PRACTICE NOTE 8
BEING ETHICAL

Version 3, August 2019

engineering new zealand
Institute of Engineering Professionals

CONTENTS

ABOUT THIS PRACTICE NOTE

This Practice Note helps you interpret the Code of Ethical Conduct, and provides tools and guidance for working through practical or ethical dilemmas that you might face in your engineering practice.

The Code of Ethical Conduct sets out the shared expectations of ethical practice that engineers have agreed to uphold. It's a benchmark that confirms the expected standards of conduct for members.

The Code applies to both Engineering New Zealand Members and Chartered Professional Engineers. The current version of the Code of Ethical Conduct came into force on 1 July 2016.

The Code also lets the public know what it can expect of the profession. It gives the public confidence that all members and Chartered Professional Engineers have agreed to uphold high standards of ethical behaviour.

This Practice Note supersedes Engineering New Zealand Practice Note 08 Version 2, which was published in 2016. This is Version 3.

The Practice Note has been prepared in accordance with standard Engineering New Zealand Practice Note procedures. These include reporting on progress to the Engineering Practice Advisory Committee, peer review and general membership review.

WHY DOES ETHICS MATTER?

Ethical practice is at the core of engineering. It is not an optional extra.

Engineers hold significant knowledge and specialised expertise. Engineers are capable of making judgements, applying their skills and reaching informed decisions in relation to their work, that the general public can't. The decisions you make and the services you provide often don't just impact you and your client, but have wide-reaching effects on the public.

The public places significant trust in engineers to self-regulate. As a professional, you take responsibility for being competent and acting ethically. Your actions as an individual engineer also play an important role in the way in which the ethics of the profession are viewed by the public. If we don't behave ethically, we lose the public's trust and confidence, and our standing and influence.

The Code of Ethical Conduct sets out shared expectations of ethical practice that engineers have agreed to uphold. The Code gives the public confidence that all members have agreed to uphold high standards of ethical behaviour, and it is a benchmark by which we can measure expected standards of conduct.

The principles in the Code remind us of our obligations as engineering professionals, and the responsibilities we have to others. The Code helps us in two key ways:

- it tells us what we need to do to be ethical practitioners (for example, keep our knowledge and skills up to date); and
- it helps us decide what do in difficult ethical situations by reference to agreed standards of behaviour.

MAKING ETHICAL DECISIONS

Every time you consider doing (or not doing) something in your engineering work that has significant implications and consequences, you potentially make an ethical decision. Sometimes the ethical decisions you need to make are simple. At other times you may have competing obligations, and how you should respond may not be immediately clear.

The Code of Ethical Conduct is designed to help you make an ethical decision, and the decision that is best aligned to the standards of ethical behaviour set by your profession.

The principles in the Code might give you a clear answer on what you need to do in a particular situation (for example, that you must not misrepresent your competence). But ethical principles can't provide precise or specific answers for every conceivable set of circumstances. In more complex situations, use the Code to help guide your decision making and conduct, with reference to the standards of behaviour set by the profession.

There is no one right way to work through these more complex ethical decision-making processes. In general, making a good decision means pausing to think consciously about the decision you need to make. It requires you to weigh up all relevant information, considering your ethical obligations, thinking about the implications or consequences of the options open to you, and staying objective. For example, ask yourself:

- Do I feel comfortable with this issue or situation? If so or if not, why?
- Do I have all the information to consider the situation fully and objectively?

- What are my options?
- What are the potential consequences or implications of those options? What are the risks?
- Is what I am considering doing consistent with the Code of Ethical Conduct and the law?
- How would my peers respond if they were in the same situation? Should I talk to a colleague about what they would do?
- How comfortable would I feel justifying my actions to a respected senior engineer?
- Would I feel confident justifying my decision publicly (including in court) if I had to?

If you are facing a difficult situation, you should think through these types of questions and talk to your colleagues. Consulting with colleagues is a great way to test your proposed response to a difficult situation. You can also talk confidentially to the team at Engineering New Zealand.

When you have been faced with a difficult or complex professional situation, keep a record of what you decided and why, including who you consulted. This will be a useful reference if you ever need to explain the decision you made.

OUR CODE OF ETHICAL CONDUCT

The Code of Ethical Conduct is framed around eight core obligations. It is divided into two groupings:

- obligations in the public interest; and
- obligations relating to personal conduct.

Together these set the expectations of engineers' conduct in their relationships with clients, colleagues, society, and the environment.

