



Australian Institute of Building Surveyors

CODE OF PROFESSIONAL CONDUCT

Adopted by the Board on the 18 and 19 April 1998

INTRODUCTION

1. The Constitution and the Bylaws of the Institute govern all members of the Institute.

All members are governed by this Code of Professional Conduct.

This Code of Professional Conduct is designed to provide all those to whom it applies with authoritative guidance on acceptable standards of professional conduct.

The Code focuses on essential matters, and is not intended to include a multitude of petty rules. It should not, however, be narrowly interpreted. While it contains specific principles, it is equally important that the spirit of these principles should govern professional conduct.

The Code sets out minimum requirements. It is expected though, that all persons to whom the Code applies shall achieve a level of professionalism in excess of such minimum requirements.

Any person to whom the Code applies should, if in doubt as to the propriety of any course of action, seek the guidance of the Institute (or relevant State authority). This is especially necessary if circumstances arise, for whatever reason, in which difficulties occur in complying with requirements or taking a professionally correct course of action.

2. In this Code, practising privately means practising other than as an employee of a local or other public authority.

PRINCIPLES

3. All persons to whom this Code applies must:

- a) at all times safeguard the interests of the community **PROVIDED ALWAYS** that such interests are not contrary to the public interest (or in contravention of this code);
- b) not breach public's **trust** in the profession to which they belong or the specific trust of the community. Observance of accepted norms of honesty and integrity must underlie all their professional decisions and actions;
- c) be objective, impartial **and** free of any conflict of interest in the performance of their professional duties;
- d) strive continually to improve their technical professional and managerial services and to keep their knowledge up-to-date. They must bring due care and diligence to bear upon the discharge of their duties to the community;
- e) not undertake professional work, which they are not competent to perform. If they are in any doubt to this matter, they must obtain such advice and assistance as will enable them to carry out such work competently;
- f) comply with the Constitution and Bylaws of the Institute and all **directions** and determinations lawfully given by the Institute from time to time;
- g) not disclose information acquired in the course of their professional work except where consent has been obtained or where there exists a legal or professional duty to so disclose. They must not use such information for their personal advantage or that of a third party;

- h) refrain from any conduct or action in their professional role which may tarnish the image of the profession to which they belong or unjustifiably detract from the good name of the Institute; and
- i) refrain from any conduct or action in their professional role that is anticompetitive or **unconscionable**.

4. Without limiting the generality of the foregoing, all members:

- a) must ensure that any professional fees charges by them reflect fairly and equitably the value of work performed for their clients, and otherwise observe the principles as set out in Schedule A hereto;
- b) must not accept a commission from any third party;
- c) who hold funds in trust must keep records necessary to show that the funds have been correctly administered, and otherwise observe the principles set out in Schedule B hereto;
- d) are prohibited from using a practice name which is false, misleading or deceptive, or likely to mislead or deceive (as to the nature, the characteristics, the suitability for their purpose or the quality of any services). Practise means and descriptions must be in good taste and must not reflect adversely on the profession to which members belong;
- e) are permitted to advertise or obtain publicity for their services **PROVIDED THAT** the content or nature of such advertising or publicity is not false, misleading or deceptive, (as to nature, characteristics, and the suitability for their purpose or the quality of any services). Likely to mislead or deceive (as to the same unconscionable in all the circumstances) or in any other way reflects adversely on the profession to which they belong. Advertising and publicity must be in good taste, informative, objective and consistent with the dignity of the profession to which members belong;
- f) subject to the last preceding principle hereof, must not directly and without invitation solicit a professional engagement from any person;
- g) must not (knowingly seek or) accept an engagement in replacement of another member (or as employee of the local or other public authority), without first communicating with that member and inquiring as to whether there are any circumstances they should take into account in deciding whether or not to accept such engagement. Members must supply any successor with reasonable information pertaining to the work involved;
- h) who accept a special assignment from the client of another member or direct from that member must not do anything which will impair the position of that member in his or her continuing work for the client, and must otherwise observe the principles set out in Schedule C hereto;
- i) in the case of a member who is an employee of a council must not accept a commercial engagement to act in relation to a matter where the Council has a statutory obligation for administration and enforcement of the Regulations;
- j) must not at any time engage in any business or occupation which may create a conflict of interest in rendering services to a client, or which is detrimental to the public good or the dignity of the profession to which they belong; and
- k) must reply to professional correspondence and enquiries expeditiously.

SCHEDULE A

PROFESSIONAL FEES

Principles of charging

1. Professional fees must be a fair reflection of the value of work performed for the client, taking into account:
 - a) the skill and knowledge required for the type of work involved;
 - b) the level of training and experience of the persons necessarily engaged on the work;
 - c) the time necessarily occupied by each person engaged in the work; and
 - d) the degree of responsibility that the work entails.
2. Professional fees should normally be computed on the basis of appropriate rates per hour or per day for the time of each person engaged on the work. These rates should be based on the fundamental premise that the organisation and conduct of the office of the member practising privately and client work are well planned, controlled and managed. They should take into account the factors set out in Principle 1.
3. Fees may be charged on the basis of percentage of the total cost of the project or a percentage of part of the cost of the project.
4.
 - a) A member should not make a representation, that specific professional service, in current or future periods, will be performed for either a stated fee, estimated fee, or fee range, if it is likely at the time of representation that such fees will be substantially increased and the prospective client is not advised of that likelihood.
 - b) Before undertaking an assignment, a member practising privately must:
 - i) advise the client of the basis of which fees will be computed, and
 - ii) clearly define the billing arrangements.

