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| Guide to the Code of Conduct for  Professional Engineers  ***Professional Engineers Registrations Act 2019***  **July 2021** |

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# Introduction

The purpose of this Guide to the Code of Conduct for Professional Engineers (Guide) is to assist professional engineers to interpret and comply with the *Code of Conduct for Professional Engineers* (Code) made under the *Professional Engineers Registration Act 2019* (Professional Engineers Registration Act).

As a professional engineer you hold significant knowledge and specialised expertise, make judgements and apply your skills to reach informed decisions about the professional engineering services you provide. The decisions you make and the services you provide affect your clients and can have wide-reaching effects on the public.

This Guide provides information about the Code and advice to assist you to ensure that you are practising in a professional and competent way and maintaining a high standard of professional conduct in the diverse situations you face as you practise as a professional engineer.

For each of the 14 obligations in the Code, commentary and practical examples, where relevant, are provided that apply to the conduct of professional engineers generally, and in specified circumstances, to the conduct of professional engineers whose registration has been endorsed to practise in the building industry. This latter category of professional engineers is known as ‘endorsed building engineers’ under the Professional Engineers Registration Act and the *Building Act 1993* (Building Act).

The information and examples provided in this Guide are not exhaustive. They illustrate principles, conduct and standards that you should apply in every aspect of your professional engineering practice.

This Guide does not replace a knowledge and understanding of the Code, the Professional Engineers Registration Act or the Building Act or the regulations under these Acts. Additionally, this Guide must not be taken as legal advice. Practises, systems and advice may vary depending on individual circumstances and professional engineers, including endorsed building engineers, must exercise their own professional skill and judgement and/or seek independent legal advice, as required.

You should read this Guide in conjunction with the Code. The Code and this Guide are available on the Consumer Affairs Victoria (CAV) website at [consumer.vic.gov.au/engineers](https://www.consumer.vic.gov.au/engineers) and through the Victorian Building Authority (VBA) website at [vba.vic.gov.au](http://www.vba.vic.gov.au) where additional guidance is provided for endorsed building engineers.

The key terms used in this Guide are explained in the “definitions” section of the Code.

# Code obligations

## 1 Know and comply with the law

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| **Summary** –A registered professional engineer must know and comply with the Professional Engineers Registration Act and regulations and other laws relevant to the provision of professional engineering services. In addition, a registered professional engineer who is an endorsed building engineer must know and comply with the Building Act and regulations and other laws relevant to their functions. |

The work you undertake or are responsible for as a professional engineer is subject to various laws such as Acts, regulations and technical standards that govern your conduct and work practises. Clause 1 of the Code requires you to know and comply with the laws relevant to the professional engineering services you provide and your functions as a professional engineer.

If you own or manage a professional engineering business, you must also comply with the laws that apply to the operation of that business such as workplace health and safety. However, as the Code is concerned with the provision of professional engineering services, it does not cover these other laws.

The Code requires you to know the requirements of the Professional Engineers Registration Act and its regulations, and if you are an endorsed building engineer, the Building Act and its regulations, and to comply with those requirements when you provide professional engineering services. These Acts and their regulations can be viewed at [legislation.vic.gov.au](http://www.legislation.vic.gov.au).

Under the Professional Engineers Registration Act you must be registered to provide professional engineering services and avoid unsatisfactory professional conduct. Unsatisfactory professional conduct is defined in section 3 of the Professional Engineers Registration Act.

Additionally, under the Building Act you must be an endorsed building engineer to issue certificates under section 238 for the design or inspection of building work and to inspect building work under Part 4 of that Act.

Among other standards, the Building Regulations 2018 require endorsed building engineers to comply with the National Construction Code (NCC) as it relates to the provision of relevant professional engineering services. The NCC contains the technical provisions for the design and construction of buildings and other structures throughout Australia and references a number of technical documents, including Australian Standards. The NCC is available from the [Australian Building Codes Board](http://www.abcb.gov.au/) at [www.abcb.gov.au](http://www.abcb.gov.au).

The Code also requires you to know and comply with other laws relevant to the area or areas of engineering in which you are registered and competent to practise or specific to a particular function or specialised area of engineering.

