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Reshaping South Africa's ECD regulatory landscape for universal access

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The starting point

The universal access contradiction

We want every child to access safe, quality early learning and care. But the system around that child has historically been regulated in fragments.

The goal

Universal access

Every child can access the care, learning, nutrition, health, protection and safe environment they need to thrive.

But the child's needs sit across...

Learning and stimulation

Education · DBE

Health

Health Services · DoH

Nutrition

DBE · DoH

Land and buildings

Municipal law · municipalities

Safety

Local government · SAPS · DSD

Environmental health

NEHNS · EHPs district and local

Different legislation · different departments · different spheres · different processes

The historical gap

A developmental state is more than an enforcer

Regulation has too often asked:

“Does the programme comply?”

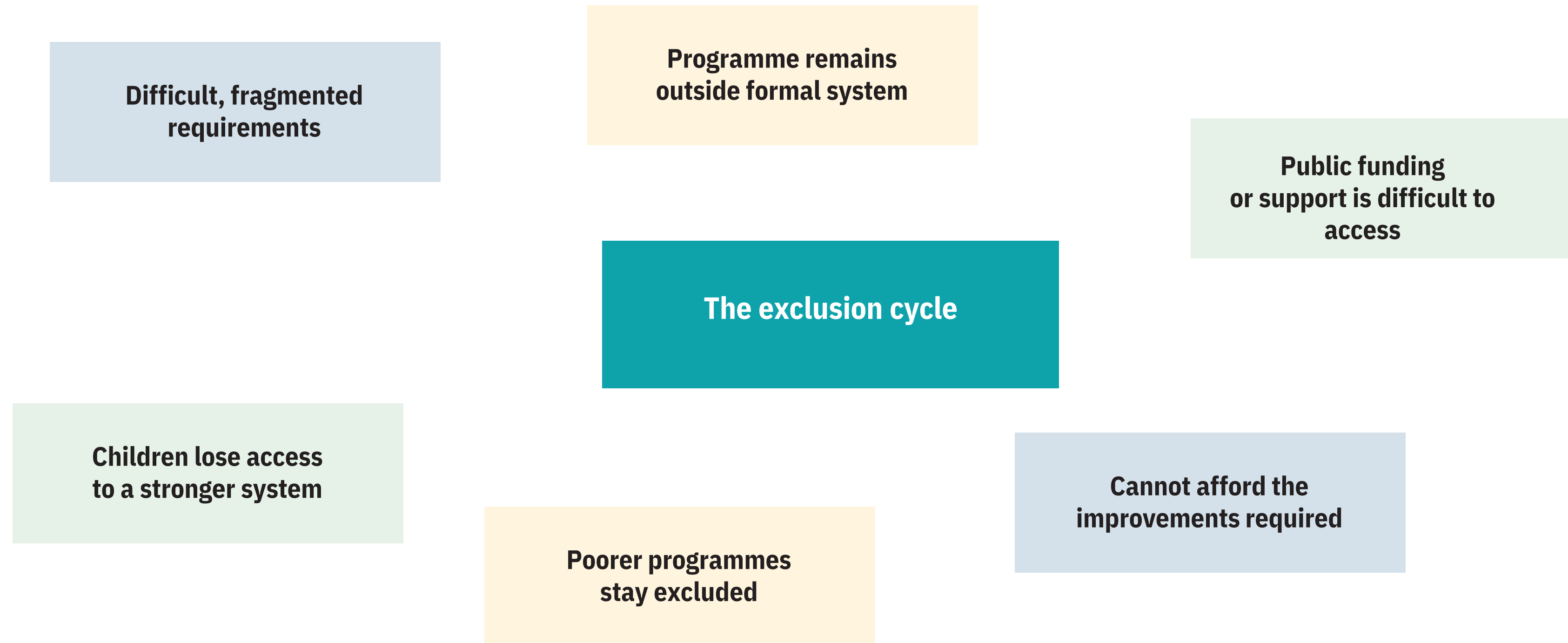
instead of

“What does the child need, and how does the State enable it?”

The shift: regulate the system around the child. Protect against real risk, recognise unequal starting points, and enable progressive improvement.

Why reform is needed

The problem: a fragmented system that does not fully support universal access



Land use • building control • environmental health • Children's Act registration often operate alongside one another with little coordination.

The shift: regulate for safety, inclusion and progressive improvement

The emerging question is not whether every programme can immediately comply with every requirement.

1

Minimum necessary

What is genuinely necessary to protect children? How do we define safety?

