	Date	Author/Comments
1.0	January 6, 2022	Initial Draft by B. Maloney

Contents

Background

The Association of Ontario Land Surveyors (AOLS) has not had a policy related to policy development. This was noted as a weakness in an external review performed by Richard Steinecke in the fall of 2021. Although in many cases the AOLS has followed many of the processes identified in this document, they have not been consistently followed. Given the role of the AOLS as primarily a policy developer and enforcer to protect the public, the recommendation to have a policy on policy development made sense to ensure thoroughness and consistency in policy development.

Purpose

This policy is intended to provide direction for all policy development for the AOLS including for Council, Committees, Task Forces and Staff.

Policy Overview

Policies are one of the primary tools for regulating members of the AOLS. Policies define appropriate actions or principles guiding those actions. They can range from mandatory practices and standards to guidelines that should be considered. Care must be chosen in adopting appropriate policies that are balanced between the level of public protection provided and implementation efforts required by members and the AOLS (see figure 1 below). The Professional Standards Authority, Right-Touch Regulation approach provides further considerations in this regard. The default should be no policy on particular topics unless a need is demonstrated.

Powers of Council and the AOLS all flow from the Surveyors Act and as such any policies adopted must be consistent with the Act. Despite that Council may make recommendations for changes to the Surveyors Act where they are in the best interests of the public or have been required by the Government.

AOLS & Member
Implementation
Effort/Costs

Normal Area of
Policy Enactment

Public Protection
Figure 1
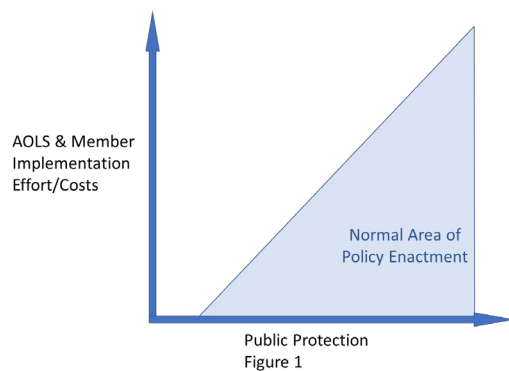
Policy Options

There are a range of policies that the AOLS has at its disposal. The highest-level being legislation (i.e. the Surveyors Act). Legislation requires government approval and the AOLS can only recommend changes. Ultimately the legislature is responsible for this high-level policy. Legislation normally establishes the framework for operations and overarching principles of policy. Any recommendations for policy change will be approved in principle by Council.

The next level of policy are those policies defined by regulations. Regulations are a form of delegated legislation. Regulations must be followed by members and failure to do so is professional misconduct (currently defined in Ontario Regulation 1026). Under the Surveyors Act regulations must be approved by Council and the members prior to be considered by government. They are approved by Cabinet and the Lieutenant Governor in Council. Subjects of regulations and how they are to be approved is covered in Section 7 of the Surveyors Act. There are three regulations defined under the Surveyors Act: 1026, which is a general regulation, 216/10 that deals with standards of practice and 525/91 that deals with monumentation.

Following Regulations are By-laws. By-laws can be referred to in regulations and normally deal with more administrative matters. They are approved by Council and require ratification of the members before becoming effective. Topics for By-laws and how they are to be approved is covered in Section 8 of the Surveyors Act.

Bulletins and interpretive guides are other forms of policy that are approved by Council. Although they do not enjoy the same mandatory following as regulations and by-laws, they are expected to be followed and where they are not being followed members should be able to show similar practices that ensure that the public is properly protected.

Many Committees have policy manuals that guide their operations these should be approved by Council.

Additionally, there are internal policies that apply to Council and AOLS staff. Depending on the oversight required these may be approved by Council. Those that apply only to AOLS staff may be approved by the Executive Director, except where they have significant HR or fiscal implications, and then they will require approval of Executive Committee.

Lastly, there are best practices that are created by Committees and/or Council. They do not require approval of Council; however, it is not mandatory that they be followed. Instead, they provide suggestions for consideration by members.

Process
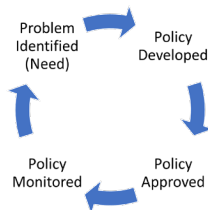
Step 1 – Determination of the need for a Policy

The first step of policy development is the need to determine if a policy is required and who will undertake the policy development process. Please see the Approvals Section for delegations of approvals.

If this is a policy that will ultimately require Council approval, then normally the call would be made at the Council table. If the policy is one that only requires Committee approval, then Council approval to proceed would not be required. It should be noted that if there is urgency to proceed, this step could be incorporated into the policy development step.

At this stage, it should be determined who will undertake the policy development, whether it be a task force, committee, staff member or consultant.

Council or the Committee should resist in scoping the policy definition too narrowly and should focus on the problem to be solved. This will allow the Policy Development process to consider a range of options.

If the need for policy development is not supported by clear evidence, then additional information should be sought before proceeding.

Step 2 – Policy Development

This step requires most of the work and involves:

- Problem definition
- Consultation
- Jurisdictional Scan
- Selection Criteria
- Define Options
- Analyze Options
- Potential Problem Analysis/Risk Review
- Recommendation
- Communications
- Monitoring Plan

Policy development may be done under the approval of the authority as noted in the Policy Options section by anyone appointed which may be a staff member, a consultant, or a committee.