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| For example …   * A civil engineer designing a subdivision must ensure that the design and construction of stormwater drainage discharge into a waterway complies with a range of other laws including the Planning and Environment Act 1987, Aboriginal Heritage Act 2006 and the Commonwealth, Environment Protection and Biodiversity Conservation Act 1999. * An endorsed building engineer designing mechanical plant for a building, must know that work approval is required under Division 2 of Part III of the Environment Protection Act 1970. |

It is important that you identify the laws, codes and/or standards you must comply with for each professional engineering service and project you undertake.

The requirement to know and comply with the relevant laws also creates a responsibility to keep up to date with changes to those laws. You can be informed about any changes to relevant laws and technical updates by undertaking Continuing Professional Development (CPD). To be eligible to renew your professional engineer registration and endorsement every three years, you must complete a minimum number of hours of CPD. For information on your CPD obligations visit [www.consumer.vic.gov.au/engineers](http://www.consumer.vic.gov.au/engineers).

Knowing the relevant laws will assist you to understand the boundaries of your professional liability and complying with those laws will avoid potential problems and consequences.

## 2 Be honest and fair

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| **Summary** – A registered professional engineer must act with honesty, fairness and integrity and must not misinform, mislead or deceive any parties or permit themselves to be misrepresented with respect to any work, document, presentation or publication. |

As a professional you must be honest, act with integrity and treat all parties fairly when providing professional engineering services in all your professional relationships. This applies to all of your dealings and communications relating to the provision of professional engineering services, whether face-to-face or virtual, by phone or otherwise such as emails, texts and social media posts.

Acting with honesty, fairness and integrity means that you do not misinform any party (knowingly provide incorrect or incomplete information) and that your conduct – actions and statements – must not be misleading or deceptive. A professional engineer must make reasonable attempts to gather all relevant information.

It is an offence under the Australian Consumer Law (ACL), as set out in schedule 2 of the Commonwealth *Competition and Consumer Act 2010,* for professional engineers and professional engineering businesses involved in trade or commerce to engage in misleading or deceptive conduct or conduct that is likely to mislead or deceive.

Failing to disclose relevant information and opinions can also be misleading or deceptive. For example, not disclosing errors or underlying assumptions of concern discovered in a report to a client relying on that report or to other engineers working on the same project (provided that the client has approved the disclosure of any confidential information) is conduct that is misleading and deceptive.

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| Some examples of misleading and deceptive conduct …   * An endorsed building engineer is made aware by a building surveyor that the alterations to a building comprise more than 50 per cent of the whole building but they do not undertake a review of relevant aspects for the whole building because the project would become more complex and expensive. * A dam is designed for a 1,000-year flood to avoid complexities in the design despite being required to design the dam for 5,000-year flood, as specified in the guidance by the Australian National Committee on Large Dams. * An endorsed building engineer issues a structural engineering compliance certificate of inspection certifying compliance with the Building Code of Australia when there are suspected structural design defects. |

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| * An endorsed building engineer issues an engineering compliance certificate of inspection certifying compliance with the Building Code of Australia without conducting a site inspection, or without performing any analysis. |

Situations can also arise where information provided and statements made are accurate but are provided in a misleading way because qualifying information and/or conditions are not specified. For example, a professional engineer who knows that their design does not include the full scope of the proposed works or condition of existing interfacing structures, does not make clear what components are included in the scope of design, such as ancillary structures, propping, etc.

Whether advertising, tendering, quoting or advising clients, the representations you make must not be false or misleading. While it is essential to be accurate about the standard, quality, value, grade, performance and characteristics of materials and services, representations about testimonials, sponsorships, publications and your authority must not be misrepresented. This includes not permitting your name to be used in relation to any work, document, presentation or publication to falsely represent your authorship of, responsibility for or agreement with the content or form of that work, document, presentation or publication. For example, you should not include your name on documentation for professional engineering work you have not undertaken, contributed to, or adequately supervised.

When deciding if conduct is misleading or deceptive, or is likely to mislead or deceive, it is important to consider whether the overall impression created by your actions and statements is or will be false or inaccurate.

