

# Guidance Note Developing, implementing, and revising association codes

For occupational associations operating professional standards schemes under professional standards legislation

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### **Disclaimer**

This guidance is applicable only to an occupational association preparing a scheme for approval under professional standards legislation. It does not constitute legal or other professional advice and should not be relied on as such. An occupational association should seek its own legal/professional advice to find out how the professional standards legislation and other relevant laws and regulations may apply to it. For access to legislation in force in New South Wales, go to the official NSW Government website for online publication of legislation at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

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## 1. Purpose

This guidance is to assist your association in understanding how to build new or review an existing code of ethics, oriented towards improving professional standards and consumer protection. This guidance is aimed at helping your code's continuous improvement over the life of your association's professional standards scheme.

Consistent with the objects of professional Standards legislation<sup>1</sup>, you must be mindful of the consumer protection and standards improvement aspects of code operation.

This guidance builds on the work which your association completed for the initial scheme application, as required under the Scheme Application Framework relating to submodule 4.1: Association codes: codes of ethics and codes of practice and 4.0.2: Professional risk management strategies guidance.

The code approach presented in this guidance centres on a consumer protection code of ethics. This approach is sourced from the work that Dr Hugh Breakey, Senior Research Fellow (Moral Philosophy) at Griffith University's Institute for Ethics, Governance and Law, prepared and submitted at the request of the Professional Standards Councils. The guidance was further developed by a Reference Group of the Councils and technical writer Paul Hayes.

For ease of review, this guidance is divided into separate parts as follows:

- **Part One:** important questions to consider before preparing a code
- **Part Two:** developing a code (if you don't already have a code of ethics oriented towards improving professional practitioner standards and consumer protection)
- **Part Three:** implementing a code (if the substance of your existing code is appropriate, but the *systems* supporting it need improving)
- **Part Four:** revising a code (if your existing code needs improving).

## 2. Other Councils resources

In reading this guidance, the Councils recommend you also refer to:

- Councils research articles in their website 'Research Library of Modern Professionalism', including 'Ethics Codes' and 'Professional Values', found here: [www.psc.gov.au/research-library/ethics-and-conduct](http://www.psc.gov.au/research-library/ethics-and-conduct)
- The proceedings of Councils Forum: Putting the Consumer First in Ethics - 15 October 2020, found here: [www.psc.gov.au/forums](http://www.psc.gov.au/forums)

## 3. Key issues to consider

As indicated in the Framework submodule 4.1: Association codes: codes of ethics and codes of practice, typically an association's members may be subject to one or more occupational code of ethics and code of practice, for example:

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<sup>1</sup> While there is minor variation in the form of words used in some jurisdictions, the objects of the legislation are fourfold, namely, (1) to enable the creation of Schemes to limit the civil liability of professionals and others; (2) to facilitate the improvement of occupational standards of professionals and others; (3) to protect the consumers of the services provided by professionals and others; and (4) to establish the Professional Standards Councils to supervise the preparation and approval of Schemes and to assist in the improvement of occupational standards and protection of consumers.



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- there may be statutory codes in a single document, or statutory codes that are dispersed throughout various laws dealing with the occupation's particular regulatory environment.
  - There may be an occupation-wide code or codes, or a code operated by the individual applicant association.
  - Association codes may operate in addition to, and augment, a statutory code.

In all cases, the Councils' interest is with how codes protect and improve professional practitioner standards and the protections for consumers of the services provided by an association's members. This is important for both the associations and consumers as well as to be clearly communicated to, and available to, the public.

Establishing the conduct and competency which a consumer and the members can expect from every association member is critical in this process. In doing so, codes point the way to required conduct, public accountability, and transparency.

The four parts of this guidance will assist your association in understanding the main phases of building new or revising a code of ethics.

#### 4. Code building and review – suggested steps

Complementing the parts that support this guidance, the following is a broad summary of suggested steps for building new or revising codes:

##### 1. Beginning, planning and research

*Identify the key values, principles, and standards*

- consider the values, principles and standards of professional and personal conduct endorsed by the association as a basis for the code of ethics
- align the code with the association's leadership principles and strategic direction
- consider at the same time any synergies in developing/reviewing association policies and procedures to embed continuous ethical improvements in for example:
  - o risk management
  - o complaint resolution
  - o discipline of members.