2

Proportionate

Do requirements reflect different forms and contexts of ECD provision? How can the law accommodate mixed realities whilst protecting children.

3

Progressive

What can be improved over time rather than used as an immediate barrier? What is an immediate need vs something that be progressively realized.

4

Supported

What must the State do to enable programmes to comply?

Direction of travel: from compliance as a gatekeeper → regulation as a pathway into a safer, stronger ECD system.

The law

Children's Amendment Bill: redesigning the legal architecture

Recognises diverse provision

Centres, parent support groups, outreach programmes, playgroups, child-minders, toy libraries and mobile programmes.

One registration process

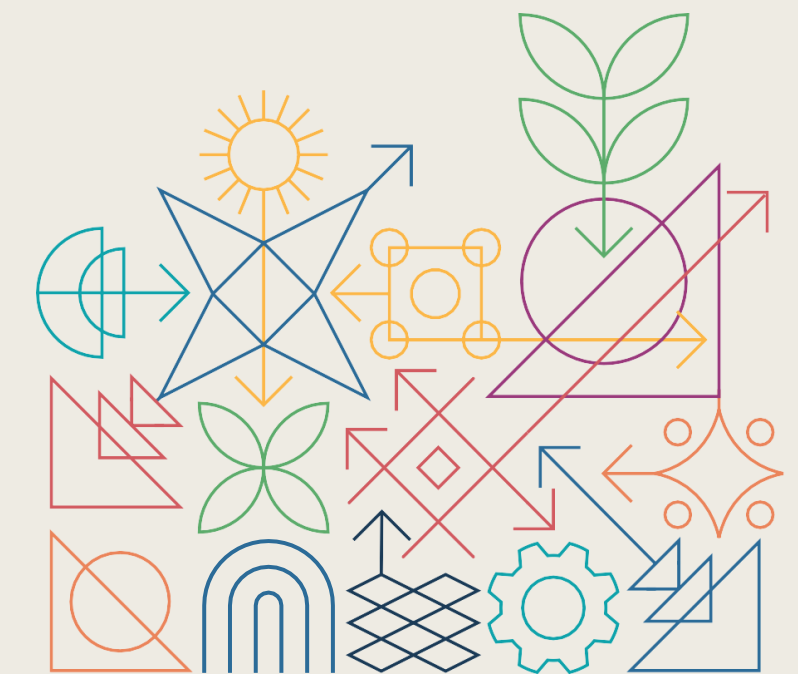
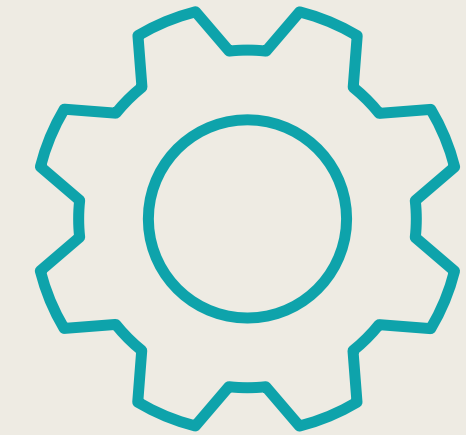
Moves away from two registration processes and two sets of norms and standards towards a single regulatory journey.

Clearer State roles

DBE regulates the ECD programme and early learning; environmental health remains within the health regulatory framework.

Planning for unmet need

Provincial strategies must understand where children and provision are located and prioritise underserved and low-income areas.

