The Australian Prevention Partnership Centre

A TOOLKIT FOR CO-PRODUCING PUBLIC HEALTH LAW AND POLICY

FOR RESEARCHERS AND POLICY MAKERS

Collaborating for impact

OCTOBER 2023

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Suggested citation: Shanthosh J. A toolkit for co-producing public health law and policy: For researchers and policy makers. Collaborating for impact. The Australian Prevention Partnership Centre, October 2023.

The information contained in this toolkit is a result of a research project funded by The Australian Prevention Partnership Centre in collaboration with The George Institute for Global Health.

The Australian Prevention Partnership Centre

The George Institute for Global Health

FUNDING PARTNERS

The Australian Prevention Partnership Centre is funded by the NHMRC, Australian Government Department of Health, ACT Health, Cancer Council Australia, NSW Ministry of Health, Wellbeing SA, Tasmanian Department of Health, and VicHealth. The Australian Government also contributed through the Medical Research Future Fund. Queensland Health became a financial contributor in 2022. The Prevention Centre is administered by the Sax Institute.

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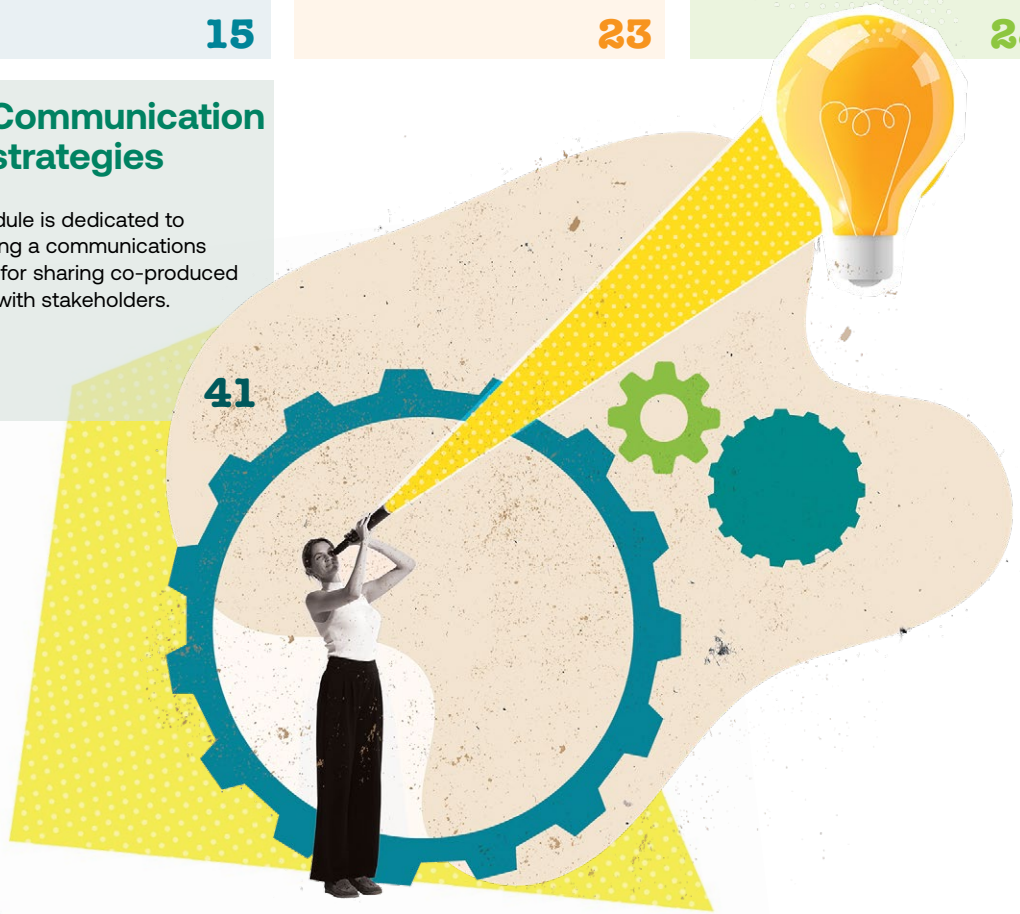


Introduction

The key to developing successful and impactful public health law and policy lies in how well governments, researchers, advocates and communities engage with one another in design and implementation.

From the perspective of public health researchers, the challenge lies in the ability to exert influence through the creation and dissemination of evidence, while operating largely outside the policy-making realm. For policy makers, connecting with researchers with the specific expertise required for effective collaboration also comes with challenges.

While community engagement through co-production of research has attracted considerable attention,[1] we focus on strengthening the interplay between researchers and policy makers. Both policy makers and public health researchers often grapple with blind spots, lacking clarity and effective means to access the best minds and insights from each other's domains.

This toolkit serves as an instruction manual, offering insights and practical steps to embark on a co-production journey, while also preparing policy makers and researchers for potential hurdles and risks.

Co-production is widely recognised as a powerful approach to enhancing evidence uptake in policy and practice. In the context of public health law and policy, co-production is a collaborative process that actively involves policy makers and key stakeholders at every stage of the policy life cycle. All stakeholders collaborate on defining the policy problem, prioritising policy options, developing potential solutions, and evaluating their impact.

Using this approach, researchers and policy makers can unlock a wealth of knowledge and innovative thinking outside the confines of academia and government, contributing directly to the development of responsive and politically feasible laws and policies. While input from experts and stakeholders (for example, on internally developed drafts) has traditionally been recognised as vital to successful public health legislation, co-production, as this toolkit describes, takes a distinct and potentially more impactful approach by enabling close collaboration on design through to implementation and evaluation.

INTRODUCTION

Since its inception a decade ago, The Australian Prevention Partnership Centre (the Prevention Centre) has facilitated a vast array of co-production projects, including with The George Institute for Global Health. Drawing on our experiences and learnings from our extensive work in developing policies with government, we aim to provide guidance in how to design and navigate successful co-produced public health law and policy projects.

While the benefits of co-production are considerable, it is not without challenges. In our projects, researchers have often faced competing time frames and priorities, encountered difficulties in accessing health agency information systems, and experienced lower publication rates due to their commitment to, and investment in, co-production. Integrating researchers and policy makers within one another's institutions also often presents significant challenges, mainly due to practicalities like employment issues and IT systems accessibility.[2] However, the process is often deeply rewarding and rich with insights, as was the case when drafting our co-produced legal model for healthy supermarket checkouts in partnership with colleagues in South Australia.[3]

This toolkit emphasises the importance of identifying shared goals, clear communication, shared decision-making authority, and upfront commitments. It recognises the value of both technical tools and soft skills in achieving effective co-production in public health law and policy, offering tips to fine-tune these skills for a successful outcome. The guidance stems from our own plunge into the world of co-production, and our experience grappling with questions around effective collaboration, sustainability, risk mitigation, and aligning perspectives across diverse disciplinary backgrounds. However, it also benefits from decades of work that other scholar-practitioners have contributed in this space.[4] We share our insights to help policy makers and researchers maximise the potential for impactful, evidence-based, and implementable policies.

We hope this toolkit serves as a valuable resource, contributing to the proliferation of well-designed co-production projects that address complex public health law and policy issues and, ultimately, drive improvements in health and social outcomes.

Key insights of co-production within public health law and policy

- **Collaborative innovation** unites policy makers and stakeholders to create innovative and adaptable legal and policy solutions to problems.
- **Guiding principles** embrace outcomes-focused, participative and adaptive approaches that integrate feedback loops, learning and iterative processes.
- **Benefits** can include minimising the risk of policy failure and identifying implementation challenges at an early stage from bridging evidence and implementation gaps.
- **Challenges** include the substantial resource investment, managing complex dynamics and, for policy makers, allowing other stakeholders to contribute to legal and policy design decisions.
- **Diverse approaches** can involve designing new legislation, refining existing laws, or creating policies within established frameworks.
- **Comprehensive process** is important and may involve establishing an advisory group, governance arrangements, priority setting, prototyping, implementation, and monitoring and evaluation.
- **Contextualisation is crucial** in order to consider how policy aligns with existing laws, evidence requirements, procedural compliance, and approval processes.
- **Effective communication strategies** can help introduce co-produced law and policy to communities and key government and non-government agencies.

Definitions

We use the following definitions in this toolkit:

Public health researchers: Researchers who investigate, analyse and address complex health challenges that impact communities. These researchers come from highly diverse backgrounds and work collaboratively to understand disparities, develop evidence-based interventions, and often advocate for health-promoting laws and policies.

Policy makers: Those within government or agencies of government that are responsible for a particular policy area and those who make or enact laws.

Public health policy: Initiatives and decisions taken by policy makers that influence the configuration of institutions, organisations, services and financial structures across healthcare and broader determinants of health.[5]

Public health laws: Laws implemented for the explicit purpose of improving public health, laws that are enacted for purposes other than promoting health but have health consequences, and laws that establish the powers, duties and features of public agencies.[6]

Who is the toolkit for?

