



## New Zealand Institute of Surveying - Council Policy

### A19 to 24: Conduct of Members

**Created:** August 2013

**Review Date:** November 2014

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#### Purpose

The objective of this policy is to maintain a consistent ethical process allowing Council to review and oversee the conduct of members whose conduct has come into question either by way of the public or internally.

#### Introduction

The process followed in these policies has evolved over the life of the NZIS and seeks to apply in an equitable fashion the scrutiny of our members by their peers, where appropriate and applicable.

#### Intentions

The applicable rule (now policy) existed in the old NZIS Handbook and Rules and was specified under sections 19 to 24 of the then rules, as lodged in March 2013. Following the review to the NZIS rules as lodged in May 2013 the Conduct of Members rules were moved by the NZIS Council at its June 2013 meeting to now be the Conduct of Members Policy. The current rule is as follows:

#### ***Section 19 of the NZIS Rules: Disputes, breaches of rules and penalties***

*The Council shall adopt a code of conduct and/or other policies and processes which it requires to cover the ethical, professional and other obligations of Members and matters arising from them including but not limited to receipt of complaints, identification and investigation of issues, consideration, hearing and determination of issues, and disciplinary consequences and punishment for breaches.*

*The Council may also adopt policies requiring Members to adhere to processes that it considers will assist with fair, efficient and timely resolution of or decisions on disputes that arise between any Members.*

*The Council may request the President or any other person to act as a mediator in disputes involving Members.*

As stated in the NZIS Governance Manual, the code of ethics is based on the following fundamental principles:

- Integrity – members must behave with integrity in all professional and business relationships. Integrity implies not merely honesty but fair dealing and truthfulness.
- Objectivity and independence – members must be fair, impartial and intellectually honest, and must not allow prejudice or bias, conflict of interest or influence of others to override objectivity. Members undertaking certain types of engagements (where real conflict exists) must be, and be seen to be, independent.

- Competence – members must only undertake professional work in which they have the competence necessary to perform the work to the technical and professional standards expected.
- Quality performance – members must perform their professional work with due care and diligence, ensuring that all professional obligations are completed in a timely manner and are carried out in accordance with the relevant technical and professional standards appropriate to that work.
- Professional behaviour – members must act in a manner consistent with the good reputation of the profession and refrain from any conduct which might bring discredit to the profession.
- Conditions of Engagement - Every engagement is required to be properly constituted and acknowledged in writing (email is appropriate) prior to commencement. The acknowledgement should contain the details of the instructions received, the date of the commencement, the basis of the payment of fees and any other matter that may be appropriate to the circumstances. Any variation to the conditions as may be agreed to from time to time during the term of the engagement is to be confirmed and acknowledged in writing (email is appropriate).
- Communication - Clients are to be kept fully informed and advised on a regular basis concerning the progress of the engagement, of any action required of either the client or the client's other advisers, including any further instructions or variation of instructions which may be appropriate under the circumstances.
- Conflict of Interest - Members are not to accept or proceed with any engagement before fully declaring to the client the existence of any conflicting business or other interests which could be deemed to be prejudicial to the interest of the client.
- Fees - Fees may be charged on the basis of time plus materials plus disbursements or may be derived from lump sums or quotations or tenders as agreed with the client. In all cases the fees charged are to be fair and equitable and should reflect the extent and the circumstances of the work.
- Completion of Unfinished Work - Members are not allowed to review or undertake to complete the work of a fellow member or a member of any other profession for the same client without the knowledge of the member and unless it has been ascertained that the connection of the member with the work has been properly terminated in writing and: all fees due to the member have been paid; or arrangements, which are suitable to both parties, have been made to pay all fees; or written notice has been received by the member from the client that the extent or the competence of the work or the fees are in dispute.

## **Ethics and Standards Committee**

This Committee deals with membership, discipline, ethics, appeals, policy & process. It is appointed by Council. This committee establishes the Enquiry Panel when required. This Committee makes recommendations to Council.