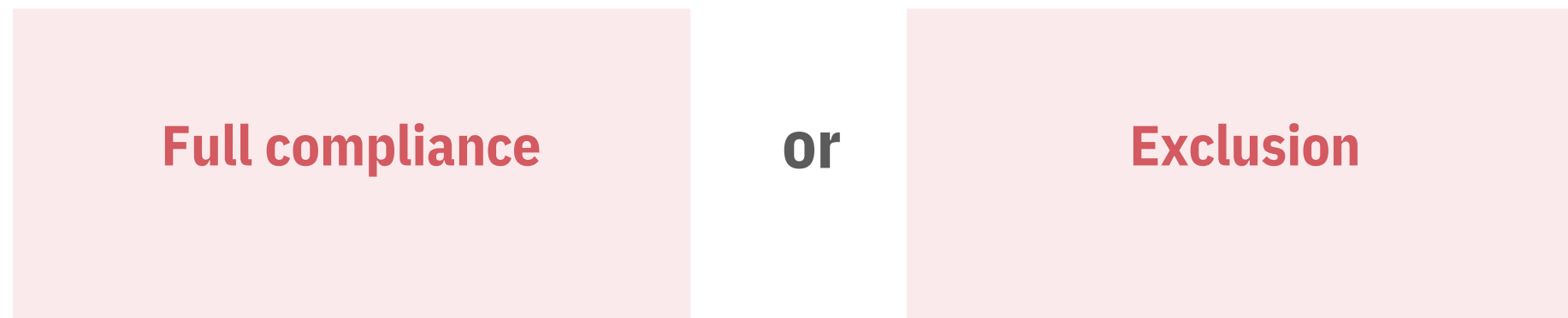


The objective is not merely to administer the programmes that already made it through the system, but to build the provision the country actually needs.

The law

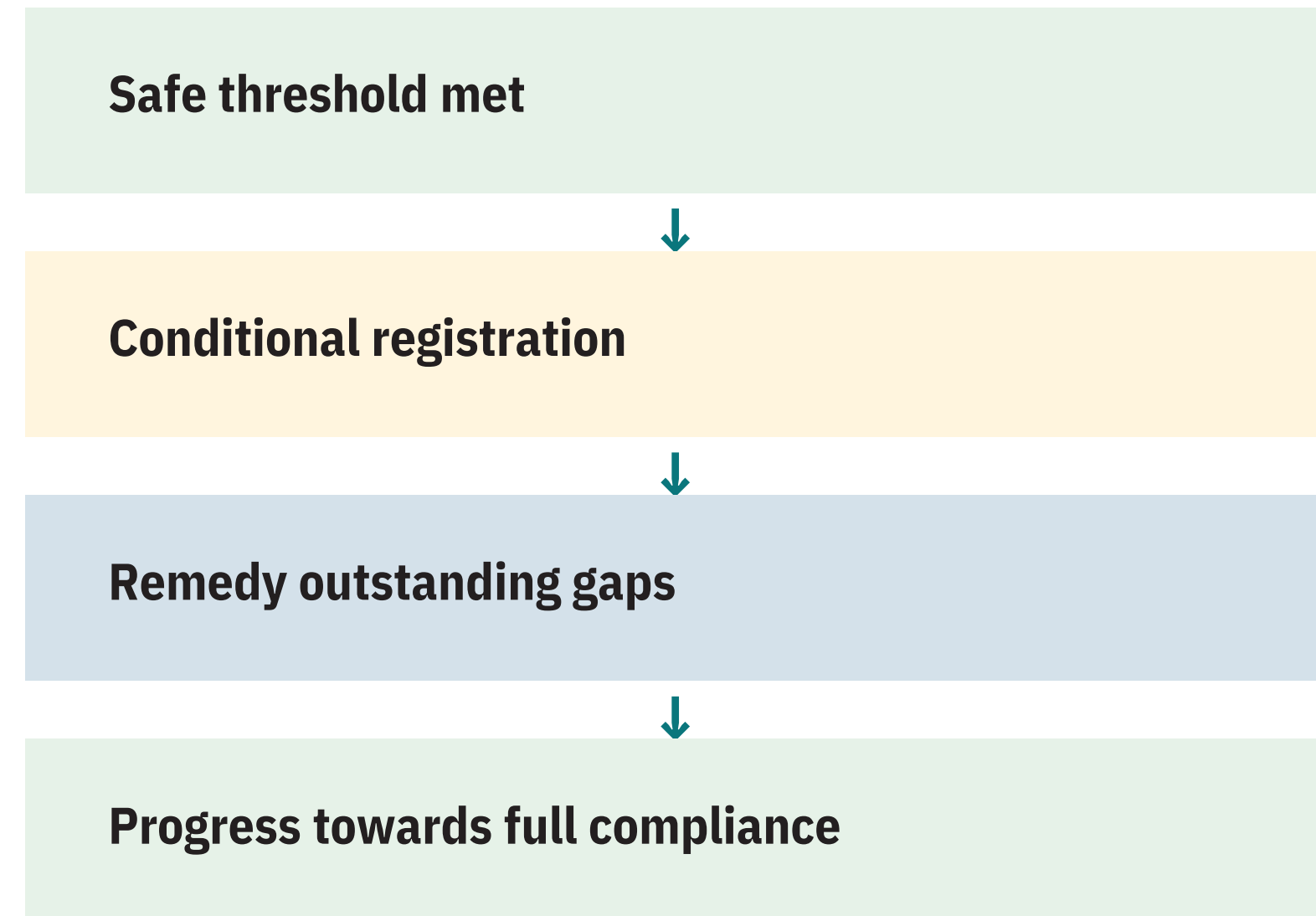
Conditional registration: the bridge between exclusion and full compliance

Traditional Binary



- Differentiated norms and standards create room for proportionate regulation.
- A national conditional registration framework can improve consistency across provinces.
- Outstanding requirements can be remedied within a defined period, with support where needed.
- Inability to meet every requirement today should not automatically mean remaining outside the system where children are safe.