This toolkit is designed to enable policy makers and public health researchers to navigate the co-production process and to effectively design, implement and communicate evidence-based and impactful public health law and policy.

Policy makers

The process of getting evidence-based public health law and policy implemented can be complex, uncertain and rife with obstacles. The co-production approach offers one promising pathway to effective implementation by fostering collaboration between policy makers and researchers based on a shared vision and end goal.

These modules aim to equip policy makers with the tools to effectively engage in co-production and develop policies that are responsive, evidence-based, and politically feasible.

This toolkit will:

- Provide policy makers with a comprehensive understanding of the co-production approach and its value proposition in the context of public health law and policy
- Explore the benefits of engaging researchers outside government to tap into their expertise and contribute to public health law and policy development through practical insights and case studies
- Provide clarity on how to identify researchers with the necessary understanding of government needs and subject matter expertise
- Offer models for establishing safeguards, assessing risks, and fostering sustained engagement with researchers in uncertain conditions and timelines.

Public health researchers

Researchers, like policy makers, often encounter frustrating barriers to translating the knowledge generated from research into decision-making processes. Traditional approaches, including producing policy briefs or submissions, can sometimes fail to bridge the gap between recommendations from research and broader challenges of policy making.

This might happen for a multitude of reasons including misalignment with a political window of opportunity; special interest groups blocking progress; ideological differences; limited resources and capacity to respond to evidence-based recommendations; or because the consultation process occurs too late in the policy development process to have a meaningful impact.

The need for more effective and mutually beneficial collaboration between policy makers and researchers has become increasingly evident, and co-production offers a promising solution.

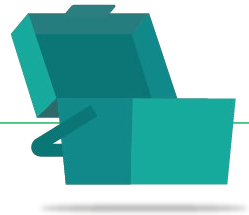
These modules provide guidance to researchers in how to engage in co-producing public health law and policy with government agencies. By embracing a structured, outcomes-based process, researchers can ensure their work aligns with policy makers' needs, maximises their influence, and drives evidence-informed policy development.

"Successful public health interventions are based on strong, multi-disciplinary partnerships that bring out the best from all stakeholders. This toolkit provides guidance on how to promote practical policy changes that are grounded in strong science and innovative solutions."

Marice Ashe, Public health lawyer, UC Berkley Law

This toolkit will:

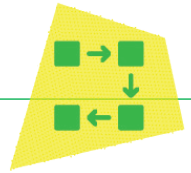
- Explore the core components of public health law co-production, giving researchers practical insights and tools to navigate the collaborative landscape of policy development
- Provide researchers with a clear understanding of the importance of public health law and how it strengthens policy development
- Guide researchers in how to assemble an effective interdisciplinary team; identify opportunities for co-production; and evaluate and communicate their co-produced policy product
- Provide real-world case studies that highlight successful practices and lessons learned from past experiences.



How this toolkit has been designed and how to use it

Concise and comprehensive

This toolkit includes introductions and summaries of the key components of the co-production process. For more detail on specific methods or techniques, refer to the references section and for further tools and frameworks, the resources section.



Step-by-step approach

If you are starting a new project or identifying opportunities for co-production, reading the toolkit step-by-step will optimise learning. However, it is important to note that while guidance is presented this way, the co-production process may not follow a strictly linear path.

Section-by-section focus

If your project focuses on particular components it might be useful to read those sections first. For example, each of the following topic areas have their own module: Priority setting: Module 4; Prototyping and drafting: Module 5; and Implementation: Module 6.

Promoting organisational learning

You can use this toolkit to support a cultural shift towards co-producing public health law and policy and to educate and familiarise teams with the co-production process, including its challenges and risks. It could also be shared with colleagues to encourage engagement and participation.

Navigate the modules from the contents page

1

MODULE

Defining co-production

In a nutshell:

This module defines co-production in the context of public health law and policy, and explores its potential benefits. It covers:

- Key components and principles
- Potential benefits and challenges
- Case studies: what **is** and **is not** co-production?

What is co-production in public health law and policy?

Co-production between researchers and policy makers brings policy makers and key stakeholders together to shape innovative and responsive legal and policy solutions. Stakeholders collaborate to define the policy problem, prioritise policy options, develop solutions and evaluate their effectiveness.

While there is significant variation in how co-production is defined,[7, 8] there is a consensus that key principles include outcomes-focused, participative, adaptive, and incorporating feedback loops (in which initial findings are used to guide future work), learning and iteration (page 11).[9, 10]

In a co-production project, participants are catalysts, not just observers. The approach embraces capabilities, not just needs. This means that rather than solely focusing on deficits or problems, participants' strengths, skills, and resources are valued and leveraged to shape legal and policy outcomes, foster mutual partnerships, and effectively transfer knowledge.[10]

These features distinguish it from top-down approaches whereby policy makers seek feedback on an internally developed draft law or policy. It also differs from other approaches such as evidence-based policy making. While both co-production and evidence-based policy making now recognise political feasibility, budgetary constraints, public sentiment, and implementation challenges as 'evidence',[11] the fundamental distinction lies in its focus. Evidence-based policy making focuses on identifying the evidence required to make informed decisions and assessing its validity, weight, and priority. As an action-oriented approach, co-production incorporates additional elements by emphasising the iterative creation of the end product.

What factors have contributed to the emergence of co-production as a valuable public health tool?

Many societies world-wide, including Indigenous communities, have long practised public health law and policy co-production that has collaborative decision-making and consensus-building at its heart.[12] In the Global North, it is a phenomenon that emerged in the 1960s and 70s in response to the lack of recognition of service users in service delivery, and as part of a broader movement toward participatory research.[10, 13]

Renowned economist Elinor Ostrom used the term 'co-production' to describe a process by which "inputs from individuals who are not 'in' the same organisation are transformed into goods and services".[14] In a similar vein, co-production encourages policy makers to collaborate and leverage expertise from outside government.

While co-production is not new, it has renewed prominence and has been promoted at all levels of government.[9, 15] The upsurge in its use to develop policy and programs is driven by a number of factors. Public health challenges have become more complex and dynamic. For example, food systems are increasingly globalised and the social determinants of health are constantly evolving in response to diverse populations and emerging pandemics, like COVID-19. Secondly, persistent health inequities have led to the need to embed equity into laws, and these require innovative and proactive responses.

Consequently, co-production has assumed an even more critical role due to the multifaceted nature of public health challenges that demand comprehensive insights, collaborative expertise and adaptable strategies that can only be effectively achieved through the combined efforts of researchers, policy makers and communities.

What are the key principles of co-production in public health law and policy?

While there is significant variation in how co-production is defined, there is consensus that the key principles include:

Outcomes-focused

In the context of public health law, participants work together to co-produce the policy or legal model with the potential to improve health and social outcomes.

Inclusive

Participants embrace the diverse forms of knowledge, evidence and disciplines needed to co-produce an effective and equitable legal or policy model.

Participative

Researchers and other stakeholders are active participants contributing to the policy development process, from intervention design to implementation and evaluation.

Adaptive

The co-production process is iterative. It is embedded with feedback loops, creating a continuous cycle of information flow and interaction.

Coherent

Participants acknowledge relevant existing policy and legal frameworks and ensure the co-produced project is compliant and coherent with these.

Adapted from NSW Council of Social Services.[16]

This principle also extends to the participation of community leaders or representatives, whose perspectives are valuable and enriching within the co-production process.

What new opportunities does co-production offer policy makers and researchers?

Co-producing public health law and policy has several benefits.[17,18,19,20] Policy makers, community participants and researchers assert the approach can:

✔	Bridge the gap between emerging evidence and implementation
✔	Address the disconnect between policy makers and public health researchers (a common limitation of traditional public health policy and law-making)
✔	Enhance policy effectiveness by proactively identifying implementation challenges, feasibility issues, and costs at an early stage
✔	Incorporate the values and preferences of communities and public health experts into policy design and build trust
✔	Minimise the risk of policies failing to achieve desired population health and social outcomes
✔	Provide opportunities to garner support, generate the evidence required to drive policy change, and have existing evidence-based policy models put on the policy agenda and potentially implemented.

It is important to note that research evidence critically examining these assertions has developed slowly, in part due to the 'elasticity of the term' co-production and the range of perspectives and typologies: who is co-producing, what is contributed, and how does co-production relate to other forms of citizen participation?[9,21]

It is clear that further research is needed to evaluate which co-production models work in specific contexts, and how. Guidance on conducting an evaluation of a public health law and policy co-production project is offered in Module 6.