## **Enquiry Panel**

This sub-committee is an ad hoc panel of Council to deal with disciplinary issues within NZIS. It is established by Council when required by the Ethics and Standards Committee

## **POLICY: CONDUCT OF MEMBERS**

### **19. ETHICS**

All members in the pursuance of their livelihood and vocation are to conduct themselves having

regard to high ideals of professionalism, courtesy, personal integrity and public service in a spirit of fidelity to clients, employers, and employees and of fairness to fellow members.

## **20. PROFESSIONAL CONDUCT**

- 20.1 No member shall act or take part in or associate with or allow their name to be associated with any enterprise or action derogatory to the profession of surveying or which may constitute unprofessional conduct.
- 20.2 Without in any degree limiting the term unprofessional conduct for the guidance of members, professional conduct shall include:
- 20.2.1 **Integrity and Fidelity:** In their professional undertakings members shall:
- (a) avoid placing themselves under any improper obligation;
  - (b) refuse to accept any reward that cannot be publicly acknowledged;
  - (c) respect the confidentiality of information which may be valuable or sensitive; and
  - (d) recognise their own professional or technical limitations or inexperience and shall at all times act in a manner appropriate to the circumstances.
- 20.2.2 **Continuing Education:** All members shall maintain and shall strive to improve their competence by attention to developments relevant to their professional, technical or management activities and shall avail themselves of opportunities to further their education in those areas relevant to their activities.
- 20.2.3 **Employment:** No member shall attempt to obtain employment, professional engagement or advancement by the adverse criticism of another member or other members or by any other improper activity.
- 20.2.4 **Cooperation:** All members, as circumstances allow, shall promote the profession of surveying by:
- (a) exchanging relevant information and experience with fellow members;
  - (b) contributing to the work of the Institute;
  - (c) contributing to technical and professional publications.
- 20.2.5 **Education:** All members, where appropriate, shall make their experience and expertise available to staff under their direction particularly to facilitate staff requirements for formal and practical training.
- 20.2.6 **Overseas work:** All members undertaking professional engagements overseas shall uphold the ethical standards indicated in Governance Policy 19, and abide by the established local professional practises as appropriate.
- 20.2.7 **Fees:** No member shall review the fee proposed or charged by another member without the knowledge of such member.

## **21. PUBLIC PRACTICE**

### **21.1 Professional Relationships:**

All members shall, in forming partnerships, companies or associations of any kind, respect the standing and image of the profession of surveying and the relationship of the profession to kindred professions. No member shall enter into or maintain a practice arrangement that may be held to reflect adversely on the profession of surveying or constitute unprofessional conduct. No member shall offer the surveying services of another member in any manner that may reflect adversely on the profession of surveying. No employed member shall agree to their surveying services being offered in any manner that may reflect adversely on the profession of surveying.

### **21.2 Public Practice:**

A member shall be held to be engaged in Public Practice when acting or offering to act, whether alone or in a partnership or company or association or organisation of any kind, independently for a client. Every member engaged in Public Practice shall adhere to forms and methods of good business practice and shall at all times ensure their actions reflect only credit upon the survey profession.

### **21.3 Good Business Practice:**

Without limiting the meaning of Public Practice good business practice shall include:

- 21.3.1 **Conditions of Engagement:** Every engagement shall be properly constituted and acknowledged, preferably in writing, prior to commencement. Every

acknowledgement shall contain the details of the instructions received, the date of the commencement, the basis for the payment of fees, and such other matters as may be appropriate to the circumstances. Any variation to the conditions as may be agreed to from time to time during the term of the engagement should be confirmed in writing.

- 21.3.2 Communication: Every client shall be kept fully informed and advised on a regular basis concerning the progress of the engagement, of any action required of either the client or the client's other advisors, including any further instructions or variation of instructions which may be appropriate under the circumstances.
- 21.3.3 Conflict of Interest: No member shall accept or proceed with any engagement before fully declaring to the client the existence of any conflicting business or other interests which could be deemed to be prejudicial to the interest of the client. No member shall accept a fee or other reward from two or more sources for the same work without the full knowledge and consent of all parties.
- 21.3.4 Fees: Fees may be charged on the basis of time plus materials plus disbursements or may be derived from lump sums or quotations or tenders as agreed with the client. In all cases the fees charged shall be fair and equitable and shall reflect the extent and the circumstances of the work.
- 21.3.5 Completion of Unfinished Work: No member shall review or undertake to complete the work of a fellow member or a member of any other professional discipline for the same client or employer except with the knowledge of such member and unless it has been ascertained that the connection of such member with the work has been properly terminated in writing, and either:
- (a) all fees due to such member have been paid;
  - or (b) arrangements, which are suitable to both parties, have been made to pay all fees;
  - or (c) written notice had been received by the member from both the client and the previous surveyor (member) that the extent or the competence of the work or the fees are in dispute.