Developmental pathway



Local government in the CAB: what changed, and what did not

Original section 92(2C)

The CAB proposed a positive developmental obligation on municipalities to develop and annually review an integrated strategy to ensure the availability and maintenance of public and private ECD facilities. It further required municipalities to incorporate this strategy into their IDPs and annual budgets, making ECD infrastructure part of municipal planning and resource allocation.

Current approach

The provision was removed amid concern that a DBE-administered national law was overreaching into local government's constitutional space.

However, local government did not disappear. The Bill now provides for development of a standard draft by-law for ECD programmes to support greater consistency in municipal regulation.

Key point: A standard by-law can improve consistency, but it does not by itself solve planning, infrastructure, land, coordination, IDP or budget questions.

The regulations
**Proportionate,
not lower**

The 2025 NEHNS keep the outcome fixed: safe water, sanitation, hygienic food and safe premises. What changes is the assumption that only one physical model can deliver it.

1.5 m²

of indoor play
space per child

Unobstructed floor space,
with adequate ventilation.

1 m²

minimum per child recognised in low-cost settings

Portable handwashing stations and tippy taps are recognised where there is no running water.

Alcohol-based sanitiser is required for water failures or interruptions.

Handwashing facilities follow the same ratio as toilets. Protection stays; the infrastructure can differ.

30

Maximum children per toilet: at least one for every 20 to 30 children.

Practical Guidelines: institutionalising ECD inside local government

The real ask is for dedicated institutional ownership, not another layer of regulation.



Without a champion, task team, cross-departmental coordination and clear accountability, practitioners are left to carry applications from one department to another.

What enabling local government looks like in practice

Midvaal

One-stop compliance

ECD in IDP/SDBIP; allocated officials; ECD Forum; SOPs across planning, building, fire and health; simplified written-consent land-use route.

eThekwini

Graduated compliance

Cross-departmental coordination; context-sensitive pathways; conditional approvals; technical support; focus on real risk rather than automatic closure.

Nyandeni

Plan for unmet demand

ECD embedded in the IDP across education, health, infrastructure and social development; investment in permanent facilities where informal provision or unmet demand existed.

uMzinyathi

Turn findings into support

Data, infrastructure and practitioner support linked together; water and sanitation findings used to target support; land-use officials sought lawful pathways rather than only issuing notices.

Across the examples, the common move is from fragmented enforcement → coordinated problem-solving.

Read together

Three reform processes, one regulatory settlement

CAB

Legal architecture

- Simplifies registration
- Recognises diverse provision
- Differentiates standards
- Enables conditional registration
- Strengthens planning

How do we bring programmes in?

NEHNS

Regulatory standard

- Defines health & safety minimums
- Directs inspections by risk
- Requires documented findings
- Allows context-sensitive solutions

What keeps children safe?