## 3 Deliver good practice professional engineering services

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| **Summary** –A registered professional engineer:   * must exercise skill and diligence and provide professional engineering services with reasonable care and within a reasonable time * should seek peer review unless impractical, and * must not engage in conduct that is detrimental to the profession or contrary to the public interest. |

***Skill, diligence, care and timeliness***

The obligation in the Code to exercise skill, diligence and reasonable care when providing professional engineering services reinforces your common law duties. It is also consistent with the obligation commonly included in many professional engineering services engagement agreements that you perform services with reasonable skill, care and diligence.

Laws applying in Victoria also address this obligation. For example, the *Wrongs Act 1958* (Wrongs Act) provides authority for claims for damages for negligence, that is a failure to exercise reasonable skill and care, and the ACL guarantees that services are provided with due skill and care. While the Wrongs Act applies to the provision of all professional engineering services, the ACL guarantees are limited to services that are provided to ‘consumers’.

An individual or a business is a consumer under the ACL if the service being provided is less than $100,000 or is ordinarily provided for domestic, household or personal use or consumption. This means that there is a duty of skill and care under the ACL when providing professional engineering services to an individual or business in relation to their personal property such as a motor vehicle or building.

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| Some examples of a professional engineer not exercising skill, diligence and care …   * A retaining wall is built over an easement or underground infrastructure because the professional engineer failed to seek advice from the local council or DIAL BEFORE YOU DIG before designing and certifying the wall. * A professional engineer advises a client that a change to a pipe size will only incur additional costs for the pipe replacement without foreseeing other associated costs, such as a change to the size or number of required pumps. |

You will meet your obligation under Clause 3 of the Code to provide professional engineering services within a reasonable time when you provide those services in line with any agreement with your client – this may be set out in the professional engineering services engagement agreement. If no time is agreed, the services would be expected to be provided without unnecessary delay taking into consideration the circumstances and the nature of the service.

Reasonable is defined in the Code to mean an action or conduct that would be considered by an average person to be just, rational, appropriate, ordinary or usual in a particular situation.

***Peer review***

A peer review is an evaluation of the adequacy of engineering work by an independent professional engineer who has expertise in the area of engineering. Peer reviews are conducted in addition to the normal quality control and checking procedures that many engineering businesses have in place.

A peer review may be conducted for completed or partially completed professional engineering work, at pre-determined stages of a large or complex project or for key components of professional engineering work.

Clause 3 of the Code does not require you to seek a peer review but recommends that one be undertaken. Peer reviews should be considered for higher risk professional engineering services such as those that are non-routine, complex, have new or unique engineering aspects, have high financial or economic risks, have significant public safety aspects or use new or unusual materials.

A peer review would not normally be sought for a low risk engineering service such as:

* the design of a prototype for the purpose of testing and assessment
* increasing the width of an access road, to allow for large-scale machinery, to a dam construction site, if there is minimal cost to the client and little impact to the surrounding built environment, and
* an assessment of a proposed minor reduction in egress path width of 5mm for a dwelling with two occupancies if there is minimal risk to the occupants and the building and there is no foreseeable interaction with other building elements.

Clause 3 recognises that in some situations it may not be practical to arrange a peer review. For example, it would be impractical to seek a peer review if you are a sole trader and the only suitable qualified and available registered professional engineer is a competitor.

***Reputation of the engineering profession***

Your personal reputation and that of the engineering profession will be adversely affected by any incompetence or misconduct. To maintain and build public trust and confidence you must be professional in all your dealings with your clients and know and comply with all relevant laws and this Code.

***Public interest***

When providing professional engineering services, you must not engage in conduct that is contrary to the public interest. For the purposes of the Code, the public interest includes, but is not limited to the safety, health and well-being of the community.

Acting in the public interest involves taking a holistic view of a project, particularly where failing to do so may have a negative impact on the public.

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| For example …   * A fire safety engineer conducting an inspection under the Building Act following the fit out of a building discovers numerous unsealed service penetrations in a fire-isolated stairway not only in the floors with the fit out but throughout the stairway. As it is in the public interest for the building to be safe, the fire safety engineer should take steps to document the issue for resolution by the appropriate party, and not issue a compliance certificate if the issue remains unresolved. |

Technical, economic and social issues associated with engineering projects are often complex and interrelated and require trade-offs to balance the interests of competing groups. Where issues and trade-offs arise that will result in conduct or outcomes that are likely to be contrary to the public interest, the best course of action may be to alert your client and/or employer and work with them to appropriately address the risk. It would also be appropriate to consider your legal obligations and whether the matter should be reported to the relevant authority, for example, if it is an environment risk, to the Environmental Protection Authority.

