



ENGINEERS
AUSTRALIA

Mr Phil Waren
Project Manager Reforms, Technical and Regulation
Victorian Building Authority
GPO Box 536
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Dear Phil

RE: Engineers Australia response to draft codes of conduct protocol.

Introduction

Engineers Australia would like to thank the Victorian Building Authority for the opportunity to provide comment on the Codes of Conduct Protocol for drafting and approval.

Engineers Australia is the peak body for the engineering profession. We are a member-based professional association with over 100,000 individual members. Established in 1919, Engineers Australia is a not-for-profit organisation, constituted by Royal Charter to advance the science and practice of engineering for the benefit of the community. Engineers Australia maintains representation in every state and territory.

Summary

As noted in the summary this draft protocol and any subsequent Code of Conduct for engineers in the state of Victoria will be framed under the direction of the VBA under section 177(1) of the Building Act 1993 (ACT).

We also note that this document will be used by any industry group or professional association wishing to submit a code for a class or category of building professionals to the Authority, and that the protocol will also be available to consumers to provide them with the minimum standards expected in Victoria.

Engineers Australia welcomes the development of the protocol and we further welcome the direction that the VBA is taking insofar as establishing frameworks and guides that will be available to consumers of services provided by Registered Building Professionals.

Engineers Australia also agrees that professionals need a clear and concise code of conduct and/or code of ethics as it provides public surety in the profession and provides a minimum set of standards that the profession expects of its members.

Engineers Australia supports these measures as they reflect our own benchmarks for the conduct of our members. Engineers Australia and our members, under our Royal Charter, is charged to act in the public interest. Our Charter states that the institute is to:

"Promote the science and practice of engineering for the benefit of the community."

We have established strict and enforceable Codes of Ethics within Engineers Australia that our members agree to abide to, demonstrating their willingness to meet the public interest.

Response

As part of this process Engineers Australia has been asked to respond on the protocol and how it may operate.

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Engineers Australia can see no issues with the draft protocol insomuch as it provides clear headings and instructions on what is expected for each section of the proposed code. This will be especially useful for those groups who may not have an existing code of conduct or code of ethics, furthermore we see the value in the protocol for consumers if the protocol is currently set out in this format.

We acknowledge that language and structures will change somewhat from the information given to the practitioner and that given to the consumer. Engineers Australia would be happy to assist the VBA in structuring any publically visible documents.

However, the draft protocol is confusing, in that it provides guidance for the individual registrant while also provides guidance to the individual that they could not achieve or have any relevance to.

For example, the protocol would require an individual registrant to undertake to commit to an Australian standard on dispute resolution and to ensure that the public has sight of their complaints handling procedure.

Individuals who are registered with the VBA and who are employees of a business would not need to carry a CHP or sign to a DR standard as their employer takes the responsibility for those provisions.

Furthermore, the protocol outlines that an RBP would have to ensure that a person appointed by them works to a certain standard. Again this requirement is onerous and unnecessary for employees as the responsibility of appointment of sub-contractors or additional staff.

Engineers Australia also has concerns on certain wording within the draft protocol, specifically the phrase "Highest Professional Standard". Engineers Australia believes that this phrase is to arbitrary to enforce and is highly subjective and open to unmeasurable interpretation.

We believe this is unmeasurable as there can be no determinate as to what the "highest" standard is. Who would evaluate what the highest standard is? Would the standard be a national standard or an international standard? How would the standard be independently assessed?

Using "Highest Professional Standards" causes confusion as it cannot be enforced and cannot be measured, and as such can be, and are, subjective and open to vexatiousness.

Consumers of building services are, in the main, consumers who are not sophisticated users of those services; hence their expectations and standards can, and usually are, higher than what may be a competent and acceptable industry standard. Thus the expectation is that the work of a professional will be what the individual believes is the "highest" standard and not what the acceptable standard is.

Regulations and standards should be measured by what is safe and competent. The performance of a professional can be measured through these sets, and safety of the consumer and user of services should be the highest priority.

Engineers Australia notes that under the section marked competence that there is no mention of ongoing competence for classes or categories within the VBA.

Continued Professional Development is a cornerstone of best practice in all professions. It demonstrates an ongoing commitment to maintaining competency and ensures that the profession is, at a minimum, up to date with changes to codes, practice models, directions and legislative changes.

The Victorian Auditor General noted in the review of the Victorian Building Commission that some professions in Victoria did not require ongoing professional development and this was a cause of issues of unprofessional and unethical behaviour in the state.

We also note that the protocols do not have a clause on Professional Indemnity Insurance.

PI insurance is a vital component of good business practice and acts as a surety to the public that professionals uphold a level of professionalism. It ensures that the public can have confidence of redress.

Recommendations

While Engineers Australia is satisfied with this first step in the procedures of bringing in codes of conduct to the professions in the building industry we would recommend some changes to ensure that the codes are reflective of current practices, standards and community expectations.

- Create a second code for business. This would include sole practitioners, partnerships and companies as defined by the Corporations Act for instance. This would clarify what conduct is expected from and by individuals and what conduct is expected by business to consumers.
- Remove the term "Highest Professional Standard" from the document and replace with "Competent Standard" or an iteration of this.
- Include a requirement for continued professional development within the code of conduct. This can be set by the industry group or a professional association, however we believe to increase confidence in the sector CPD should be a requirement.
- Professional indemnity Insurance needs to be included. Professionals should have obtained or have access to PI Insurance as an industry standard.

Should you have any questions on our submission or would like to discuss this submission in more detail please contact me on (03) 9321 1707 or by email hcarlos@engineersaustralia.org.au.

Yours Sincerely

Herve Carlos
Division Manager
Engineers Australia