

THE BOARD AS A MODEL LITIGANT

POLICY ID 2.6 (3A)

Effective: 2 August 2017

1. Purpose

- 1.1 The State of Queensland seeks to conduct itself as a model litigant and adheres to the model litigant principles published by the Department of Justice and Attorney General.
- 1.2 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.
- 1.3 Despite section 78 of the *Professional Engineers Act 2002* (Qld) (**PE Act**), which states that the Board of Professional Engineers of Queensland (**BPEQ**) does not represent the State, BPEQ is committed to conducting itself in accordance with the model litigant principles. Not all of the principles adopted by the State are consistent with functions of BPEQ. This policy expresses BPEQ's commitment to the model litigant principles and sets out how it adopts those principles.

2. Policy

- 2.1 BPEQ will act as a model litigant in performing its functions under the PE Act.
- 2.2 In following the principles of fairness, as a model litigant, BPEQ will:
 - (a) act consistently in the investigation of a RPEQ's conduct, investigation of compliance with the PE Act, the review of a decision of BPEQ and applications for disciplinary proceedings;
 - (b) deal with investigations, reviews and applications promptly and not cause unnecessary delay in the handling of investigations, reviews and litigation;
 - (c) in carrying out an investigation, defending a review of a decision of BPEQ or conducting any litigation (including any disciplinary proceeding or prosecution), BPEQ will act in a cost-effective manner;
 - (d) not contest matters which it accepts as correct, in particular by:
 - i not requiring a party to prove a matter which BPEQ knows to be true; and
 - ii not relying on purely technical defences where BPEQ will suffer no prejudice by not doing so;



- (e) not instituting and pursuing appeals unless BPEQ believes that it has reasonable prospects of success, or the appeal is otherwise justified in the public interest.

2.3 In following the principles of fairness, as a model litigant, BPEQ will:

- (a) claim legal professional privilege where appropriate;
- (b) 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;
- (c) not seek to take advantage of an impecunious opponent;
- (d) rely on available statutes of limitation, which have been enacted to protect a defendant from unfair prejudice; and
- (e) act properly to protect the Board's interests.

3. References

3.1 Model Litigant Principles – Queensland Government

http://www.justice.qld.gov.au/_data/assets/pdf_file/0006/164679/model-litigant-principles.pdf