*Planning*

- develop a communication and implementation plan to enable the code to be well understood, readily available and utilised
- be mindful of changes in community expectations of relevant professional behaviour
- appoint a sponsor or reference group within the association to guide and endorse the new/revised code
- subject to the association's strategic objectives, set a realistic timeframe and planning for approval dates.



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### *Legal and governance issues*

- consider obtaining legal advice when drafting new or revising codes to ensure consistency with national/state legislation or regulations
- consult with staff in the Authority who may be familiar with those requirements
- consult with the appointed sponsor or reference group within the association, who may also provide an authorising environment to seek legal advice.

### *Research*

- gather information about the code from association members and stakeholders
- complementing this guidance, undertake research into good practice models from other occupations and regulators, together with use of the Councils' online research library on modern professionalism at [www.psc.gov.au/research-library](http://www.psc.gov.au/research-library)
- keep a reference list of research data for ease of access and circulation to association members and stakeholders, if required.

## **2. Draft, consult and finalise**

### *Drafting*

- allocate responsibilities within the association to scope and draft the code in accordance with data received from the above four steps
- if proceeding to stakeholder engagement, seek the endorsement of the association's chief executive officer and the ultimate governing body.

### *Stakeholder engagement*

- ensure stakeholder engagement occurs throughout drafting of the new/ amending code via email and/or consultations
- keep detailed records of association members and stakeholders that were consulted, and any feedback provided on the draft code
- implement any stakeholder feedback into the draft if deemed appropriate
- if applicable, report back to the sponsor or reference group.

## **3. Approve**

- obtain the endorsement of the association's chief executive officer and the relevant reference group, to seek the ultimate governing body's approval of the draft updated revised code.

## **4. Communicate, implement, and educate**

- upload on the association's website and take any other steps necessary to communicate the approved code with association members and relevant stakeholders
- ensure appropriate training of association staff and members



- monitor the need for updating or a revised code where a need is identified e.g., any new obligations, changes to relevant procedures or changes to the corporate values.

## **5. Feedback and review**

- give association members the opportunity to provide suggestions for changes to the code when full reviews are conducted because of major changes in the association
- monitor the code's due date to make sure the document is issued for review with plenty of time to complete the review cycle.
- It is important to review the code following major changes that occur in the association structure, operating environment, or strategic direction, or at least every three years.

## **5. Communication and education**

Continual communication and education of the association members are critical for the effective implementation of the code. These will assist embedding the code within the association through an evolving process of cultural improvement involving professional practitioner standards and consumer protections. Consumer access to the association's code of ethics is also critically important through, for example, placing the code on the association's website.

Integrating ethics into all aspects of association communications is a recognised approach. This relates to leveraging current association practices to demonstrate to staff and members that ethics is an integral part of all activities and decision making. This approach involves integrating ethics and compliance training materials including:

- new member inductions
- occupational management courses
- association business plans
- other aspects of day-to-day activities.

## **6. Other embedding strategies to consider**

Good practice strategies to facilitate the embedding process are summarised below:

### **1. Organising the code's development**

Typically, a project management approach is used, drawing on such tools as an initial survey of prospective or current association members and a gap analysis of an association's policies and procedures to understand the extent of work required in developing good ethical practices.

### **2. Identify and renew an association's values**

Ethics programs are most effective when perceived by staff and members to be 'values-driven', rather than simply for compliance. Values-based programs are most effective in reducing unethical behaviour, strengthening member commitment, and making members more willing to report on bad news. Many organisations conduct



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regular initiatives that involve all members when renewing association values and updating them when appropriate.

3. **Secure visible commitment from senior association managers**

It is crucial to enlist senior management support for an ethics program to be successful. Examples include senior managers participating in training sessions, making ethics a regular element in speeches and presentations, and aligning their own behaviour with association standards.

4. **Engage the governing body**

Engage directors in the ethics process by, for example, the simple process of placing ethics on the board agenda as a regular item for discussion. Consider special training to enable directors to carry out their ethical responsibilities confidently.

5. **Build ethics into mission and vision statements**

Many associations build ethical values and goals into their mission and/or vision statements. This helps senior managers and members understand that values and ethical standards are integral to all association activities and planning and not simply an 'add-on' to be considered after important decisions have been made.

**End.**