The client must be advised without delay of any changes to the fee structure of billing arrangements that may become necessary during the course of an assignment or between assignments.
5. When undertaking work for a client it may be necessary or expedient to charge a pre-arranged fee, in which event the member practising privately should estimate a fee taking into account the matters referred to in Principles 1 to 3 above.
6. It is not improper for a member to charge a lower fee than has previously been charged by another member for similar work, provided that fee has been calculated in accordance with the factors referred to in Principles 1 to 3 above.
7. Instructions must not be accepted on a contingency fee basis, i.e., on the basis that the amount of the fee will depend on the results obtained or that no fee will be charged if there is no favourable result. Fees are not regarded as contingent if fixed by a Court or other public authority.

8. A member acting as a director not in full-time employment of a company is entitled to be remunerated for the service rendered. He or she may, in addition to his or her fee, be remunerated in any manner permitted by law.
9. Members should supply clients with accounts that are sufficiently detailed to enable them to verify their accuracy. Members must supply full details if requested.
10. The foregoing principles relate to fees as distinct from reimbursement of expenses. Out-of-pocket-expenses, in particular travelling expenses, attribute directly to the work done for a particular client would ordinarily be charged to that client in addition to the professional fees.

SCHEDULE B

CLIENTS' MONIES

Definitions

1. In this Statement the following expressions have the meaning assigned to them in this paragraph:

“Clients’ Monies” means any monies including documents of title to money, i.e., tax refund cheques, bills of exchange, promissory notes; and documents of titles that can be converted into money. For example, bearer bonds-received by a member providing certification services to be held or paid out by the member on the instruction of the person from whom or on whose behalf they are received.

“Client Account” means any account which is used solely for the banking of clients’ monies.

Principles

2. When a member is entrusted with monies belonging to others, the member should:
 - a) keep such monies separately from all other monies in his or her possession;
 - b) use such monies only for the purpose for which they are entrusted to him or her;
 - c) at all times, be ready to account for those monies to any persons entitled to such accounting;
 - d) comply at all times with the requirements of the Relevant Building Act and the Relevant Building Regulations in relation to any building permit fees or levy monies received.
3. A member should maintain one or more bank accounts for client’ monies. Such bank accounts may include a general client account into which the monies of a number of clients may be paid.
4. If in the form of monies (including documents of title to money), clients’ monies received by a member should be deposited without delay to the credit of a client account.
5. If in the form of documents of title that can be converted into money, clients’ monies should be safeguarded against unauthorised use.
6. Monies may be drawn from the client account only on the written instruction of the client.
7. Fees due from a client may be drawn from clients’ monies provided the client, after being notified of the amount of such fees, has agreed in writing to such withdrawal.
8. Where it seems likely that clients’ monies will remain in client account for a significant period of time the member should, with the concurrence of the client, place such monies in an interest-bearing account.
9. All interest earned on clients’ monies must be credited to the client account.
10. A member should keep such record as will enable the member at any time to establish clearly his or her dealings with clients’ monies in general and the money of each individual client in particular. A statement of account should be provided to the client once a year.

SCHEDULE C

REFERRALS

Principles

1. It is fundamental that a member should undertake work that he or she can expect to complete with professional competence.
2. The wishes of the client must be paramount in the choice of professional adviser, whether or not special skills are involved. Accordingly, a member must not attempt to restrict in any way the clients' freedom of choice in obtaining special advice and, when appropriate must encourage the client to do so.
3. Referral of work may also arise in the area of special services or special task, as it is impracticable for any one member to acquire special expertise or experience in all fields of practise.
4. The services or advice of a member practising privately having special skills may be sought in one or other of the following ways:
 - a) by the client:
 - i) after prior discussion and consultation with the existing member;
 - ii) on the specific request or recommendation of the existing member;
 - iii) with reference to the existing member;
 - b) by the existing member direct with due observance of the duty of confidentiality.
5. When a member is asked to provide services or advice, the member must enquire whether the prospective client has an existing member acting for them. In cases where there is an existing member who will continue with his or her duties, the following principles must be observed.
6. A member must limit his or her services to the specific assignments received by referral from the existing member or the client. A member also has the duty to take reasonable steps to support the existing member in retaining his or her relationship with the client and should express any criticism of the work of the existing member giving the latter an opportunity to provide all relevant information.
7. A member who is asked by the client to undertake an assignment of a type which is clearly distinct from that being carried out by the existing member or initially received by referral must regard this as a separate request to provide services or advice. Before accepting any appointments of this nature, the member must advise the client of the professional obligation to communicate with the existing member and must immediately do so, preferably in writing.
8. Circumstances sometimes arise when the client insists that the existing member should not be informed. In this case, the member should decide whether the client's reasons are valid. In the absence of special circumstances, a mere disinclination by the client for communication with the existing member would not be a satisfactory reason.

9. A member must:
 - a) comply with the instructions received from the existing member practising privately or the client to the extent that they do not conflict with legal or other requirements relevant to the work; and
 - b) ensure, in so far as it is practicable to do so, that the existing member is kept informed of the general nature of the work which he or she is carrying out.
10. Where there are two or more members practising privately, carrying out work for the client concerned, it may be appropriate to notify only the relevant member, depending upon the special work being undertaken.
11. Where appropriate, the existing Member, in addition to issuing instructions concerning referred work, must maintain contact with the receiving member and co-operate with him or her in all reasonable requests for assistance.



History of Amendments

Date	Meeting Ref:	Brief Comments
11/5/2012	Minute No:	Updated to reflect the adoption of the new constitution and interim By Laws and current branding styles