OBLIGATIONS IN THE PUBLIC INTEREST

1. TAKE REASONABLE STEPS TO SAFEGUARD HEALTH AND SAFETY

This means making sure your engineering work (from design to delivery and beyond) safeguards the health and safety of people as much as possible – not just your client but anyone who might be affected by your engineering work.

The Health and Safety at Work Act 2015 places specific obligations on engineers who undertake design, manufacture and construction. You should be familiar with your legal obligations under this Act.

When making a decision, you should consider:

- **Public safety.** Consider the community's safety and wellbeing as well as thinking about your obligations to clients, employers and colleagues.
- **Risk management**. This means taking reasonable steps to minimise injury and avoid loss of life as a result of your engineering activities.
- **Workplace and construction site safety**. This means minimising potential dangers in delivering engineered elements, products and processes. You must alert anyone affected to the level and significance of the risk associated with the work.

2. HAVE REGARD TO EFFECTS ON ENVIRONMENT

This means respecting the need to sustainably manage the planet's resources.

It means doing your best to minimise the environmental impact of your engineering activities – not just today but for the longer term. Sustainable management involves allocating resources to meet the needs of the present without compromising the needs of future generations.

You should:

- use resources efficiently
- minimise waste and encourage environmentally sound reuse, recycling and disposal
- recognise how your engineering activities will affect the environment, and seek to avoid or mitigate any adverse effects. A good source of information is **The Sustainability Society**.

3. REPORT ADVERSE CONSEQUENCES

The public expects engineers to take action to deal with engineering problems.

If you come across an engineering issue that you think is likely to cause significant harm to people or the environment, you must act.

At the least, you should take these steps:

1. Check that the issue is being managed appropriately. You need to satisfy yourself that reasonable action is being taken. This might mean taking all or some of these steps:
    - finding the person responsible for the issue and informing them of the issue as you see it
    - gathering as much information as you can about the issue
    - finding out what processes or systems could address it
    - satisfying yourself that these processes and systems are being appropriately used.
2. If you still have concerns, consider whether reporting the issue to a regulator has any confidentiality implications for you. If it does, you need to talk first to the person or people to whom you owe confidentiality. This could be a client or your employer, for example. You need to discuss with them your intention to report the matter to the appropriate regulatory body. This is so that your client or employer, for example, has an opportunity to respond to your concerns before you report them.
3. If you still have concerns after taking steps 1 and 2, you must report the issue to the appropriate regulatory body.

In dealing with this situation, you need to demonstrate professionalism, good judgement and diplomacy.

Also see the confidentiality requirements described in principle 7 below.

OBLIGATIONS RELATING TO PERSONAL CONDUCT

4. ACT COMPETENTLY

You must keep your engineering knowledge and skills up to date, and only undertake work within your competence. This includes making sure anyone performing engineering activities under your supervision or authority is competent to do the work they are doing.

Competence, which includes the following points, is a professional's greatest obligation to your client and the public.

- Possessing sound engineering knowledge that's applied with skill, diligence and care.
- Keeping your knowledge up to date through structured learning. For example, undertaking continuing professional development and participating in specialist technical groups.
- Understanding the limits of your competence. If you do work that you're not qualified nor experienced enough to do, then you deceive your client, risk harm to others and potentially damage both your own reputation and the profession's reputation.
- Taking personal responsibility for work. This includes both the work you do and the work done by engineers you supervise. It means ensuring that anyone you supervise is competent to carry out their tasks.
- Making sure you don't misrepresent your area of expertise, level of experience or level of competence.

Professionals develop competence throughout their career; for example, through:

- on-the-job learning and training
- working under the guidance of a supervisor or mentor

- having design work peer reviewed and giving due consideration to the peer reviewer's comments. A good resource is Engineering New Zealand Practice Note 2 *Peer Review* (version 2: 2018).
- attending training courses, seminars, or conferences
- learning through networking and discussion groups, including with other related professionals
- joining and participating in expert technical groups
- delivering lectures, coaching or training through professional bodies or technical groups.

5. BEHAVE APPROPRIATELY

You are a professional, which means being honest and objective, acting with integrity and treating all people fairly and with respect.

This principle covers all professional relationships you have, across all areas of your engineering activities. These include relationships with clients, colleagues, project team members and other professionals. It means treating all contributing professions in an inclusive and cooperative manner.

This principle also applies to all your communications in any form, whether face-to-face, by phone (including voicemails) or otherwise including email, texts and social media posts.

