



NEWSLETTER

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A WORD FROM THE REGISTRAR

This month's e-news continues our series of articles about the BPEQ Code of Practice and how it relates to RPEQs.

In this edition, the article provides insight into the Code of Practice as it relates to conflicts of interests - in particular, an RPEQ's obligation to disclose to their client or employer where an actual or potential conflict of interest arises as soon as they are aware one exists. We have provided you with three real world types of examples that we hope will provide you with further insights into this commonly misunderstood area of the Code of Practice.

BPEQ continues to promote the profession across the state and be available to answer your questions at a variety of conferences. Next month sees BPEQ staff attending a number of events including the Local Government Association of Queensland (LGAQ) conference that is being held in Gladstone from 16 – 18 October 2017. There will also be representatives attending the IPWEAQ State Conference in Townsville between 24 – 26 October 2017.

Recently, BPEQ Chairperson Dawson Wilkie was a Keynote presenter at the International Mining Geology Conference where he reiterated the value of registration to an international audience and discussed the influence registration has on professionalism.

A recent report: Women in Engineering: Realising Productivity and Innovation Through Diversity – identified that 13.1 percent of women dropped out of the workforce between the ages of 20 to 39, compared to only 1.4 per cent for men. One way in which the BPEQ can support female engineers return to the workforce is to provide assistance with the costs of continuing professional development. BPEQ continues to offer the Back in the Workforce Bursary to female RPEQs, non-practising RPEQs and former RPEQs based in Queensland.

BPEQ's recent refurbishment of our office is now complete and in the coming months BPEQ will be transitioning to a new phone system. As a result, we will be rolling out new phone numbers across the organisation. Please look out for our new contact details in the coming months.

We trust you enjoy and find the e-news useful; and please feel free to contact BPEQ at admin@bpeq.qld.gov.au or call (07) 3198 0000 if we can be of assistance.

Kylie Mercer,
Registrar





UNDERSTANDING THE CODE OF PRACTICE FOR REGISTERED PROFESSIONAL ENGINEERS

CODE OF PRACTICE SPECIFICS— CONFLICTS OF INTEREST

The e-news article series on the Code of Practice for Registered Professional Engineers continues this month, delving into one of the Code's more specific requirements—disclosure of actual or potential conflicts of interest. This article will explain the concept of a conflict of interest, provide examples of both an actual and potential conflict of interest, and discuss how disclosure of any actual or possible conflict of interest is best achieved.

The requirement for disclosure of actual or potential conflicts of interest is contained in section 2.5 of the Code of Practice:

2.5. Disclose actual or potential conflicts of interest:

A registered professional engineer must disclose any actual or possible conflict of interest to a client or employer upon discovery of that actual or possible conflict of interest. Conflicts of interest will include any financial or other interest that is likely to, or may reasonably be perceived to, affect the registered professional engineer's judgment on any professional engineering services carried out for that client or employer.

Examples of possible conflict of interest situations include—

- Not informing a client or employer of any business association, interests, or circumstances that could be construed to influence judgment, or the quality of the professional engineering services, or that might raise a reasonable apprehension of such influence.
- Accepting compensation, financial or otherwise, from more than one party, for services on the same project, or services pertaining to the same project, without disclosing the compensation arrangements to affected parties.
- Soliciting or accepting substantial financial or other valuable considerations from material or equipment suppliers for specifying their products.

To ensure you are always compliant with this requirement to disclose actual or possible conflicts of interest, it is, of course, important to understand precisely what a conflict of interest is. A conflict of interest is where a person has a personal interest in a matter that is the subject of a duty or decision of the



person. An actual conflict of interest is one that currently exists. A potential conflict of interest is one that does not currently exist, but has the potential to come into existence in a particular eventuality.

The key requirement for RPEQs to remember is that actual or potential conflicts of interest must be disclosed to your client or employer as soon as you discover them. Disclosure is best made in writing, so that you have evidence you made the disclosure. If you do make disclosure verbally, it is best to make a contemporaneous note of the disclosure and have a third party present to witness the disclosure occurring. You should retain evidence of the disclosure for at least seven years.

It is important to remember that, unlike other professions such as lawyers—solicitors and barristers—and doctors, RPEQs are not automatically prohibited from acting in circumstances of conflict. Solicitors must not act where they are in a conflict of interest. RPEQs are not automatically prohibited from acting. Your obligations are to identify actual or potential conflicts of interest and disclose them. It is then up to you and your client's judgement as to whether you continue to work on the matter. There will be some situations in which it would be untenable for you to continue to act, but others in which continuing to act will be appropriate.

Conflict of interest, and appropriate disclosure thereof, is most easily illustrated by way of examples:



Example 1—actual conflict of interest—conflict between duty as RPEQ and personal financial interest in building work

Robbie RPEQ is engaged by DD Developments to inspect building work done by BB Builders Pty Ltd, to ensure it has been completed and complies with its design, and if not to ensure it is rectified appropriately. He therefore has a duty to diligently inspect BB Builders' work and, if it is not completed or does not comply with its design, to ensure it is rectified appropriately.

