

# Board of Professional Engineers of Queensland Policy

Title: <b>The Board as a Model Litigant</b>		ID: <b>2.6 (2A)</b>
Status: <b>Approved</b>		Version: 25/08/11

## 1. Rationale

- 1.1 The State of Queensland has traditionally acknowledged that it acts as a model litigant. The model litigant principles reflect the community's and the courts' expectation that the State conduct itself in a manner that exemplifies the principles of justice.
- 1.2 Despite the fact that s.78 of the *Professional Engineers Act 2002* (the Act) states that the Board does not represent the State, the purpose of this policy is to record the Board's commitment to being a model litigant and set out how the Board will express that commitment in practice.

## 2. Policy

- 2.1 The Board will act as a model litigant in performing its functions under the Act.
- 2.2 In following the principles of fairness, as a model litigant, the Board will:
  - act consistently in the investigation of a registered professional engineer's conduct, investigation of compliance with the Act, the review of a decision of the Board and applications for disciplinary proceedings
  - deal with investigations, reviews and applications promptly and not cause unnecessary delay in the handling of investigations, reviews and applications
  - in carrying out an investigation, defending a review of a decision of the Board or making an application for a disciplinary proceeding, the Board will act in a cost effective manner;
  - not contest matters which it accepts as correct, in particular by:
    - not requiring a party to prove a matter which the Board knows to be true
    - not rely on purely technical defences where the Board will suffer no prejudice by not doing so
  - not instituting and pursuing appeals unless the Board believes that it has reasonable prospects for success, or the appeal is otherwise justified in the public interest
- 2.3 In following the principles of fairness, as a model litigant, the Board will:
  - claim legal professional privilege where appropriate
  - seek security for costs where appropriate and pursue costs when it is successful in litigation, which will assist in deterring vexatious proceedings from being instituted against it

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- rely on available statutes of limitation, which have been enacted to protect a defendant from unfair prejudice
- act properly to protect the Board's interests.

### **3. References**

- Crown Law Fact Sheet – Model Litigant Principles