Even if, in the course of your work, you experience poor or inappropriate behaviour from someone else, you must maintain your own professionalism. When you are thinking about how to respond to poor or inappropriate behaviour directed at you, always separate the person from the problem. You should respond to the problem, not the person.

Conflicts of interest

Professional behaviour also involves managing conflicts of interest. For example, when your interests conflict with a client's interests, or when the interests of two clients clash.

Conflicts of interest can be financial or involve personal relationships, for example. They can affect your professional judgement in relation to a specific project or client, or just create a perception that your judgement could be affected.

Under the Code, you must disclose and appropriately manage any potential or actual conflicts of interest. First, you need to identify whether an actual or potential conflict of interest exists, then assess its implications. If you think there may be an actual or potential conflict of interest between your interests and a client's interests, discuss that with your client. If you're not sure, it's best to be open and transparent by telling the client and letting them decide – it's best to do this in writing.

Steps for managing a conflict of interest between two clients can include:

- deciding which party you are acting for, and telling the other party
- not acting for either party, if acting for one could harm the other, or assessing whether you should accept or withdraw from the project
- suggesting other professionals who can supply independent advice.

Inducements, which can include gifts, travel and hospitality, always create conflicts of interest. You must neither give nor accept anything that could act, or be seen to act, as an inducement.

6. INFORM OTHERS OF CONSEQUENCES OF NOT FOLLOWING ADVICE

When you give important engineering advice, you need to use your judgement to assess whether it will be followed. If you assess that your advice will be ignored, and that ignoring your advice could cause significant harm to people or the environment, then you must take action.

You must take every reasonable step to communicate the harmful consequences to those ignoring the advice. Your advice should be in writing, setting out why you are concerned and what the consequences could be. This ensures that you have a record of what action you took if you need it in the future.

7. MAINTAIN CONFIDENTIALITY

When you deal with employers and clients, you are expected to treat information appropriately. Confidentiality is the foundation of a professional relationship.

For you to deliver your work, clients often need to reveal important and sensitive information. Undertaking to keep confidentiality allows clients to be open with you.

Confidential information is anything you access in the course of your work that a reasonable person would consider confidential.

You must be careful not to disclose any confidential information without the relevant party's agreement. It's recommended you gain this agreement in writing. You cannot use the information for another purpose, including your own benefit.

Exceptions

There are two situations where you can disclose confidential information:

1. When significant harm to people or the environment is likely. Before disclosing the confidential information, you must check what action is being taken. You need to be as sure as is reasonably possible that the issue will not be dealt with appropriately.
2. When required by a court of law.

If you are going to disclose confidential information, you must first inform the party to whom you owe the confidentiality. You need to tell them you are going to disclose the information and why, and give them an opportunity to respond.

8. REPORT SIGNIFICANT BREACHES

You can expect others bound by the Code to also abide by it.

If you believe, on reasonable grounds, that another member may have significantly breached the Code of Ethical Conduct, you must report this to Engineering New Zealand. Engineering New Zealand has a process for looking into these reports to determine whether the Code has, in fact, been breached.

What constitutes a significant breach is a matter of judgement. Relevant factors include the impact of the breach on people's health and safety, on the environment, on the engineering profession's reputation and on a client or employer. You should have factual information to support your view – you need more than suspicion or a reasonable difference of engineering opinion.

PEER REVIEW AND PROFESSIONAL COURTESY

Our previous Code of Ethics required you to inform someone else before you reviewed their work. This made it more likely your review would include all relevant information, including information known only to the original designer or author.

This obligation has been removed from the Code because this was no longer considered a matter of ethical conduct. Instead, it is a professional courtesy.

You should continue to engage with those whose work you are reviewing, to ensure you have access to all relevant information.

For more information on peer review, please see our Peer Review Practice Note.

CONTACT US

For confidential advice and support, contact Engineering New Zealand on +64 4 473 9444 or **hello@engineeringnz.org**

LEGAL INFORMATION

Practice Notes offer guidance to practising engineers by exploring issues of importance to the profession and setting out good-practice methodologies. They are written by practitioners and subject to peer review by Engineering New Zealand members.

While every care is taken in their preparation, these documents are not intended to be exhaustive and are not offered as formal advice. Practices, systems and advice may vary depending on individual circumstances, and practitioners must exercise their own professional skill and judgement. Engineering New Zealand accepts no liability arising from their use and nothing in the Practice Note binds Engineering New Zealand in determining the outcome of any future complaint.