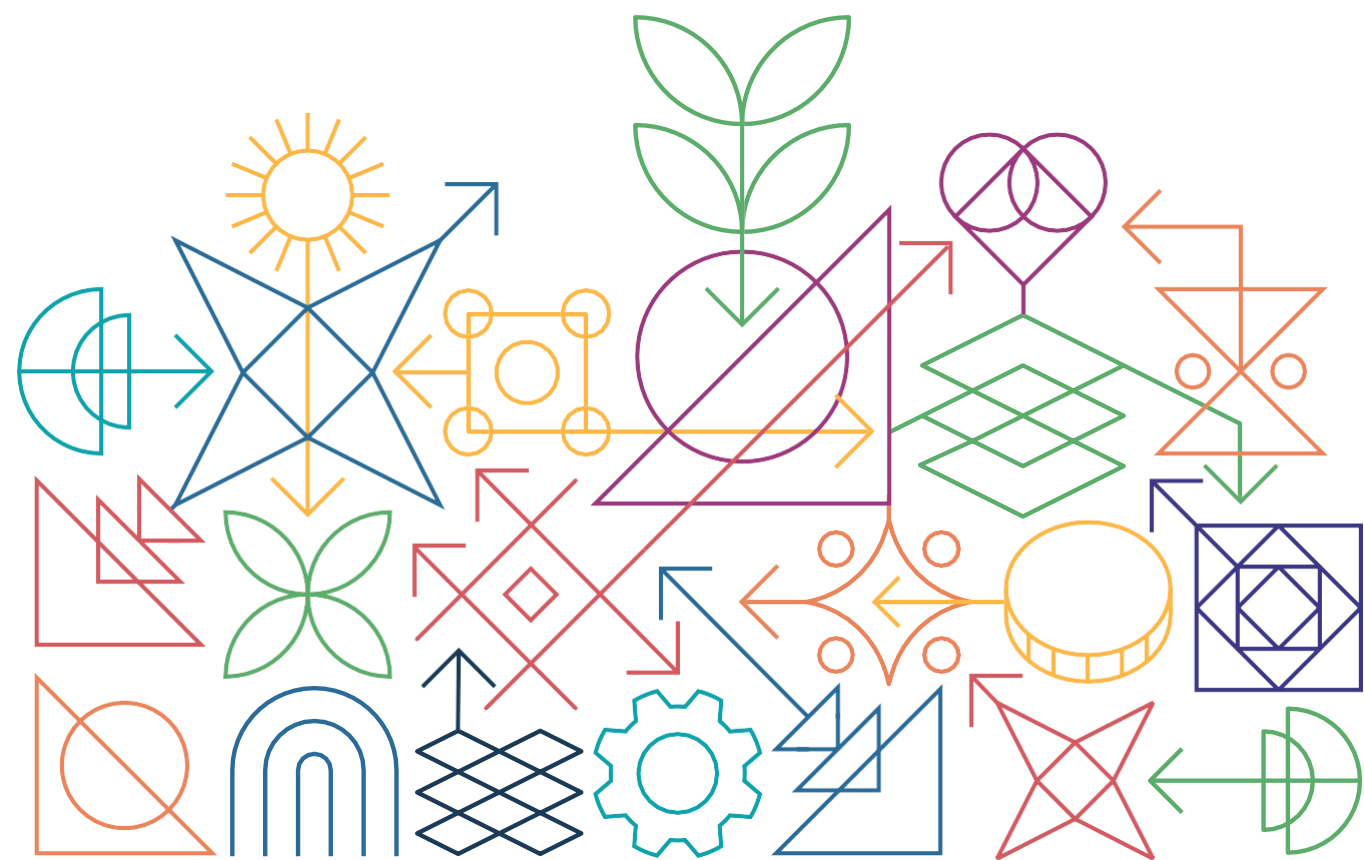
Practical Guidelines

Implementation tool

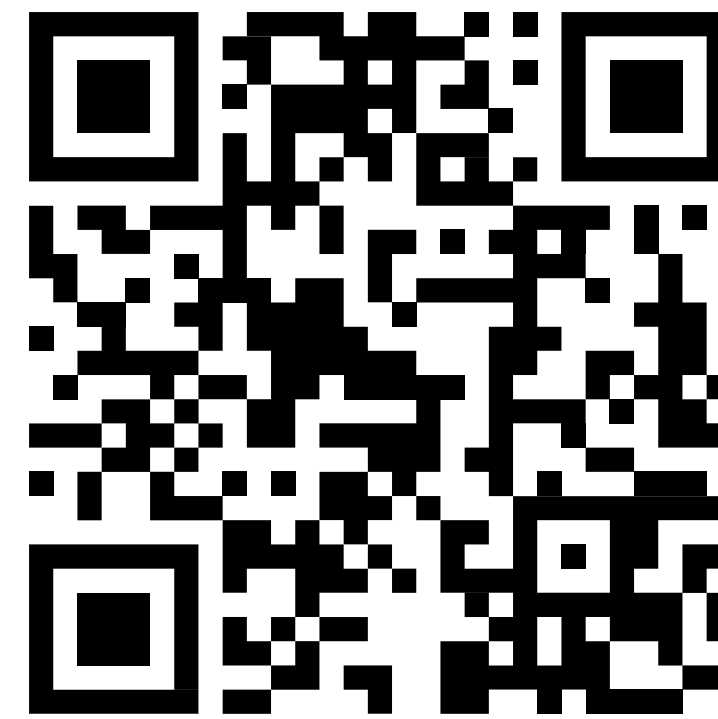
- Embeds ECD in municipal systems
- Coordinates departments
- Uses existing planning powers
- Connects compliance to support

How does government make access possible?

The regulatory environment only works when the law, standards and implementation systems speak to one another.



Any questions?



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