## 4 Inform clients of the consequences of disregarded advice

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| **Summary** –A registered professional engineer must inform a client or their employer of their professional concerns about a particular action or project and the likely consequences for affected parties. |

If your engineering advice, decisions and judgments are, or are likely to be, modified, overruled or disregarded, you must take reasonable steps to advise your client and employer of your professional concerns and the potential consequences for any parties likely to be affected.

While the steps you take in response will depend on the particular circumstances, if a relationship exists and it is reasonable to do so, *you* should consider meeting with the client and/or your employer as soon as possible to outline your concerns and the potential consequences. This will ensure that all of the facts, assumptions, risks, actions and recommendations are presented to all parties. Best practice is to follow up with written advice, such as an email or other electronic or paper-based communication.

This obligation does not require that you undertake and provide a detailed assessment of the potential consequences and outcomes of various actions, but rather that you concisely outline your concerns, identify who will be affected and the key impacts for those affected.

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| For example …   * On receiving advice from their professional engineer to install subsurface drainage underneath a building slab, the client replies that they are instead considering waterproofing the slab with plastic sheeting.   In response, the professional engineer informs the client of the potential degradation of the plastic sheeting over time and the subsequent impact of water on the long-term performance of the slab*.* |

## 5 Act in the best interests of a client

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| **Summary** –A registered professional engineer must act in the best interests of a client unless it would be unlawful, unreasonable, or improper to do so. |

A key objective of the Professional Engineers Registration Act is to provide appropriate protections to clients of registered professional engineers by ensuring that professional engineering services are provided only by suitably qualified and experienced engineers. Consistent with this objective, the Professional Engineers Registration Act provides for the Code to, among other matters, include obligations for a registered professional engineer to act fairly, honestly and in the best interests of a client. This obligation is consistent with professional engineers or professional engineering businesses having a contractual relationship with a client through an engineering services engagement agreement.

However, as a professional engineer you also have obligations to act in the best interests of your employer, if you are employed as a professional engineer, and to not act contrary to the public interest. Therefore, the obligation to act in the best interests of a client in Clause 5 of the Code is conditional on it not being unlawful, unreasonable or improper.

The Code also requires you to refuse any services or products from third parties that are contrary to the best interests of a client, such as, a product or service from a preferred supplier that does not meet the needs of a required outcome, is not value for money or is inferior to a competing product or service.

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| For example, it would be …   * **Unlawful** to propose a design for a building or system, such as a sprinkler system with reduced coverage, that would minimise the construction costs for a client but does not meet the performance requirements of the Building Code of Australia and/or the Building Act. * **Unreasonable** to agree to a client or employer’s request to undervalue and dispute a fair and reasonable variation claim from a builder. * **Improper** to recommend a design that places plant machinery in a hazardous location (without the necessary safety safe-guards for access and maintenance) as a cost-effective solution for a client. |

## 6 Act in area of professional competence

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| **Summary** –A registered professional engineer must only act within their area or areas of competence, only directly supervise within that area or areas, seek or recommend that expert advice be sought as required and not misrepresent their professional competence. |

You must only provide professional engineering services within your area or areas of competence.

Your area of competence may be the area of engineering in which you are registered to practise (fire safety, civil, structural, electrical and mechanical engineering) but will more likely be a narrower area of specialisation within that area of engineering. For example, control engineering within the area of electrical engineering or piping engineering within the area of mechanical engineering.

Working in an area of competence requires you to operate within the limits of your qualifications, training and experience and to perform activities to the expected standard and in an effective manner. In addition, Clause 6 of the Code requires you to competently carry out professional engineering services, which principally requires you to apply sound judgement.

It is important that you understand the limits of your competence.

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| For example …   * An endorsed building engineer registered in the area of fire safety engineering must know the limits of their knowledge, experience and functions under the Building Code of Australia and/or the Building Act when issuing a certificate of design compliance (or undertaking other aspects of services within their expertise). |

In some situations, understanding the limits of your competence may involve a self-assessment to ensure you have the necessary knowledge, skill and capability to carry out the appointed tasks. If you do work that is outside your area of competence you risk poor quality work and potentially damaging both your own reputation and that of the engineering profession.