Committing to a co-production approach also comes with significant challenges,[10,22] including:

- For researchers, a significant resource investment with no guarantees of policy implementation
- Added complexity for researchers due to the need to consider the legal compatibility of policy options with existing and overlapping legal frameworks, potential impacts on other areas of regulation, and the procedural aspects of decision making
- The need to manage complex dynamics and diverse interests without risking existing relationships
- A diminished level of control – policy makers must consider stakeholder inputs (rather than being able to make all design decisions internally) and researchers must consider political and implementation challenges (rather than focusing entirely on research evidence).

"This toolkit highlights the best thinking of a cross-sectoral partnership between academic researchers and policy makers who care deeply about public health."

Adjunct Associate Professor Chris Reynolds, University of Adelaide

The following sections are designed to assist policy makers and researchers to decide whether this approach is right for a particular policy project. Put into practice, the approach we have taken to conduct a comprehensive co-production project involves the following components:[23]

This toolkit covers strategies and techniques researchers and policy makers can use to develop these components within a co-production project.

An advisory group

A carefully selected and outcomes-focused advisory group established for the purposes of policy development.

Governance arrangements

Established structures and processes to govern the co-production process and ensure effective collaboration among stakeholders.

A priority-setting process

Where the core regulatory intervention is unclear (e.g. the team wants to reduce overweight and obesity and needs to assess a range of options to achieve this). The process identifies and weights different interventions to guide decision-making.

A prototyping and testing phase

This component focuses on developing and testing a preliminary version of the policy or legislative provision to assess its potential feasibility, effectiveness and acceptability before full-scale implementation and the approvals stage.

Implementation, monitoring and evaluation plan

The co-production process and resulting policy product are monitored and evaluated for effectiveness in achieving the desired health and social outcomes.

At the priority setting stage, community consultation can use lived experiences with a public health problem to inform how interventions should be weighted.

How can researchers and policy makers actively seek and create opportunities for co-producing public health law and policy?

There are several ways to develop a co-production project including to:

Develop research collaborations
Use this toolkit to develop a research collaboration or funding application with a research team consisting of researchers and policy makers.

Participate in government-led co-production initiatives
As co-production grows in popularity across all levels of government, state and federal, opportunities may arise for engaging in these activities.

Leverage established connections
Formalise long-standing, trusted relationships between policy makers and researchers by developing a co-production project. Use participation in a policy forum or consultation to reach out to policy makers and researchers about co-production opportunities. Researchers who have previously provided policy advice over a period of time may be in a stronger position to be more involved with policy and legal design.

This toolkit will help researchers and policy makers build a case, pitch or apply for a co-production project.

What is and isn't co-production?

Case study

An example of legislation that is co-produced

A state government engages a research group to develop a legally grounded policy together. An advisory group is formed, consisting of researchers and policy makers. The rules of the engagement are developed, and the group works on reviewing evidence, consulting with key stakeholders and drafting an implementation-ready policy and implementation strategy. Policy makers on the advisory group present the co-produced policy within government, and seek approvals to have it implemented.

Case study

An example of legislation that is not co-produced

A state government prepares a draft of the proposed legislation. It goes through a process of internal review and refinement by legal experts, policy advisers and relevant government agencies, who examine the draft for legal coherence, alignment with government priorities, and feasibility of implementation. After it has been internally reviewed, the draft legislation is made publicly available for a specified period, for individuals and organisations to review, provide feedback, and submit comments.

2

MODULE

Identifying opportunities

In a nutshell:

An effective co-production project requires significant preparation. This module considers several scenarios where co-production can be used and guides researchers and policy makers on how to begin the process. It covers:

- A systematic approach for defining the nature and scope of the policy project
- The strengths and challenges of working with new or existing legislation, or regulations that sit under existing legislation
- Contextualising the co-production project within the broader policy landscape.

A systematic approach to co-producing public health law

When embarking on the co-production process, it is important to follow a systematic approach that identifies the scope of legislation or policy; determines its category within the public health context; and ensures its compatibility and coherence within the broader policy landscape.

This can be achieved through the following steps:

Determine the scope of the co-production project
Assess whether the focus is on designing new legislation, refining existing laws, or developing a policy within an established regulatory framework.

Define the category of public health law you intend to co-produce
Consider whether it falls under the realm of interventional, infrastructural or incidental (refer to the section on page 21).

Ensure compatibility and coherence
Contextualise the co-production project: aligning and integrating with the broader policy landscape.

Determining the scope of the public health law or policy co-production project

This module delves into four co-production pathways for public health law and policy, each with distinct benefits and challenges. It explores how to:

1. Design new legislation, enabling collaborative creation of novel legal frameworks to address emerging health challenges
2. Refine existing laws, using co-production for precise amendments aligned with current health priorities
3. Design subsidiary legislation, using co-production to expeditiously implement policies within an established legal framework
4. Design public health policies.

"Many types of knowledge are needed to develop good public policy and it makes sense that they are at the policy table: in particular, the process knowledge of public servants, the content knowledge of academics, and the implementation knowledge of non-government organisations."

Professor Boyd Swinburn, University of Auckland

MODULE 2

1. Designing new legislation

A co-production process can be used to develop drafting instructions for new legislation, or specific health-promoting provisions to be included within legislation.

Factors that enable co-production

- **Flexibility**: new legislation allows for flexibility and innovation to address emerging public health issues, incorporate new approaches, and align with changing needs and values.
- **Purpose-built:** starting from scratch gives participants the chance to create clarity and coherence from the beginning, in a well-structured legal framework that includes clear definitions, logical organisation, and streamlined procedures.

Challenges for co-production

- **Resource intensive:** designing new legislation is time-consuming and resource intensive. It requires substantial research, consultation and drafting efforts to ensure the law is well-informed and robust.
- **Significant uncertainty:** new legislation lacks the benefit of established precedents and real-world testing. Potential impacts and unintended consequences of the new law may not be fully known until it is implemented, leading to uncertainty and potential challenges in its practical application.
- **Navigating complex dynamics:** designing new legislation often involves navigating political dynamics and engaging with various stakeholders; balancing conflicting interests and achieving consensus is challenging. This can lead to significant delays and compromises.

Case study

Australia's *Tobacco Plain Packaging Act 2011*

In developing Australia's plain packaging legislation for tobacco products, public health experts collaborated with policy makers through the National Preventative Health Taskforce, designing the core elements of the world-first legislation. Experts contributed specialised knowledge and evidence-based insights to shape provisions which included standardised packaging with graphic health warnings, removal of brand logos and other restrictions on the appearance of tobacco products.[24]

In 2010, following consultations and submissions, and despite significant resistance by the tobacco industry, the Prime Minister announced plain packaging would be adopted. An 'exposure draft' (the Tobacco Plain Packaging Bill) was released in 2011 explaining the most important provisions, and an Explanatory Memorandum to accompany the Bill was tabled in Parliament. The Act was approved by government later that year, and survived its first legal challenge by the industry in the High Court of Australia in 2012.[25]

2. Refining existing legislation

A co-production process can be used to make amendments to existing legislation, for example, through legislative reviews and revision.

What exactly is a legislative review?

Periodically, legislation (or a suite of legislation in a particular area like tobacco control) is reviewed by government agencies (for example, the Australian Government Department of Health) to ensure it remains fit-for-purpose, aligned with public health priorities, and effective and responsive to new developments or changes in technology.

This could be a recurring pathway through which policy makers and researchers use a co-production process to determine what is working well; what changes can be made to legislation; whether any provisions are redundant; if any parts of the legislation are overcomplicated, ambiguous or unclear; and, whether its key components are producing their intended health and social outcomes.

Factors that enable co-production

- **Existing legislative framework:** The legislative framework is already laid out. This can mean co-production efforts are more time-and cost-effective compared to designing new legislation from scratch.
- **Leverage institutional knowledge:** Ability to use and preserve institutional knowledge about the best ways to implement and enforce new provisions. Existing systems, processes, and precedents can be used.
- **Targeted modifications:** Existing legislation allows for targeted modifications, enabling incremental changes to address specific issues without disrupting the entire legal framework.

Challenges for co-production

- **Legislative restrictions:** A legislative review may place restrictions on which parts of the legislation can be amended, which could mean less freedom to introduce new public health interventions. Further, existing legislation may not support the kind of public health intervention experts think will have the most impact.
- **Complexity and interconnectedness:** Existing legislation is complex and interconnected. Amendments to one section can have unintended consequences on other sections or other laws.
- **Resistance to change:** Stakeholders with vested interests in the status quo may resist changes (for example, introducing health provisions into planning laws) if they are seen as disruptive or unfavourable.

