

THE BOARD AS A MODEL LITIGANT

POLICY ID 2.6 (3A)

Effective: 2 August 2018

1. Purpose

- 1.1 The State of Queensland conducts 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 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* ("Act"), which states that the Board does not represent the State, the Board is committed to conducting itself as in accordance with the model litigant principles. Not all of the principles adopted by the State are consistent with functions of the Board. This policy expresses the Board's commitment to the principles commitment and sets out how the Board adopts those principles.

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:
 - (a) 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;
 - (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 the Board or conducting any litigation (including any disciplinary proceeding or prosecution), the Board 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 the Board knows to be true;
 - (ii) not rely on purely technical defences where the Board will suffer no prejudice by not doing so;

- (e) not instituting and pursuing appeals unless the Board 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, the Board 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;
- (e) act properly to protect the Board's interests.

3. References

Model Litigant Principles – Queensland Government

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