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| Some examples of professional engineers working outside their area of competence …   * A civil engineer who does not have any qualifications and experience in traffic engineering, carries out a design for traffic signals and road markings which is outside their area of competence. * An endorsed building engineer issues an engineering compliance certificate of inspection certifying compliance with the Building Code of Australia, relying on an inspection carried out by another person. * A fire safety engineer signs a certificate of compliance to certify the fire safety aspects of a building including the design of the sprinkler system which is outside their area of competence and registration. |

Working within your area of competence and working competently means that you take personal responsibility for your work. It also includes:

* only directly supervising an unregistered person within your area of competence
* informing employers and clients, and recommending or obtaining expert advice, if any engineering work requires qualifications and experience outside your area of competence
* making sure you do not misrepresent your area of expertise, level of experience or competence to clients and prospective clients, in particular, not making any statements or publishing any material that misrepresents your qualifications and experience
* expressing opinions and reporting or advising on professional engineering matters honestly and only in your area of competence, and
* maintaining competence by keeping up to date with the technical and legal framework and regulations governing your work.

## 7 Directly supervise

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| **Summary** –A registered professional engineer who directly supervises an unregistered person must not permit the person to act outside their area of competence and must be responsible and have sufficient control to ensure that the work is carried out to the appropriate standard. |

Under the Professional Engineers Registration Act an unregistered person may provide professional engineering services if they work under the direct supervision of a registered practising professional engineer. The elements of direct supervision are listed in section 67 of the Professional Engineers Registration Act and in Clause 7 of the Code.

These elements along with the responsibilities of registered professional engineers for direct supervision and examples are described in the “Guidelines on direct supervision” published on the CAV website at [consumer.vic.gov.au/engineers](http://www.consumer.vic.gov.au//engineers).

## 8 Maintain confidentiality

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| **Summary** –A registered professional engineer must not use or disclose a client’s or employer’s confidential information unless authorised by the client or employer or required by law. |

Clients and employers often reveal confidential information to enable you to deliver the professional engineering services they require. However, unless authorised to do so, Clause 8 of the Code prohibits you from using or disclosing the confidential information of present or past clients and/or employers you obtained through providing those professional engineering services.

The Code defines confidential information as any information that is:

* acquired by or provided to a registered professional engineer in the course of providing professional engineering services or in the course of their employment, and
* agreed or understood by the professional engineer and the client or the professional engineer and their employer, if employed, to be confidential, or that may reasonably be expected to be considered as confidential to that client or that employer.

Therefore, confidential information can be information relating either to the:

* general business affairs of your client, for example, may include organisational structure, activities, operating procedures, products and services, finances, plans, transactions and policies, and/or
* engineering related affairs of your client, for example, the purpose of the engineering work sought, intellectual property, information about a competitor’s interests and the potential impacts of that work on the environment or community.

There are two situations where you may use and disclose confidential information.

* When you are authorised by the client or employer, as relevant, to use and disclose confidential information. For example, the client of a fire safety engineer authorises the disclosure of design information to other engineers working on the same project, such as a civil engineer who needs to design the building and surrounding carpark area to comply with the Building Code of Australia.
* When you are required by the law to use and disclose confidential information. For example, section 71 of the Professional Engineers Registration Act and section 227G of the Building Act require documents and/or information to be provided to CAV and VBA inspectors or where a court requires disclosure as part of legal proceedings.

The professional engineering services engagement agreement with your client may specify the confidential information for a particular project and have additional requirements around the use and disclosure of that information.

If you need to use or disclose confidential information, to ensure that you comply with the Code you must first inform your client and/or employer and obtain their permission to do so. Given the significance of using and disclosing confidential information, the best practice approach is to inform your client in writing setting out the information you intend to use and/or disclose and the relevant reasons. You should also request a response in writing. If they refuse your request, you cannot use or disclose the information.

You do not need to obtain authorisation from a client and/or employer if the use or disclosure of confidential information is required by law. However, the disclosure should be made only to the extent required by law and present or past clients and employers should be advised, preferably in writing, as soon as practical.

Also, authorisation from a client and/or employer is not required to use or disclose information that is in the public domain such as information contained in media releases or provided on their organisation’s website.