Case study

Ireland's *Public Health (Alcohol) Act 2018*

Ireland's Public Health (Alcohol) Act represented a significant revision and expansion of the previous draft Bill presented three years earlier. The Act's development was inspired by the World Health Organization's evidence-based framework for alcohol policy. It aims to reduce population consumption and concomitant harms by introducing minimum unit pricing, health warning labels, advertising restrictions, and the regulation of alcohol marketing.[26] For example, the Act makes it mandatory for alcoholic drink packaging in Ireland to display a warning about the dangers of alcohol consumption (including when pregnant) as well as a warning of the direct link between alcohol and fatal cancers. Further, Ireland established a Public Health Alcohol Research Group to monitor and evaluate the Act, creating a feedback loop for evidence-based policy development.

3. Designing subsidiary legislation

Subsidiary legislation (also known as delegated legislation, subordinate legislation or legislative instruments) is subordinate to an existing legislative framework (often called the enabling or principal Act). It can be introduced to address specific aspects or details of public health interventions. Subsidiary legislation can take the form of codes of practice, regulations, rules, orders, statutory instrument or by-laws. In these cases, parliament does not make the legislation, instead it delegates the power to someone else to do so (for example, the health minister). This means that co-production efforts can leverage the existing legal structure and regulatory framework without the need to enact entirely new legislation.

Factors that enable co-production

- **Accelerated implementation:** Co-produced subsidiary legislation can often be delivered far more rapidly than amendments to existing legislation or new legislation, which require the legislature to decide whether or not a law will be made. This allows for a quicker response to specific public health challenges.
- **Backing and authority:** Co-production provides these regulations with the backing and authority of law, offering greater stability and permanence compared to policies without legal grounding which can be easily altered, disregarded or revoked without legal consequences.

Challenges for co-production

- **Legal compatibility:** There are additional demands on the co-production process, including that all options put forward must be legally compatible with existing and overlapping legal frameworks.
- **Consideration of impact:** Potential impacts on other areas of public health regulation need to be considered to avoid unintended consequences and conflicts.
- **Procedural adherence:** The co-production process needs to adhere to procedural aspects of decision-making power. This may be an easier process for specific forms of subsidiary legislation. For example, codes of practice, by their nature, are developed in a context that is much closer to 'co-production' than traditional law making in the sense that being industry codes, stakeholders are typically part of the development.

Government of South Australia
SA Health

Case study

South Australia's *Public Health Act 2011*

The Prevention Centre funded a co-production process which involved establishing and facilitating workshops with a multidisciplinary technical advisory group (consisting of policy makers and academics) to co-produce subsidiary legislation under a Principal Act, the South Australian Public Health Act 2011. The group established a priority-setting framework to evaluate the public health and legal landscape for opportunities for policy action on overweight and obesity. It included evidence, cost-effectiveness, equity, burden of disease, legal compatibility, unmet needs, political acceptability, structural and technical feasibility, and community support. The project identified interventions with the greatest potential for impact that were considered feasible and acceptable, and a series of policy dialogues was used to ultimately co-produce an implementation-ready policy model that was capable of reducing the burden of disease.[27, 28]

4. Designing or refining public health policy

Public health policies encompass decisions made by policy makers that influence healthcare institutions, services and funding, that differ from public health laws.[5] These policies comprise a range of documents such as statements, frameworks, guidelines and more, and may not always be legally binding. Unlike laws, policies serve as tools to shape behaviours and strategies within the public health sector. In this way, there is potential for public health policies to exceed the reach of laws, which by their very nature focus on establishing legal obligations and rights.

Factors that enable co-production

- **Purpose-built:** Similarly to designing new legislation, developing a public policy from scratch gives participants the chance to create clarity and coherence from the beginning, in a well-structured framework that includes clear definitions, logical organisation, and streamlined procedures.
- **Accelerated implementation:** As with subsidiary legislation, public health policies may face fewer implementation constraints compared to laws, as the structured process of law making need not be followed. In addition, without the rigid structure of laws, policies can be flexibly designed, including adapting roles and responsibilities as resourcing or needs evolve.

Challenges for co-production

- **Enforcement gap:** Policies often lack the binding force of laws, leading to potential enforcement challenges. Fewer checks and balances may hinder accountability, risking stakeholder commitment.
- **Accountability concerns:** Broad policies, like strategies, can involve an extensive range of affected stakeholders, which can lead to a lack of clarity about who is responsible for what and where accountability lies.
- **Ambiguous language:** If the language used in a policy is ambiguous, this can lead to a lack of commitment, unlike laws with precise legal consequences.

Case study

VicHealth's Strategy 2023–2033

VicHealth is a health promotion foundation that aims to create and fund word-class health interventions in the state of Victoria. The agency conducts vital research to advance population health and produces and supports public health campaigns to promote a healthier Victoria. VicHealth provides expertise and insights to government and aims to bring global best practice to the state. In line with this purpose, in 2023, VicHealth released a 10-year Strategy which emphasises systemic transformation within various domains such as neighbourhood infrastructure, commerce, economics and food systems, rather than focusing solely on individual behaviours. By forging collaborations with a diverse array of entities spanning health, sports, arts, education and community development, with an outlook spanning a decade, the Strategy has ambitious goals including reducing chronic diseases by one-third and generating societal and economic benefits worth at least $1 billion by promoting good health and preventing disease.[29]

Defining the category of public health law you intend to co-produce

As we consider the pathways for designing new legislation, refining existing laws, and creating subsidiary regulations, it is equally important to understand how health is conceptualised within the law. For example, is health the central focus or has it been historically excluded, as in the case of many planning laws? Is health defined as a particular health-related outcome (a reduction in cigarette purchases), as in the case of tobacco plain packaging legislation, or are many health problems and health-related roles and responsibilities competing for attention, as in the case of public health Acts? Considering the law's relationship to health is pivotal, as it sets the stage for the nature and extent of feasible policy interventions that can be accomplished, and types of stakeholders who will be impacted.

As outlined below, Moulton and colleagues' typology of public health laws offers three distinct categories of laws impacting public health.[6] These classifications can also be used to better understand public health policies.

1. **Interventional laws** are implemented for the explicit purpose of improving public health. For example, tobacco plain packaging legislation aims to reduce smoking rates.
2. **Incidental laws** are enacted for purposes other than promoting health but have health consequences. The primary purpose of planning laws is to establish a legal framework that guides land use, development and urban planning activities within an area. Nevertheless, they may have health outcomes, for example, allowing for a high density of alcohol outlets may lead to increased alcohol-related harm.
3. **Infrastructural laws** establish the powers, duties and features of public health agencies. Public health Acts outline the powers and responsibilities of public health agencies and provide mechanisms for disease prevention, health promotion and surveillance, and control of health hazards.

Taking the time to define the category of public health law or policy you intend to co-produce can lead to numerous downstream benefits. It can clarify the purpose of the law or policy within the broader policy landscape, by demonstrating its unique contribution.

Also, different law types demand distinct implementation strategies, and clarifying a law's structure and health-related context aids in tailoring suitable mechanisms for achieving the intended health outcomes.

Additionally, articulating the connection between law and health enhances public comprehension of its implications on health outcomes, fostering productive public discourse and engagement.

This process can assist the co-production team to identify how and where resources will need to be deployed to operationalise the policy or law. For example, interventional laws like Australia and New Zealand's requirement for pregnancy warning labels on alcohol under the Food Standards Code transfer costs to industries (for example, the cost of making health warnings more visible, and removing misleading information on packaging), while governments focus on administration and compliance monitoring. In contrast, infrastructural laws necessitate provision of resources to health agencies so they can execute their mandates effectively.

Aligning co-production efforts within the broader policy landscape

Now that we have explored the type of legal or policy model being co-produced, it is important to consider how it fits into the broader context of other laws, policies, and programs that will shape how it operates and 'lives' in society. The following factors and research activities should be considered:

Policy review

Conduct a review of existing laws, regulations, stakeholders and connections between different policies, using policy databases or reviews. Identify gaps that exist under current programs and priorities. Depending on access, you may be able to source internal government policy and planning documents.

Leveraging existing resources

Engage subject matter experts and stakeholders with valuable insights and expertise in the specific area of public health law.

Evidence requirements

Identify the specific evidence needs and requirements for supporting the development and implementation of public health law, including data, research and scientific evidence. This may include evidence of effectiveness, adverse consequences, cost-effectiveness, equity impact, budget impact and acceptability.

Stakeholder engagement requirements

Determine which stakeholders need to be engaged, how and at what point of the co-production process

Procedural compliance and approvals processes

Identify key processes, procedures and legal requirements that must be met throughout the policy development and implementation process. Understand the authority responsible for policy development and the necessary steps for approval, including legislative review timelines. In Australia, these are legislative specialists who operate within a streamlined process (read more in Module 5). There may be processes such as regulatory impact assessments, which are systematic evaluations used to assess the potential effects of proposed legal and policy changes.

Government readiness

Before embarking on the co-production process, it is important to assess government readiness. This involves evaluating government awareness of a particular issue, understanding of evidence, existing knowledge translation mechanisms, political and social context, competing priorities, available resources, capacity for implementation, and existing stakeholder engagement and partnerships. Do policy partners have capacity to support policy change in terms of substantive expertise, fiscal management and leadership? Is there capacity to mobilise funds and secure political support?

