



THE AUSTRALIAN SOCIETY OF BUILDING CONSULTANTS

CODE OF PROFESSIONAL CONDUCT

Introduction

All accredited members are governed by the Rules of the Society.

All accredited 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. 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 Society. 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.

Principles

1. All persons to whom this Code applies must:-
 - (a) at all times safeguard the interests of their clients and employers provided that such interests are not contrary to the public interest;
 - (b) not breach public trust in the profession to which they belong or the specific trust of their clients and employers. 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 professional 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 clients and employers;
 - (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 Rules of the Society and all directions and determinations lawfully given by the Society 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

- (h) professional duty to so disclose. They must not use such information for their personal advantage or that of a third party;
- (i) 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 name of the Society; and

2. Without limiting the generality of the foregoing, all accredited persons must:-

- (a) ensure that any professional fees charged 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) not accept a commission from any third party unless all parties consent to the arrangement;
- (c) keep such records of funds held in trust necessary to show that the funds have been correctly administered, and otherwise observe the principles set out in Schedule B hereto;
- (d) not use a practice name which is false, misleading or deceptive, or likely to mislead or deceive. Practice names and descriptions must be appropriate and must not reflect adversely on the profession to which accredited persons belong;
- (e) only advertise or obtain publicity for their services on the proviso that the content or nature of such advertising or publicity is not false, misleading or deceptive, likely to mislead or deceive or in any way reflects adversely on the profession to which they belong. Advertising and publicity must be appropriate, informative, objective and consistent with the dignity of the profession to which accredited persons belong;
- (f) not accept an engagement in replacement of another accredited person without first communicating with that accredited person and enquiring as to whether there are any circumstances they should take into account in deciding whether or not to accept such engagement. Accredited persons must supply any successor with reasonable information pertaining to the work involved;
- (g) only accept a special assignment from the client of another accredited person or direct from that accredited person on the proviso that the accredited person does not do anything which will impair the position of the initial accredited person in his or her continuing work for the client, and must otherwise observe the principles set out in Schedule C hereto; and
- (h) 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.

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 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 accredited person 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) An accredited person should not make a representation that specific professional services in current and 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, an accredited person must:-
 - i. advise the client of the basis of which fees will be computed; and
 - ii. clearly define the billing arrangements.

The client must also be advised without delay of any changes to the fee structure or billing arrangements which 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 accredited person should estimate a fee taking into account the matters referred to in Principles 1 to 3 above.

6. It is not improper for an accredited person to charge a lower fee than has previously been charged by another accredited person for similar work, provided the fee has been calculated in accordance with the factors referred to in Principles 1 to 3 above.
7. An accredited person acting as a Director and not in full-time employment of a company is entitled to be remunerated for the service rendered. The person may, in addition to their fee, be remunerated in any manner permitted by law.
8. Accredited persons should supply clients with accounts which are sufficiently detailed to enable them to verify their accuracy. Accredited persons must supply full details if requested.
9. The foregoing principles relate to fees as distinct from reimbursement of expenses. Out-of-pocket expenses, in particular travelling expenses, attributable 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' Moneys

Definitions

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

“Clients’ Moneys” means any moneys – including documents of title to money e.g. tax refund cheques, bills of exchange, promissory notes; and documents of title which can be converted into money e.g. bearer bonds – received by an accredited person providing certification services to be held or paid out by the accredited person on the instruction of the person from whom or on whose behalf they are received.

“Client Account” means any bank trust account which is solely for the banking of clients’ moneys.

Principles

2. When an accredited person is entrusted with moneys belonging to others the accredited person should:-
 - (a) keep such moneys separately from all other moneys in his or her possession;
 - (b) use such moneys only for the purpose for which they are entrusted to him or her; and
 - (c) at all times, be ready to account for those moneys to any persons entitled to such accounting.
3. An accredited person should maintain one or more bank accounts for clients’ moneys. Such bank accounts may include a general client account into which the moneys of a number of clients may be paid.
4. If in the form of moneys (including documents of title to money), clients’ moneys received by an accredited person should be deposited without delay to the credit of a client account.
5. If in the form of documents of title which can be converted into money, clients’ moneys should be safeguarded against unauthorised use.
6. Moneys 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’ moneys 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' moneys will remain on client account for a significant period of time the accredited person should, with the concurrence of the client, place such moneys in an interest-bearing account.
9. All interest earned on clients' moneys must be accredited to the client account.
10. An accredited person should keep such records as will enable the accredited person at any time to establish clearly his or her dealings with clients' moneys in general and the money of each individual client in particular. A statement of account should be provided to the client at least once a year.

SCHEDULE C

Referrals

Principles

1. It is fundamental that an accredited person should only undertake work which he or she can expect to complete with general competence. It is essential, therefore for the profession in general and in the interest of their clients that accredited persons be encouraged to obtain advice when appropriate from those who are competent to provide it.
2. The wishes of the client must be paramount in the choice of professional advisers, whether or not special skills are involved. Accordingly, an accredited person 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. The scope of the services offered by the profession of the accredited person continues to expand and the knowledge which is needed to serve the public often calls for special skills. Since it is impracticable for any one accredited person to acquire special expertise or experience in all fields of practice, some accredited persons have decided that it is neither appropriate or desirable to develop within their practices the complete range of special skills which may be required.
4. The services or advice of any accredited person 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 accredited person;
 - ii. on the specific request or recommendation of the existing accredited person;
 - iii. with reference to the existing accredited person;
 - (b) by the existing accredited person direct with due observance of the duty of confidentiality.
5. When an accredited person is asked to provide services or advice, the accredited person must enquire whether the prospective client has an existing accredited person acting on his/her behalf.

In cases where there is an existing accredited person who will continue with his or her duties, the following principles must be observed.

6. An accredited person must limit his or her services to the specific assignments received by referral from the existing accredited person or the client.

An accredited person also has the duty to take reasonable steps to support the existing accredited person in retaining his or her relationship with the client and should not express any criticism of the work of the existing accredited person without giving the latter an opportunity to provide all relevant information.

7. An accredited person 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 accredited person 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 accredited person must advise the client of the professional obligation to communicate with the existing accredited person and must immediately do so, preferably in writing.
8. Circumstances sometimes arise when the client insists that the existing accredited person should not be informed. In this case, the accredited person 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 accredited person would not be a satisfactory reason.
9. An accredited person must:-
 - (a) comply with the instructions received from the existing accredited person 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 accredited person is kept informed of the general nature of the work which he or she is carrying out.
10. Where there are two or more accredited persons carrying out work for the client concerned, it may be appropriate to notify only the relevant accredited person depending upon the special work being undertaken.
11. Where appropriate, the existing accredited person, in addition to issuing instructions concerning referred work must maintain contact with the receiving accredited person and co-operate with him or her in all reasonable requests for assistance.