Additionally, technical knowledge gained through providing professional engineering services or in the workplace is part of your professional experience and may be freely used in subsequent projects without consent from other parties provided it is not confidential information because it is intellectual property of a client or employer.

## 9 Manage conflicts of interest

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| **Summary –** A registered professional engineer must disclose:   * any actual, perceived or potential conflict of interest before providing professional engineering services and also when providing those services as soon as practical after discovering the conflict, and * any commercial or business relationship they have with a third party they recommend. |

Your conduct as a professional engineer also involves managing conflicts of interest, that is where your interest or the interests of another client are in conflict with those of your client or a party affected by the services being provided. A conflict of interest can affect your professional judgement in relation to a specific project or client, or simply create a perception that your judgement could be affected.

A conflict of interest is defined in the Code as any circumstances where a registered professional engineer may be influenced or may reasonably be perceived to be influenced by a private or business interest when providing professional engineering services. Conflicts of interest can be financial or involve personal and business relationships. Personal and business relationships are defined in the Code to mean a family, business or fiduciary relationship, or relationship in which one person is accustomed, or obliged, to act in accordance with the directions, instructions or wishes of another person.

Under Clause 9 of the Code, you must disclose any actual, perceived or potential conflict of interest to:

* a client or an affected party before you start providing professional engineering services, and
* a client and employer, if employed, immediately on discovering the conflict when you are providing professional engineering services.

If you think there may be a conflict of interest between your interests and a client’s interests, discuss it with your client. If you’re not sure, the best approach is to be open and transparent.

Following disclosure, the conflict will need to be appropriately managed.

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| Examples of situations where conflicts of interest will arise …   * Not informing a client or employer of any business association, interests, or circumstances that could be construed to influence your judgment, or the quality of the professional engineering services, or might be perceived as having such an influence. * Recommending the services of a third party to a client, such as an electrician, mechanic, architect, or builder where you have a personal or business relationship with that third party without disclosing the relationship to the client. * Entering into a professional engineering services engagement agreement with a second client for the same project or services relating to the same project without disclosing the engagement to the first client. * Accepting compensation, financial or otherwise, from more than one party, for services on the same project, or services pertaining to the same project, without disclosing the existence of compensation arrangements to the affected parties. |

## 10 Disclose endorsements and referrals

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| **Summary** –A registered professional engineer must disclose if they:   * will receive a payment, gift or other advantage from recommending or endorsing a product or service that will be used in the provision of professional engineering services for a client, or * pay a fee or reward to a third party who referred a client to them. |

A conflict of interest may also arise if you receive a benefit from a third party to recommend or endorse a service or product, or you give a benefit to a third party for a referral.

Therefore, to ensure that a client or prospective client is aware of any such arrangement that relates to the professional engineering service they have engaged, or intend to engage, you or your employer to undertake on their behalf, Clause 10 of the Code requires you to disclose the existence of the arrangement.

In particular, you must disclose:

* if you receive, are likely to receive or have been promised a payment, gift or other advantage to recommend, endorse or comment on a product or service – for example, a professional engineer receives a payment from a materials or equipment supplier to recommend their products or services to the client, and
* if you give or offered to give a fee or reward to a third party for referring a client or prospective client to you – for example, a professional engineer pays a ‘finders’ fee to an architect, contractor or building surveyor who refers clients to them for professional engineering services.

A payment, gift, advantage fee or reward includes both monetary or non-monetary considerations such as travel, hospitality, entertainment, products and trade goods of material value.

The aim of disclosing these arrangements to clients and prospective clients is to enable them to make informed decisions about the financial and other considerations relating to the provision of professional engineering services and to be confident about the factors influencing your decisions relating to those services.

As a best practice guide, the disclosure should be as soon as practical, and to ensure you have a record, be in writing or followed-up in writing.

## 11 Be impartial and objective

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| **Summary** –A registered professional engineer must not give or accept an inducement that would improperly influence a matter. |

Being impartial and objective means that your actions, advice and decisions are based on fact, fair and balanced and without bias, as far as reasonably practicable*.* Clause 11 of the Code applies these principles by prohibiting you from giving or accepting inducements to improperly influence an action or outcome.