Conflicts of interest

Decide how potential conflicts of interest will be identified and resolved – for example, how decisions will be made about which industry stakeholders are involved, and to what extent. If engaging industry stakeholders, ensure transparent disclosure of relationships, affiliations, or interests that could impact decision-making. Scrutinise industry influence and collaborations to safeguard co-production integrity against bias.

Informational needs

At this stage, it is essential to clarify and scope out the project's informational needs. This involves identifying where key information is located, optimising available resources, and establishing a robust team and co-production framework that will yield the most effective outcomes.

3

MODULE

Establishing governance arrangements

In a nutshell:

This module describes how to undertake the groundwork for co-production and how to establish governance arrangements that will ensure the project's best chance of success. It covers:

- How to build a co-production team
- Developing a shared vision and expectations
- Bridging expertise and knowledge gaps.

MODULE 3

Building a co-production team

Building the right team for the co-production process is about identifying the individuals and institutions with the capacity to meet the project's design needs.

When incorporating community consultation, it can be useful to consider a broad spectrum of expertise. For example, early passive smoking controls in Australia gained momentum due to demands from employers and insurers. Their involvement expedited indoor smoking restrictions that governments otherwise may have been much slower to implement. This serves as a pertinent example of how a broad range of stakeholders can significantly contribute to co-production efforts.

Additionally, specific issues can benefit from the involvement of experts in related public health areas, such as environmental specialists. Consider the case of palm oil labelling, often categorised as "vegetable oil". Beyond being a public health concern due to its saturated fat content, it also contributes to habitat destruction in tropical regions, necessitating environmental considerations.

Incorporating community representatives, and/or researchers with longstanding relationships with communities, can ensure the co-produced policy is firmly rooted in the community's specific needs and everyday realities.

Start by answering these three questions:

Q1 Who are the actors and organisations within the public health research sphere, general community and government that are best positioned to develop and implement the policy?

Q2 Who has the required core competencies, such as objectivity, a collaborative approach to consensus-building, effective communication and previous experience informing policy decisions?

Q3 Which disciplinary backgrounds or lived experiences are most relevant and have the greatest stake in the policy issue at hand?

Here are instances of how research expertise specific to a public health issue could contribute to your team:

Disciplinary perspective	Knowledge base
Food policy and nutrition	• Dietary patterns and the role of specific nutrients in driving overweight and obesity at the population level. • The contribution of food systems, food production, distribution, marketing, and food access, to overweight and obesity. • The impact of food policy models on health and social outcomes. • The potential negative impacts of food policies on populations in situations of vulnerability.
Public health law	• National and subnational legal frameworks and mechanisms used to regulate specific markets (e.g. food marketing, labelling, and availability). • Common law (e.g. knowledge of class actions or cases where employers have been found liable for breach of a duty of care could help ensure proposed public health policy aligns with existing frameworks and obligations, minimising the risk of legal disputes or challenges arising from implementation). • The drivers of effective legal and policy models. • Understanding and supporting the passage of law and policy through local, state, or federal government. • Potential impacts of subsidiary legislation on other areas of public health law. • Potential budgetary implications of an intervention and the cost and benefits to government of specific policy options.
Health economics	• Economic incentives for industry compliance with public health law and policy. • Potential cost-effectiveness of legal and policy options. • Industry behaviour in response to regulation. • Evaluation and monitoring of policies.
Implementation science	• Assessment of contextual factors, analysing specific environmental conditions in which the law or policy will be implemented, including cultural, organisational and systemic factors that could impact its success or challenges. • Design of implementation strategies. • Monitoring and evaluation frameworks to track progress and outcomes of implementation. • Identification of implementation barriers and facilitators. • Guidance on how legal and policy models can be adapted for different contexts and changing circumstances, and how they may be made sustainable.
Knowledge translation and co-production	• Synthesising and communicating research evidence. • Barriers and facilitators to effective implementation. • Dissemination and diffusion of knowledge to different audiences, to strengthen acceptability of policy options. • Building trust and transparency within government, communities and industry. • Facilitating co-production within government. • Contributing problem clarity, identifying policy goals and objectives alongside policy makers.

Developing a shared vision for co-production

A co-production framework offers clarity and supports decision making. It incorporates key elements such as governance arrangements; priority setting; prototyping and testing; and monitoring and evaluation. It offers a roadmap providing clarity and structure, and supports efficient and consistent decision making by defining objectives and activities at each stage. It provides a reference point for all involved and encourages comprehensive and robust public health law solutions. Additionally, it allows for systematic evaluation, learning and capturing of lessons throughout the process.

Bridging expertise and knowledge gaps

To co-produce the policy product effectively, it is important to identify areas where a shared understanding is needed. This can be achieved by creating a handbook outlining the public health burden, strategies used in the past, and their strengths and weaknesses. Additionally, you could include a summary of the contextual analysis (including policy surveillance, key stakeholders and procedures) you conducted as detailed in Module 2 to identify barriers and enablers. Finally, developing a plain English summary of the main legislation sources and creating a stakeholder map can provide a shared knowledge base and address areas of complexity.

Download a handbook specifically developed to assist in designing a public health law co-production project.[30]

Setting expectations

Developing terms of reference

Establishing clear terms of reference (ToR) and commitments for each stakeholder in the co-production process reduces ambiguities and ensures meaningful dialogue, active collaboration, and knowledge sharing.
A comprehensive ToR clearly outlines:

1. Roles and responsibilities
2. Objectives and scope of the advisory group
3. Expected deliverables (may include research outputs and policy products)
4. Detailed timeline
5. Communication and reporting strategy
6. Resources and budget
7. Stakeholder engagement plan
8. Review and approval processes (drawing on findings from Module 2).

Where relevant, terms on compliance with relevant laws and ethical considerations may also be included.

Confidentiality agreements

During the co-production process, maintaining confidentiality is often crucial for open and effective collaboration between government and non-government stakeholders. At the same time, researchers may require safeguards to ensure they will have access to relevant and robust data. Confidentiality or similar agreements can be used to address these concerns. Agreements can include data-sharing terms, outlining the kinds of data, information, and stakeholder engagement opportunities that will flow between stakeholders. They may also include provisions for declaring conflicts of interest.

What does success look like?

Defining success is a critical aspect of the co-production process, ensuring clarity and alignment among the team about the desired outcomes and objectives. In the context of public health law co-production, defining success means ensuring the implementation and long-term sustainability of the public health law or policy; gaining support and commitment from stakeholders; creating awareness and understanding; actively engaging a wide range of stakeholders; allocating necessary resources; establishing mechanisms for monitoring and evaluation; and sharing knowledge and findings with the broader public health community.

It is also important to define success in ways that acknowledge, and where possible, safeguard, against unintended consequences. For example, the Australian Health Star Rating System for packaged foods was successfully implemented, but loopholes have also been exploited by industry actors.[31]

When considering success, it is important to also determine resource implications as there are costs incurred by the co-production process. Consider:

1. By how much can we allow the benefits of co-production to fall short of expectations, if the co-production project is to remain worthwhile? How likely is this to happen?
2. By how much can project resourcing costs increase if the project is to remain worthwhile? How likely is this to happen? This may be particularly relevant where co-production efforts operate on a longer or indefinite timeline.
3. What will be the impact on benefits if project resourcing costs are constrained?[32]

Setting flexible goals

Given the complexity and uncertainties of public health law-making, it is crucial to set flexible goals and be prepared for different scenarios or challenges. Decision-making should involve a participatory approach, where developments and feasibility factors are assessed collectively.

The co-production team may decide that the goal is to have the legal and policy model considered by government. To provide a degree of certainty to the project, formal or informal agreements may be used to support this approach. The agreement may specify shared goals, establishing a framework for joint decision-making around the final legal or policy model to be considered.

If the timeline for implementation of a co-produced law or policy is unclear, an alternative goal might be that government stakeholders commit to championing specific policy ideas.[32,33] If the implementation of the co-produced model is likely, a more ambitious goal could incorporate working together to determine the types of resources required including financial resources (funding and budget allocations), human resources (staffing and expertise), and infrastructure.[34]

Managing communication

Establishing regular communication channels, feedback mechanisms, and an open and safe feedback culture are essential. Knowledge brokers (who provide a link between those producing research and the end-users), can be identified within the team to convey concepts and ideas in a jargon-free manner.

4

MODULE

Priority setting

In a nutshell:

Once governance arrangements between researchers and policy makers have been established, the co-production team can work together on setting policy priorities. This module describes this process and covers:

- Key principles that drive priority setting
- Contextual, research and experiential evidence
- Priority setting methods
- Developing a theory of change.