Problem Definition

The problem definition may be one of the most important steps. It is important to truly understand the problem and trace it back to its root. It should be backed by evidence of the problem. If there is no evidence of the problem, it may not exist and as such policy development should not occur. Instead, ways of discovering evidence of the problem should be thought about. Evidence may be acquired through a variety of means including reviews of SRD reviews, analysis of complaints or inquiries, membership surveys, public surveys/consultation,

Consultation

Consultation is an important policy input since it helps identify issues and may raise unforeseen concerns and benefits that should be considered. Stakeholders should be considered at the outset. Finding representatives from the public who may have some knowledge of the policy question may be difficult but should be considered. Depending on the policy stakeholders can include:

- AOLS members
- Government Ministries
- Municipalities
- Other professional clients (e.g. Engineers, Architects. Lawyers)
- Developers
- Home builders
- Construction Associations
- Utility Companies
- Conservation Authorities
- Academia

Depending on the policy significance consultations make take place more than once which could include consultation in determining options and selection criteria and consultation following the development of recommendations to help assist in understanding potential problems or unforeseen consequences.

Jurisdictional Scans

Jurisdictional scans are an important method of checking policies prior to approving these. These will typically be done for comparable regulators in Ontario and with the Surveying Regulators across Canada. Rarely will these be done internationally but it is possible if there is perceived value in doing so.

Section Criteria

Selection criteria are defined to help choose between policy options. These should be related back to the problem definition. Depending on the evaluation, selection criteria may be weighted. Some criteria may also be mandatory (i.e. they must be satisfied to consider an option valid) and others may be optional but are used for the evaluation.

Evaluation Criteria should include impacts to the public and stakeholders, impact to Ontario Land Surveyors. If possible, they should be based on Right-Touch Regulation practices (see Right-Touch Regulation from the Professional Standards Authority as a guide).

Define Options

Normally a range of policy options should be considered which should always include a status quo or "do nothing" option. Options may have sub-options for consideration, which may help in the evaluation. Jurisdictional scans may help provide options being used by other jurisdictions. Additionally, consultation may help provide additional options.

Analyze Options

All options should be analyzed against selection criteria. Options that do not meet mandatory selection criteria can be eliminated without further analysis. Analysis can take the form of numeric analysis with annotation against selection criteria, a Pro/Con analysis, or a written description of how the option meets the selection criteria.

Options should be ranked, and the best option selected.

Potential Problem Analysis/Risk Review

The top option should be viewed from a "what could go wrong" perspective. Potential problems or risks should be identified. These can include a variety of risks ranging from the protection of personal information to potential fairness and equality problems being created. If risks are discovered, they should be evaluated for likelihood and impact. If any risks have reasonable likelihood and impact, a risk mitigation plan should be considered.

Recommendations

Recommendations flow from the analysis and should consider any potential problems. It should include an implementation plan which should include role out provisions, communication plans and ultimately monitoring.

Communications

It is important that those affected by any policy are made aware of the policy. In the case of members, In Sight or direct emails, Ontario Professional Surveyor Magazine articles, webinars, sessions at Annual General Meetings, Regional Group meetings are all appropriate venues for notification and increasing understanding related to the policy. Depending on the complexity and impact of the policy, training

sessions may also be appropriate. Where other stakeholders are impacted consideration should be given to providing members communication tools, direct notifications through newsletters, etc.

Monitoring Plan

Depending on the significance and complexity of the policy a monitoring plan should be considered. This may have methods to determine the effectiveness of the policy and attempt to discover any unintended consequences. This will normally be completed after the policy has been effective for a period of time and could result in reconsideration of the policy. Monitoring should ideally be based on evidence that can be quantified. Failing hard numbers to determine direct impacts, surveys may be considered. Public impact should be considered.

Step 3 Approvals

As noted in the Policy Options section, the approving authority varies depending on the policy option chosen.

Approvals should be accompanied by a completed Policy Approval Template as shown in Appendix 1. Where sections are not completed rational for non-completion should be included.

Step 4 Monitoring

Policies should be monitored to ensure they are achieving the intended consequences and are not resulting in negative unintended consequences.

Normally the monitoring plan will be included in Step 2 under policy development. Where it has not been included, the approving body should determine the scope and timing for reviews and monitoring.

Monitoring should be based on evidence and metrics as close to the source problem as possible.

Appendix 1 – Policy Approval Template

Proposed Policy Name:

Policy version:

Policy Date:

Policy Developed by:

Policy Description:

Problem description:

Evidence of the problem (this should be as specific as possible):

Approving Body:

How does this policy protect the public?

What is the authority for the policy (e.g. section/clause in the Surveyors Act)?

How is this policy consistent with the Strategic Plans?

Consultation Performed: (this should include who was consulted with and a summary of the results of the consultation; detailed consultations can be in an appendix.)

Jurisdictional Scan (note any supporting or contradicting policies in other jurisdictions or with other regulators; detailed scans can be in an appendix.):

Selection Criteria:

Options Considered:

Options Analysis:

Potential Problem Analysis & Risks (If significant risks are identified, a risk mitigation plan should be included. Particular attention should be paid to any impacts related to diversity, inclusivity and equality.):

Impact to members: (This should be quantified if possible)

Impact to others such as municipalities, developers, etc.:

Recommendation(s):

Communication Plans:

Monitoring Plan: (this should include timing and methods if appropriated)