An inducement is an action or situation used to influence another person while an improper influence induces or intends to induce a person to act or consider action other than on a merit basis. Inducements can include monetary payments and non-monetary consideration of a material value such as gifts, travel, entertainment, hospitality, conferences, training or sponsoring appointments to boards/committees.

*Giving inducements* – You must not give, or promise to give, a client or prospective client an inducement to improperly influence them to:

* engage you or the business you are employed by to provide professional engineering services, or
* agree to matters affecting the professional engineering services being provided – for example, a payment or gift to agree to a specialist service provided by you or the engineering business, or for a particular change to the services being provided or for particular materials, products or other requirement to be specified in a design.

*Accepting inducements* – You must not accept an inducement from any person to improperly influence the advice you provide or decisions you make – for example, from a:

* developer or builder to issue engineering reports and certificates, or
* contractor to secure a favourable decision in a tender process you are managing.

## 12 Inform and communicate with clients

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| **Summary** –A registered professional engineer must communicate with a client and, in certain circumstances a prospective client, in an effective and timely manner. |

To meet your obligations under Clause 12 of the Code you need to have strong communication relationships with your clients. In particular, this means:

* ensuring that your clients are informed of the decisions they need to make
* providing them with sufficient information to make informed decisions
* providing information that is accurate and unambiguous about fees, costs, outcomes and risks, and
* responding within a reasonable\* time to requests for information.

It also involves effectively communicating with prospective clients and also providing them with information about fees, costs, outcomes and risks.

Effective and timely communication with a client can assist in minimising complaints and misunderstandings about the deliverables and outcomes of professional engineering services. Complaints can arise where a client feels inadequately informed of the progress of a project or feels that what actually happened was very different from what they felt they were led to expect.

The following checklist is a best practice guide to effective communications.

* *Clarify your client’s expectations* – Establish expectations early and continuously throughout the project. It is imperative that you understand what outcomes your client believes can be delivered as well as their expectations, and also that your client understands what expectations you may have of them, and what they will be required to do to ensure their project progresses satisfactorily.
* *Communicate with your client at regular and/or appropriate times as a project progresses* – Notify them of any developments and updates to progress. The objective of regular client communications throughout a project is to ensure the client receives essential information, is able to follow and understand the progress being made and is aware of any changes to the service being provided or the costs, risks and outcomes of a project.
* *Make every effort to explain things clearly* – Some clients may be unfamiliar with engineering terms and processes and need them to be explained. Seek feedback that demonstrates clients have understood key terms or processes.
* *Establish management systems that enable efficient responses to requests for information, queries and complaints* – This will assist you to meet your obligations under Clause 12 of the Code to respond to requests for information within a reasonable\* time, the timing of which will depend on the nature of the project and the circumstances of the request, and under Clause 14 of the Code to resolve complaints.
* *Support written communications with discussions* – Particularly for complex and critical matters this will confirm that both you and your client have a common understanding of what has been written and will assist with ensuring that essential information is not lost in the fine print.

\* Reasonable is defined in the Code to mean an action or conduct that would be considered by an average person to be just, rational, appropriate, ordinary or usual in a particular situation

## 13 Maintain client records

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| **Summary** –A registered professional engineer must take reasonable steps to adequately protect, secure and store a client's paper and electronic records relating to professional engineering services. |

Professional engineers produce many records when carrying out professional engineering services. Generally, these records belong to clients and/or to the professional engineers and/or engineering businesses that created them. Clause 13 of the Code requires you to “take reasonable steps to adequately protect, secure and store a client's paper and electronic records”.

Clause 13 does not require a professional engineer to take responsibility for records kept by their employer beyond complying with good records management practice. In particular, it does not require you to keep personal records of engineering records owned by your employer.

As the Professional Engineers Registration Act has no record keeping requirements, it is a matter for a professional engineer or an engineering business to determine how best to protect, secure and store client records, how long to retain those records and how to dispose of them. Professional engineers should also be aware of any other applicable requirement (including other Acts) that may have record keeping requirements.

A documented records management policy including storage and disposal arrangements will ensure that records are available when needed by you or your client, for example if an issue arises or for insurance or legal proceedings. It will also ensure that you can confidently dispose of those records you no longer require. When developing your records management policy think about the different categories of records and the requirements for those records. Examples of some of the client records you may have for professional engineering services are:

* professional engineering services engagement agreements or contracts
* drawings, designs, plans and specifications
* studies and reports
* calculations and design notes
* construction documents
* meeting minutes and records
* approvals and reviews, and
* correspondence.