How to approach priority setting, and why

Priority setting can be approached in two ways:

1. **Problem-centric approach**: The co-production team may begin by identifying a specific public health challenge, such as obesity. The co-production process then serves as a means to explore potential legal or policy strategies to tackle the issue. This priority-setting phase offers a structured framework for navigating these options.
2. **Solution-driven approach:** Alternatively (or to follow on from the problem-centric approach) the co-production team might come together with a well-defined intervention idea they plan to implement. The priority setting process in this case involves comparing various iterations of the proposed intervention, possibly drawing from experiences in other regions. This involves dissecting these models and deciding which elements should take precedence.

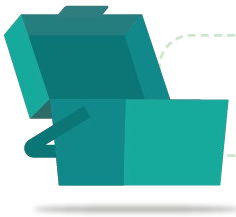
Attending to the components of a regulatory intervention during the priority-setting phase lays a solid foundation for subsequent steps, including prototyping and testing. This approach helps develop a contextually appropriate and effective co-produced legal or policy model.

What factors should drive priority setting?

The key principles outlined below lay the foundation and boundaries for co-producing a policy, and they represent the principles that underpin priority setting. Each principle provides essential guidance and considerations in the co-production process to ensure a comprehensive and effective outcome.

These principles collectively guide the co-production process, providing a solid foundation for decision making, priority setting, and development of equitable and impactful policies:

1. Equity
2. Effectiveness
3. Efficiency
4. Feasibilty
5. Reach
6. Sustainability
7. Human rights
8. Legal compatibility
9. Precautionary principle.



For detailed explanations of each principle, refer to page 30.

Guiding principles for co-production

1. **Equity:** The absence of unfair avoidable or remediable differences among groups of people, whether those groups are defined socially, economically, demographically, or geographically, or by other dimensions of inequality.[35]

2. **Effectiveness:** Designing policies that achieve their intended goals and have a positive impact on public health outcomes.

3. **Efficiency:** Maximising the use of available resources to achieve desired health outcomes, minimising waste, and optimising cost-effectiveness.

4. **Feasibility:** Assessing if proposed public health laws are practical and implementable, considering resource availability, technical capabilities, and logistical considerations.

5. **Reach:** Ensuring policies are designed and implemented in a way that they reach the target population equitably and effectively. This means taking into account intersectional forms of discrimination (people experiencing discrimination due to more than one aspect of their lives or identity), disproportionate burden of poor health and social outcomes, as well as factors such as accessibility, availability and cultural acceptability, to ensure the law or policy's benefits are distributed widely and not just limited to specific groups.

6. **Sustainability**: Developing public health laws that can be maintained and have long-term viability, considering factors such as resource sustainability, political support, and societal acceptance.

7. **Human rights:** Respecting and promoting human rights principles, and, where relevant, aligning with international human rights frameworks in legal and policy development, ensuring that policies uphold individuals' dignity, autonomy and wellbeing.

8. **Legal compatibility**: Incorporating legal frameworks, complying with legal requirements, considering legal interpretation, and addressing potential legal consequences to ensure the co-produced product is legal and effective.

9. **Precautionary principle:** Where there is uncertainty or incomplete scientific evidence about potential harms of an action, it may be better to take preventive measures to mitigate risks.

Defining evidence

In recent years, there has been increased recognition that traditional scientific evidence by itself is not sufficient for informing health policy and practice, and that it needs to be integrated with other types of evidence including the preferences and values of the end-user.[36] Three different types of evidence that play a crucial role in the co-production of public health law are detailed below:

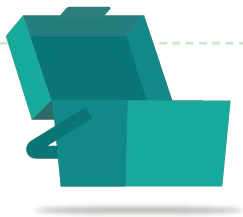
Contextual evidence: focuses on the specific context or setting in which the policy intervention is being considered. It takes into account social, cultural, economic and political factors that may influence implementation and effectiveness. It also considers resistance – groups that may oppose reforms based on ideological, economic, political or financial interests – and the need to protect against vested interests that may conflict with public health objectives.

Research evidence: encompasses scientific and empirical evidence derived from rigorous studies including, but not exclusive to, cohort studies, case-control studies, systematic reviews, meta-analyses, process evaluation, socio-legal studies and qualitative studies. This type of evidence provides quantitative and qualitative data that informs decision-making by assessing the effectiveness, cost-effectiveness and acceptability of different public health law and policy options.

Experiential evidence: can be neglected by researchers but is often essential to understanding how a law will live in society, and its potential unintended consequences. This type of evidence refers to the lived experiences of individuals who have directly encountered a problem or barrier to health. It draws on their subjective experiences, perspectives and insights. It can be captured through case studies or community narratives and provides valuable insights into the practical implications and real-world impacts of public health laws and policies.

Here, it is critical to engage with a diverse range of stakeholders, including communities, experts, and affected individuals, to ensure their perspectives, knowledge, and experiences are incorporated in the policy development process.

Engaging community in the priority setting process can enhance the team's understanding of the various dimensions of equity and intersectional discrimination (the overlapping and compounding effects of multiple forms of discrimination or disadvantage).



Priority setting methods

A range of priority setting methods can be used to engage the co-production team in identifying the most feasible interventions with the greatest potential for impact.

- **Delphi:** An iterative, survey-based method that gathers expert opinions to reach consensus on a particular topic.[37]
- **Nominal group technique:** A structured group process that encourages equal participation and idea generation while prioritising and discussing the identified options.[38, 39]
- **Scenario planning:** A strategic tool for exploring alternative future scenarios and their implications to inform decision-making and long-term planning.[40]
- **Prioritisation matrices:** A decision-making tool that systematically evaluates and compares options based on predefined criteria to determine their relative importance or priority.[41]
- **Decision trees:** Visual representation of decision options and potential outcomes that helps to analyse the consequences of different choices and assess probabilities.[42]
- **Policy dialogues:** Collaborative discussions among diverse stakeholders to exchange perspectives, build consensus, and shape policies based on shared understanding and input.[43]

Each of these methods have strengths and weaknesses when it comes to co-producing public health law. For example, the Delphi process allows for anonymous input, and therefore honest and independent opinions. The process can handle complex issues and uncertainties by incorporating expert judgement and facilitates aggregation and synthesis of diverse expert knowledge. On the other hand, it can be time-consuming and the reliance on expert opinions can overlook stakeholder perspectives.

Case study

Collaborative priority setting to address family violence in Canada

Kothari et al used collaborative priority setting approaches between researchers, practitioners and policy makers to address family violence. The team used a two-day 'think tank' event employing a consensus-building model to formulate a public health systems research agenda for the area of family violence in Ontario, Canada. The specific aim of the think tank was to foster collaborative research centring on 23 research questions that had been prioritised by participants. A survey of participants (n=16, 44% response rate) conducted months later showed that 42% of respondents engaged in research proposals related to the agreed agenda, and 75% advocated for the identified priority areas in their professional practice. This approach successfully translated a collaborative priority setting exercise into concrete research proposals and real-world advocacy efforts.[44]

*Case study adapted from Moore and Campbell (2017).[45]

Developing a theory of change or logic model

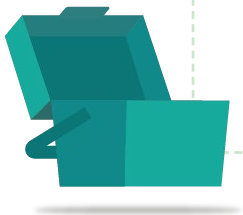
By the end of the priority setting process, the co-production team may have chosen one model or a set of legal or policy models that are to be prioritised. A recommended next step is to develop a theory of change (a narrative description of how and why a program is expected to bring about desired outcomes and impact, emphasising the underlying logic and assumptions) or logic model (a visual representation illustrating the components of a program, their relationships, and the expected causal pathways to impact from inputs and outcomes). The key question here is: how and why is the public health law or policy expected to bring about change?

A theory of change provides a visual representation or narrative that illustrates the logic and connections between program activities, outputs, outcomes and impacts. It encompasses inputs, activities, outputs, outcomes and impacts and outlines the available resources, implemented strategies, immediate results, intended changes, and broader effects at the societal or systemic level.[46]

Case study

Developing a model law to address tobacco consumption in US youth

Commercial tobacco is the primary contributor to avoidable deaths in the US. Recognising the compounding issue of youth access to tobacco products, which exposes them to nicotine and heightens the risk of long-term addition, ChangeLab Solutions, a nonprofit organisation collaborating with communities across the US to reform harmful laws, policies and systems, formulated a model law. The model was co-produced by a consortium of national public health organisations and was written for state and local governments that were considering raising the minimum legal sales age for tobacco products to 21 years. The model law does not penalise underage young people who possess, use or purchase tobacco products, and instead places responsibility for preventing tobacco sales to youth on the business owners who profit from selling tobacco.[47]



It is critical to engage with a diverse range of stakeholders, including communities, experts, and affected individuals, while developing a theory of change to ensure their perspectives, knowledge, and experiences are incorporated into the policy development process.