Robbie is also a majority shareholder in BB Builders. He therefore has a personal interest in BB Builders' work being completed without any rectification work needing to be carried out, because rectification work could reduce BB Builders' profit margin, which in turn could reduce the dividend payable to Robbie as majority shareholder. Robbie therefore has a personal interest in BB Builders' work being found to have been completed and compliant with its design.

Robbie therefore has an actual conflict of interest, between his duty as a RPEQ to DD Developments and his personal interest as a majority shareholder in BB Builders. His personal interest as majority shareholder in BB Builders could reasonably be perceived to affect his judgment in his inspection of the work for DD Developments.

Robbie would comply with the Code if he disclosed his majority shareholder to BB Builders to DD Developments as soon as he discovered DD Developments intended to engage him to inspect BB Builders' building work.

Example 2—actual conflict of interest—conflict between duty as RPEQ and personal financial interest in specification of particular product

Robbie RPEQ is employed by EE Engineers. Robbie designs certain building work for EE Engineers under contract from DD Developments. He therefore has a duty to diligently carry out the design work in a professional and competent way. In his design, he requires a specific product to be used in a particular part of the building: a type panelling distributed by PP Panels.

Robbie is also the Queensland distributor for PP Panels. He receives 5% of every sale of PP Panels panelling he makes. He therefore has a personal interest in PP Panels being used as much as possible, because the more they are used the more money he makes as a distributor.

Robbie therefore has an actual conflict of interest, between his duty as a RPEQ to DD Developments to specify the most appropriate product for use, even if it is not PP Panels panelling, and his personal interest as distributor of PP Panels for PP Panels panelling to be used as much as possible. His personal interest as distributor of PP Panels panelling could reasonably be perceived to affect his judgment in his design of the building work for DD Developments to specify PP Panels panelling.

Robbie would comply with the Code if he disclosed his status as Queensland distributor for PP Panels to his employer, EE Engineers, and the client, DD Developments, as soon as he began to consider specifying PP Panels panelling for the design.

Example 3—potential conflict of interest—conflict between duty as RPEQ and possible personal financial interest in specification of particular product

Robbie RPEQ is engaged by DD Developments to design certain building work. He therefore has a duty to diligently carry out the design work in a professional and competent way.

Robbie is also the Queensland distributor for PP Panels. He receives 5% of every sale of PP Panels panelling he makes. He therefore has a personal interest in PP Panels being used as much as possible, because the more they are used the more money he makes as a distributor.

Robbie's supervisor, Stanley RPEQ, will soon review Robbie's design and specify which type of panelling will be used on the project. Robbie is one of the leading distributors of panelling and is usually among the companies considered when panelling for any project is being procured. Stanley usually asks Robbie for his opinion on his proposed specifications for particular products for projects.

Robbie therefore has a potential conflict of interest, between his duty as a RPEQ to give his opinion diligently and advocate for the most appropriate product to be used, even if it is not PP Panels panelling, his personal interest as distributor of PP Panels for PP Panels panelling to be used as much as possible. It is not yet an actual conflict of interest because Stanley has not actually asked Robbie for his opinion yet, but Robbie knows he usually does.

Robbie would comply with the Code if he disclosed his status as distributor of PP Panels panelling as soon as he realised Stanley was likely to seek his opinion on the type of panelling to specify.



QUEENSLAND PARLIAMENT PASSES NON-CONFORMING BUILDING PRODUCTS CHAIN OF RESPONSIBILITY LEGISLATION

All building product supply chain participants will be responsible for ensuring the building products they design, manufacture, import, sell and install is not non-conforming for its intended use under [new laws](#) passed by the Queensland Parliament.

The legislation came about because of the Grenfell Tower fire which contained highly flammable aluminium polyethylene core cladding. Similar cladding products are said to be in widespread use in Australia and were found in Brisbane's Princess Alexandra Hospital.

The 'chain of responsibility' across the building and construction supply chain also requires the need for every person involved to ensure that 'required information' accompany a product when progressing along the supply chain. The legislation also imposes duties on supply chain participants to provide assistance in the event something goes wrong with the product or it is recalled. Supply chain participants must also notify the QBCC if they become aware of a non-conforming product being used, notify the QBCC of notifiable incidents (death, severe injury, or an incident that exposes a person to severe injury or illness) and not make false or misleading statements about a building product's performance. The legislation applies extraterritorially, meaning chain of responsibility obligations will apply to participants from outside of Queensland. Fines of up to \$120,000, suspension and cancellation of licence are potential penalties for not complying with the chain of responsibility obligations. Liability will depend on what stage the building product in question is at. As part of the new laws, codes of practice will be developed to guide how a person in the supply chain discharges their duty. The codes of practice will be prescribed in subordinate legislation.

The Queensland Building and Construction Commission (QBCC) will have powers to investigate and address instances of nonconforming building products, including powers to search and seize products and materials and inspect, examine and test anything on site and enforce provisions such as the acceptance and enforcement of the undertakings relating to compliance with provisions, as well as appropriate penalties. The QBCC will be compelled to provide relevant information about a notifiable incident (death or serious injury) to a 'health and safety regulator' and to enter into information sharing arrangement with relevant agencies to help the QBCC or the relevant agency perform their functions.