While records can be securely kept in a paper format, they may also be stored electronically. To ensure the security of electronic records the format should prohibit the records being changed, they should be regularly backed-up and consideration should be given to off-site storage of backups.

While the focus of Clause 13 of the Code is on securing and storing records, a good records management policy would also detail how records should be routinely and securely destroyed. The Australian Taxation Office and the Commonwealth Corporations Act 2001 specify the periods for keeping taxation and financial records. AS ISO 15489.1:2017 “Information and documentation - Records management, Part 1: Concepts and principles” is an international standard that provides guidance on contemporary recordkeeping requirements with an emphasis on the digital environment.

It is good practice to inform your clients about your records management policy or those of the engineering business and discuss whether they have any special requirements. Any such requirements may need to be specified in the professional engineering services engagement agreement before the project commences.

## 14 Resolve disputes

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| **Summary** –A registered professional engineer must make every effort to minimise and resolve complaints and disputes with a client about the provision of professional engineering services and to inform a client of the resolution process when a complaint is made or dispute arises. |

The Code obliges you to make every effort to minimise and resolve complaints and also to inform a client of the process for resolving complaints and disputes as soon as practical after a complaint is made.

Complying with the obligations in the Code will support you to minimise disputes with clients, in particular, Clause 12 to regularly communicate and keep clients informed. However, minimising disputes does not mean that you cannot professionally respond to claims and issues as they arise.

To meet the obligation to inform a client of the process for resolving complaints you or the engineering business need to have a complaint-handling and dispute resolution process in place. However, if you are employed as a professional engineer and you are providing professional engineering services to other employees in the same business, any complaints and disputes should be handled through normal employment arrangements.

It is good business practice to have a documented process for handling complaints and resolving disputes. Dealing with complaints professionally is essential to ensuring issues are dealt with before they become a significant problem and can help maintain trust in a professional engineer, an engineering business and the professional engineering service being provided.

In many circumstances the complaint-handling and dispute resolution process will be set out in the agreement engaging a professional engineer or a professional engineering business. Where this is the case, and you are the professional engineer providing or managing the service, you should be familiar with that process and ensure that it is followed when a complaint is made, or a dispute arises.

Where the professional engineering services engagement agreement does not include a complaint-handling and dispute resolution process or does not include all of the key elements of such a process, then it is important that such a process be developed and implemented. Documenting the process and having a dedicated officer who can receive and manage complaints will make the process transparent for both professional engineers and their clients.

The type of complaint-handling and dispute resolution process you have will depend on the complexity of your business. A simple process would include the following information.

* **How to make a complaint** – For example, by providing full details of the complaint by telephone, email or post along with the outcome sought and confirmation that the matter has been raised with the professional engineer concerned.
* **Who to make the complaint to** – For example, nominate a complaints handling officer who will oversee the complaints process and be responsible for ensuring that the matter raised is fully examined.
* **How the complaint will be handled** – For example, the complaint will be handled in confidence, with consent if discussion with a third party is needed and may involve a request for further information or for a meeting.
* **How long it will take** – For example, receipt of the complaint will be acknowledged within a specified period of time and it will be resolved as soon as possible based on its complexity.
* **What action will be taken** – For example, where a complaint is justified steps will be taken to rectify the matter and change business policies and procedures if a problem is identified.
* **How a complaint can be escalated** – For example, if a complaint cannot be resolved, it should be raised with CAV or the VBA.

In line with standard complaint-handling protocols, a complainant should first attempt to resolve their concerns with the relevant professional engineer or engineering business before escalating the matter.

For further guidance on developing and implementing an efficient complaint-handling and dispute resolution process see the International Standard ISO 10002:2018 “Quality management – Customer satisfaction – Guidelines for complaints handling in organizations” and/or the Australian and New Zealand Standard AS/NZS 10002:2014 “Guidelines for complaint management in organizations”.

ISO standards reflect the needs of both businesses and customers and are available for purchase from Standards Australia at [[store.standards.org.au](https://www.standards.org.au)](https://store.standards.org.au/) or SAI Global.