5

MODULE

Prototyping and testing

In a nutshell:

This module provides guidance on how to design, test and refine public health law and policy models. It explores practical methods for iterative policy development, allowing policy makers to gain valuable insights, anticipate challenges and optimise policy solutions for broader implementation. It covers:

- The role researchers can play in preparing public health law and policy
- Key principles and components for drafting
- Developing a prototype.

The role of policy makers and researchers in the legislative process

There are established processes through which legislation is drafted, and how Bills get onto the legislative program and through parliament. This process generally involves securing ministerial approval, lodging a bid for the next parliamentary sittings, seeking to vary the program for the current sittings, and consulting with relevant agencies and departments. This process is often published by governments in legislation handbooks.[48]

In Australia, drafting is undertaken by specialist legislative drafters sitting within State or Federal Parliamentary Counsel Offices, who are instructed by agencies on the policy project. Generally, these drafters choose the words used in legislation, but do not choose the policy being implemented, and are not involved in how it is administered.[50] This is the job of the instructing agency.

In a co-production setting, policy makers, or their overarching institutional department or agency, are the drafter's client, that is, the instructors.

Research teams working on a co-production project may help to ensure instructors' drafting accurately reflects the policy prototype they have designed.

"The instructors need to be in a position to tell the drafters about all aspects of the scheme, from the big picture to matters of relatively minor detail. The instructors must know, and be able to brief the drafters on, the aims of the project."

Office of Parliamentary Counsel[49]

Prototype drafting components

A recommended next step is to unpack the drafting requirements (how it needs to be structured, and what it needs to contain). If you are following this toolkit chronologically, this will have been assessed in Module 2. While structure and content will vary, common components include:

Purpose and objectives: Describe what the law is intended to achieve with a clear purpose statement.

Scope: Detail the jurisdiction, target population or specific sectors or activities it covers.

Definitions: Offer clear and precise definitions for key terms and concepts (for example, public health risk, or harm minimisation). Definitions should be wide enough to accommodate emerging concepts or products without being overly broad in their scope.

Rights and obligations: Detail the roles and responsibilities of individuals, organisations and government entities affected by the law or policy, including coordination, monitoring and enforcement, and what rights need to be protected.

Main policy provisions: Detail the public health intervention, and what is being required of whom. All requirements should be reasonable and provisions should directly address the purpose and objectives.

Implementation and enforcement: Detail who will take over the necessary technical expertise, human resources and financial burden of supporting the implementation of the law or policy. Include information about the authorities responsible for enforcement, enforcement procedures, any penalties or fines that may be imposed (and any exceptions) and where relevant, an appeals process.

Review and amendments: Provide a framework for periodic policy review processes. The co-production team may also consider including a timeline and process to assess the effectiveness of the policy.

Best practice principles

In developing prototypes, it is important to consider the following principles:

- Clarity (non-ambiguous language)
- Appropriate and precise use of definitions
- Coherence with legal principles, norms and logic
- Remove language that has no legal effect
- Consistent in the use of language in the legislation.

A note on implementation provisions

Specific mechanisms or tools can be used to assist implementation and enforcement. For example:

- **An advisory body** might be used to provide technical expertise and recommendations or represent the views of the community or other stakeholders.
- **A reporting system** can be used to ensure entities are required to report information to a specific public authority.
- **Guiding principles** can guide the application and interpretation of the law – while they do not establish legally enforceable rights or obligations, they can be grounds for administrative action and contribute to accountability or provide the basis for demands for improvements to government actions or services.[50]
- **A compliance plan**[51] can provide a framework to inform stakeholders how to satisfy their regulatory obligations (outlining the administering authority empowered to receive or assess plans, setting standards, outlining what constitutes non-compliance). Regarding the latter, there should be clarity about offences and penalties for non-compliance, including use of revenue from fines, where appropriate.

How to develop a prototype

Co-producing a scaled-down version of a public health law can enable researchers and policy makers to test its feasibility, revise design, and refine for full-scale implementation.

Rapid prototyping can be used to create and test a preliminary version or prototype of a product, policy or solution, to gather feedback and make iterative improvements. The emphasis is on quick iteration cycles, rapid experimentation and learning to develop more refined and effective solutions through multiple iterations.[51] Different variations of a policy may be developed for different scenarios, regions or populations, and their outcomes compared before assessing which approaches perform best.

Guided review processes/review circles involve technical or legal policy experts providing an outline based on legal requirements, and then providing guidelines and instructions for reviewing and providing feedback on specific sections of the draft. This means all contributors to the co-production process focus their input on predetermined criteria and objectives. The focus here is on refining and enhancing existing materials through critical analysis and expert input.

In the development of prototypes, it is important that industry actors' role in the co-production process reflects the governance arrangements established by the team at the outset of the co-production project. It is well recognised that industry actors have at times engaged in what is known as "regulatory entrepreneurship" efforts, a concept describing proactive involvement in shaping law and policy in ways that benefit industry regardless of the public health impact. Being conscious of these dynamics can help you design the co-production process in ways that maximise public health impact and reduce bias and potential conflicts of interest.

Testing your prototype

Robustly evaluating the potential impact of the prototype prior to full scale implementation is a necessary step to informing the case for approval within government. There are established methods of undertaking this work including:

- **Pilot programming:** rolling out policy on a small scale or in specific geographic areas allows for real-world testing and evaluation of the policy's effectiveness, feasibility, and unintended consequences.[52]
- **Phased rollout:** gradually expanding the policy's coverage or reach allowing for ongoing monitoring and evaluation of each phase to identify challenges, assess outcomes, and make adjustments.[53]
- **Conducting a trial:** testing a policy's impact through controlled experiments or cluster randomised trials – dividing the target population into groups, with some groups exposed to the policy and other serving as control groups.[54]
- **Cost-benefit analysis:** assessing potential economic impacts, evaluating the costs associated with implementation, enforcement, and compliance, as well as the anticipated benefits in terms of outcomes, savings, or improved conditions.[55]
- **Simulations and modelling:** simulating the effects of the policy under different scenarios.[56]
- **Learning networks:** establishing communities of practice, where stakeholders can share experiences, lessons learned and best practices regarding legal and policy prototypes. The networks facilitate collaboration, exchange of knowledge, and mutual learning among practitioners, policy makers and researchers regarding the strengths and potential deficiencies of specific models.[57]
- **Commissioning market and consumer research reports:** gleaning valuable insights and data on feasibility, potential impact and acceptability among the target population using reports on consumer behaviour, market trends, preference and perceptions that can inform the development and refinement of co-produced laws and policies.[58]

Case study

Prototyping policy

The UK Government describes tools for sensitive or unannounced policy areas as part of its "Open Policy Making toolkit". It suggests that prototyping policy can save money, spot and fix design flaws, make abstract concepts visible and tangible in the context of end users' lives and give confidence about the likely benefits and implications of a proposed direction or solution. One way they have used this approach is with the Home Office crime reporting tool. Development of the prototype involved senior police, academics, civil servants and 40 people from diverse backgrounds including Neighbourhood Watch members and representatives of victims of crime. Participants used simple materials to rapidly build and share ideas on new ways to report crime. They then combined the ideas into prototypes of solutions. The Home Office went on to trial the prototype of the online crime reporting service, which they estimated could save £3.7 million (A$7.2 million) if scaled up.[59]

6

MODULE

Implementation and evaluation

In a nutshell:

This module provides guidance on robust implementation and evaluation methods and frameworks to assess the real-world effectiveness of policies, so that policy makers can make evidence-informed decisions, refine strategies, and enhance the overall impact of public health interventions. It covers:

- Developing an implementation strategy
- Evaluating the impact of co-produced public health law and policy in terms of effectiveness, cost-effectiveness and acceptability.

Developing an implementation strategy

Developing an implementation strategy involves considering various factors and actions to ensure the effective rollout and execution of a policy. This may require collaboration across sectors or jurisdictions to collect and manage the necessary data for monitoring and evaluation, and assigning roles and responsibilities in education and compliance.

This may be done by establishing memorandums of understanding (MOUs), taskforces, joint planning, and cross-agency capacity building, as well as information sharing, data integration, and coordinated monitoring and evaluation efforts. While issues may lose political and public attention, the originating policy group within government will still have responsibility for implementation, monitoring and evaluation, so it is important to think about how to sustain momentum.

The strategy can include:

✔	Objectives
✔	An action plan with clear timelines
✔	Roles and responsibilities
✔	Resource allocation (covering one-off and recurrent costs associated with its introduction and staffing implications)
✔	Public awareness and engagement initiatives (including liaising with businesses, individuals and the communities that will be significantly impacted)
✔	Capacity building measures
✔	Plans for monitoring, evaluation, and maintenance.