The Senate committee inquiring into non-conforming building products has handed down an [interim report](#) on aluminium composite cladding. Recommendations from the report include a complete ban on the import, sale and use of polyethylene core cladding, a national licensing system for builders and penalties, fines and loss of licence for builders for non-compliance with National Construction Code. A minority dissenting report does not support a complete ban of polyethylene core cladding – cite widespread for-purpose use of polyethylene core cladding in other industries. Dissenting report suggests improving the identification of the materials and ensuring they are suitable for use.



WELCOME TO OUR NEWEST RPEQS

BPEQ extends a warm welcome to the following engineers who became registered in the last month:

Benjamin Tucker	Simon Szalkowski	Rahman	Hadenham	Kenneth Jensen
Steven Griffin	Jai Rice	Martin Silec	Faraz Mirzaagha	Thomas Bammann
Anthony Buncombe	Russell Seib	Scott Young	Kris Mitchell	Jingze Xu
James Turner	Peter Levett	Roger Grounds	Matthew Hutchinson	Andrew Hackett
Terese Milford	Geoffrey Kyle	Adam Cullen	Nagalingam Ramanalingam	Naser Mahan
Chun Man Tsui	Gabrielle Bamford	Prem Panicker	Timothy Brazier	Lai Jiang
Ju-Pin Hung	Jarid Tanner	Richard Roxin	Jacob De Vries	Hao Liu
Dane Beu	John Tibbitts	Gerard Murphy	Joseph Hayes	Anthony O'neill
Jie Wen	Brett Ashford	John Banner	Ian Richard Warren	Joseph Mcleod
Sharad Nayak	Mark Jackson	Terence Wong	Raymond Liu	Jordan Moll
Peter Bacic	Masoud Moghaddas	Philip Pritchard	Thangavadivei Gnanavel	Heather Mcwilliam
Soeren Kappelgaard	Gregory Johnson	Ahmed Gomaa	Jacob Landers	Shane Harrison
Charles Taylor	Richard Hancock	William Chou	Lasse Madsen	Glenn Ainsworth
Luis Rodriguez	Richard Hancock	Mwamb Tshibang	Martin Brennan	Matthew Wong
Daniel Thomas	Simon Welchman	Damian Percy	Eric Fink	Arnout Fleer
Kai Koosmen	Daham	Jhon Torres	Jimit Darji	Simon England
Nicholas Johnston	Ihalagamage	Ivo Olbrecht	Amitava Chaudhury	Ronald Basco
Ehab Salama	Lyndon Frearson	Andrew Bradley	Nasim Etesam	Deeson Heva
Masoud Ameri	Matthew Pilgrim	Grant Holman	Ryan Bradley	Nirosha Kankanamge
Ross Cooper	Timothy Teske	Robertus Susanto-Lee	Robert Cirillo	Miao Jin
David Moller	Nicholas Kenyon	Matthew Rose	Regina Moran	Duncan Tyler
Hemadri Saha	Anthony Grampe	Mark Matthews	Kian Yew	Trevor Gale
Darren Usher	Leigh Shallless	Thomas Baine	Scott Ivory	Anurag Mattoo
William Mchugh	Chee Song Cheng	Seong Jin	Roland Barrett	David Todd
Saravanan Asaithambi	Gorjan Trivic	Jakob Van Hest	Thanuja Ralalage	Nicholas Palm
Mohammad-Mehdi Hassani	Andrew Bertelsen	Xingyu Wang	Herbert Kers	Lionel Orford
Rhys Hardwick Jones	Mohammed Hossain	Abou Chahine	Andrew Eke	Rongping Li
Antoine Majdalani	Adam Lines	Michael Lee	Mian Akram	Zhenying Guo
Joanna Garland	Alan Morrow	David Au	Pak Hung Cheung	Jing Yu
Steven Mitchell	Nikola Jakov	Ajith Vithanage	Smitha Nathen	Leigh Ives
Laura Slee	Vaughan Springfield	Christopher Ralph	Chamindri Samarakoon	Michael Steere
Michael Chan	Terence O'sullivan	Anthony Wu	George Angelopoulos	
Tim Rees	Christopher Hood	Bohdan Kostecki		
	Laura Slee	Robert Proctor		
	Michael Chan	Stewart Clarke		
	Tim Rees	Christopher		



BEST WISHES TO THE FOLLOWING RPEQS WHO RECENTLY RETIRED:

Ian Rankin

William Lai

William Peach

David Angell

Robert Brunner

Noel Dennis

Wayne Sue Tins

Anthony Evans

Trevor Los

Rasihah Kamalakanthan

Richard Lam

Gary Souter

Edmund Benard

Brian Thompson

Maxwell Ervin

John Mullemeister

John Lewis Smith

Steven Murphy

Milton Webster

Anthony Galea

Philip Verco

Patrick McCourt

William Nappin

Gary Kreiser

Alister Smith

Neil Walls

John Derbyshire

Joseph Carabott

Kevin Rosengren

Peter Sygrove

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