Evaluating the co-production process

Evaluating the co-production process is crucial for understanding its effectiveness, identifying areas for improvement, and capturing valuable insights for future endeavours. One approach is participatory or developmental evaluation, which involves engaging stakeholders in the evaluation, promoting collaborative data collection, analysis, and interpretation.[60] This fosters ownership, facilitates learning, and enhances the credibility of evaluation outcomes. The approach can be used to examine whether the intended goals and objectives of the co-production effort have been achieved.

Another approach is network analysis,[61] which offers insights into patterns of collaboration, the distribution of influence, and the effectiveness of knowledge exchange within the co-production network. By employing these evaluation approaches, the co-production process can be assessed comprehensively, so you can identify strengths, weaknesses, and factors beyond the co-production team's control. Ultimately, this serves the greater goal of contributing to continuous learning and improvement of co-production in the context of public health law and policy.

Evaluating co-produced public health law interventions

Beyond evaluating the co-production process, it may be possible to evaluate the co-produced legal or policy intervention itself over the longer term. This work reflects an emerging field known as "legal epidemiology" and involves applying epidemiological methods to the study of law and legal interventions. It involves studying the impact of laws, regulations, and policies on public health outcomes.[4]

The benefits of this type of evaluation include that it promotes evidence-based decision making by providing empirical evidence on the effectiveness, impact and unintended consequences of the law or policy; it fosters transparency and responsiveness (with findings driving further policy revision); and more broadly, it contributes to knowledge generation in the field of public health law and policy.

Further, this work can help to inform statutory review processes. This involves a formal and comprehensive examination and analysis of a particular law within a specific time frame and aims to determine whether the law remains fit for purpose.

These evaluations require careful and early planning.[69] The methods above can be considered and adapted to the needs of the project.

Methods include:

- ✔ **Quantitative data analysis:** Statistical analyses to assess impact on health and social outcomes[62]
- ✔ **Qualitative research** (interviews, focus groups, and case studies): In-depth exploration of individuals' experiences, perspectives, and social contexts to understand the impact of the legal or policy intervention[63]
- ✔ **Surveys and questionnaires:** Gathering structured data from a sample population to measure perceptions, behaviours, and outcomes related to the intervention[64]
- ✔ **Comparative analysis:** Comparing the impact of two similar policies implemented across different jurisdictions or regions, to identify variations and draw insights on effective strategies[65]
- ✔ **Process evaluation:** Examining the implementation and delivery of the public health law intervention, focusing on the processes, activities, and interactions involved, to assess fidelity, adherence, and quality of implementation[66]
- ✔ **Realist evaluation:** Evaluating how and why interventions or processes work or fail in specific contexts, considering underlying mechanisms, contextual factors and outcomes[67]
- ✔ **Longitudinal studies:** Conducting research over an extended period to track changes in health and social outcomes associated with the intervention, capturing the long-term effects and trends.[68]

7

MODULE

Developing a communications strategy

In a nutshell:

This module can support governments when developing communication strategies to introduce co-produced policies to constituents and other government departments. It covers:

- Purpose and audience for legislation
- Methods and activities to include as part of communications strategy
- Appropriate channels for amplifying your key messages.

MODULE 7

This module is dedicated to developing a comprehensive communications strategy for governments to effectively introduce co-produced policies to their constituents and other government departments. It covers essential topics such as message framing, crafting impactful policy briefs and fact sheets, using visual communication techniques, and employing evidence-based reasoning to frame arguments persuasively. Ultimately, it aims to empower researchers and policy makers to engage stakeholders, disseminate key policy messages, and build support around co-produced policies, to promote successful implementation.

Designing an effective communications plan

A communications strategy should include objectives that clearly outline the overarching communications plan and give a clear idea of what the co-production team aims to achieve through these communication efforts. It should be designed to accommodate a range of audiences, within government and the general public.

The strategy should also include details of the target audience and key messages to be conveyed to that audience. Communication channels (formal, informal or both) can be outlined as well as stakeholder engagement (who can amplify your communication efforts), and the timing and frequency of that engagement.

Finally, communications are an often neglected, and typically underfunded, component of the policy development process. It is worth developing a budget and resources for this component as early as possible, thinking creatively about how existing resources and expertise can be leveraged. A strategy should always include a key person(s) that can be contacted for questions and feedback, who can provide a prompt and effective response.

Case study

Effective communication with ministers

The New Zealand Government's Policy Project has developed a guide entitled "Writing for Ministers and Cabinet" that focuses on effective communication with ministers. It emphasises clear writing using inclusive, plain language. The guide offers insights into crafting briefings and advice for government ministers, highlighting the distinct communication styles for various types of content. It suggests using other available resources like "Start Right" guide and "Policy Quality Framework" for producing high-quality policy advice. The concept of "storylining" is also introduced, promoting a clear communication format – Context, Trigger, Question – to articulate advice. Context defines the topic, such as the burden of overweight and obesity, Trigger explains relevance, such as, your role in developing a co-produced policy model ready for implementation, and Question outlines the document's central query, such as, what is being asked of government operationally, and in terms of governance and financing? This approach encourages precise, compelling communications tailored to ministers' needs.[70]

Here are some ideas and resources you can use to develop your own impactful communications strategy.

Storytelling	Using narratives and personal anecdotes to convey the impact and significance of the intervention in a compelling and relatable manner.
Values-based messaging	Aligning communication with the audience's values and principles alongside facts and data.
Policy briefs and fact sheets	Providing concise and accessible summaries of the public health law intervention, highlighting its key aspects, evidence-based rationale, and potential benefits.
Visual communication	Using visual aids such as graphs, infographics and diagrams to present data, trends and information about the public health law intervention in a clear and engaging way.
Stakeholder engagement	Actively involving relevant stakeholders in discussions, consultations and decision-making processes regarding the public health law intervention to ensure their input, support and alignment.
Coalition building and grassroots mobilisation	Collaborating with diverse groups and community organisations to create alliances, build support, and mobilise grassroots efforts in advocating for the intervention.
Persuasion and influence strategies	Employing effective arguments, evidence-based reasoning, and persuasive techniques to present the case and gain buy-in from key stakeholders and decision makers (for example, framing arguments and evidence-based reasoning).

Resources

A short(ish) explainer on public health law (Sydney Health Law) A brief introduction to the discipline for anyone coming to it for the first time.

The Five Essential Public Health Law Services (Temple University, Beasley School of Law) This freely-accessible academic paper by world-leading public health law experts describes the five essential services that make up the field, suggesting investment in the people, methods and tools that are needed to move major policy initiatives from conception to widespread implementation.

Healthier Law: Closing the Gap in Evidence around Public Health Law (Prevention Centre) This webinar by Professor Scott Burris from Temple University uses examples from the US to make the case for evaluating law in terms of its effectiveness in achieving public health gains.

Public health law regulation and policy for prevention (Prevention Centre) This Prevention Centre synthesis report analyses a subset of 40 public health law research projects across food, alcohol, tobacco, physical activity, immunisation and road safety.

Advancing the right to health: the vital role of law (World Health Organization) This WHO report acts as a public health law manual, highlighting important issues that may arise during the process of public health law reform. It provides guidance about issues and requirements to address during the process of developing public health laws. It also includes case studies and examples of legislation from various countries to illustrate effective law reform practices and some features of effective public health legislation.

LawAtlas (Center for Public Health Law Research, Temple University Beasley School of Law) A US-focused policy surveillance website. Its datasets capture the characteristics of laws and policies of public health significance. The tool also offers a Learning Library with self-guided training modules and webinars.

Public Health Law and Policies Team (LAW) (World Health Organization) This resource assists governments on legal issues, with a focus on modifiable risk factors for non-communicable disease such as tobacco use, harmful use of alcohol, unhealthy diet, and inadequate physical activity. LAW also provides training and capacity-building tailored to lawyers and policy focal points relating to specific health interventions or bodies of law.

Making effective public health laws (McCabe Centre for Law & Cancer) This animated video explains how a law such as the front-of-pack labelling legislation needs support from across different sectors, consistency with other laws and policies, thorough consultation and strong implementation strategies to be successful.

Co-production for health research: a self-assessment framework tool (Public Health Services Tasmania) This tool guides research team members through completing and reviewing a self-assessment for co-producing health research.

The CERI User Guide This guide by CERI (Collaboration for Enhanced Research Impact) includes practical tips for knowledge mobilisation and science communication collected by the CERI Coordinating Group. The guide can help refine your communications strategy. The step-by-step resource covers thinking about context, establishing purpose, defining the audience, developing key messages, deciding on communication tools and channels, and evaluation.

Writing for Ministers and Cabinet (NZ Department of the Prime Minister and Cabinet. Te ari O Te Pirimia Me Te Komiti Matua) This New Zealand-based resource provides guidance on developing different types of communication for Ministers and Cabinet, including Cabinet papers, policy papers, or an aide memoire. It includes high-level descriptions of what is involved and tips for success.

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