Note 1:

Prior to a member accepting any commission to complete the work of a fellow member, the member shall write to the fellow member advising that he/she has been approached to complete the work. The member shall not proceed further until he/she has obtained notice in writing from the fellow member that either the provisions of this Governance Policy have been met or that the extent or competence of the work or the fees are in dispute.

21.3.6 Member Advised of Takeover to Respond

Any member that has received notice in writing from a fellow member advising that the fellow member has been asked to complete the member's work, must respond in writing within 10 working days advising that:

- either (a) the provisions of Governance Policy 21.3.5 have been met
- or (b) that the extent or competence of the member's work, or the fees, are in dispute.

- 21.3.7 Contract Preparation and Administration: In the preparation of plans, specifications and contract documents members shall diligently watch and conserve the interests of their clients for whom they shall act with due regard to statutes, regulations and by-laws. However, in the administration of contracts members shall maintain an attitude of scrupulous impartiality as between their clients on the one hand and contractors on the other and shall to the best of their ability ensure that each party to the contract discharges their respective rights and responsibilities as set down in the contract.

21.3.8 *Collaboration of Consultants:* When collaborating with another consultant or consultants (of whatever discipline) in connection with any work upon which members are engaged those members shall accord to such consultant or consultants full recognition of their professional contribution to such work and shall consult with them at such stages of the work as may achieve the maximum efficiency and effectiveness of effort.

## **22. ADVERTISING**

No member shall initiate, contribute to or be a party to any form or medium of advertising offering surveying services that is other than dignified and free of any matter that could bring disrepute or reflect adversely on the profession of surveying or on the member. Advertising must be informative and not comparative and must be free of ostentatious or laudatory expressions and implications.

Note 1:

Prior to a member accepting any commission to complete the work of a fellow member, the member shall write to the fellow member advising that he/she has been approached to complete the work. The member shall not proceed further until he/she has obtained notice in writing from the fellow member that either the provisions of this Governance Policy have been met or that the extent or competence of the work or the fees are in dispute.

## **23. BREACHES OF GOVERNANCE POLICIES**

### **23.1 *Notification:***

Any allegation or complaint relating to a breach of Governance Policy 19, Governance Policy 20, Governance Policy 21 or Governance Policy 22 may be made by any person in writing and forwarded to the Secretary.

### **23.2 *Council's Action:***

The Council shall advise the member or members against whom the complaint has been made of the nature and substance of the complaint and of the nature of any evidence or material in the knowledge or possession of the Council in support of any such complaint. The member or members shall have 20 working days in which to lodge with the Secretary in writing any explanation in relation to the complaint made.

### **23.3 *Preliminary Consideration:***

As soon as possible after the expiration of the 20 working days referred to in Governance Policy 23.2 the Council shall consider the complaint received and any report received pursuant to Governance Policy 23.1 together with the member's or members' response, if any, and if the Council considers that a prima facie case has not been established the Secretary shall advise the respective parties in writing that the complaint has lapsed. For the purpose of this Governance Policy the Council may delegate responsibility for the investigation and consideration to the Ethics Committee or to a committee of the Branch of the district from which the complaint originated, such committee to consist of not less than four senior Members or Fellows. In any case the Council or the committee may receive written representations from either or both of the parties involved. In all cases, any such committee shall report its findings to the Council.

### **23.4 *Substantive Complaint:***

If as a result of the preliminary consideration under Governance Policy 23.3 the Council or the committee delegated to undertake the consideration considers that a prima facie case has been established, then the Council shall proceed in accordance with Governance Policy 24.2.

### **23.5 *Reprimand***

If as a result of a complaint, or a series of complaints, the method of practice of a member is considered to be of a standard or conducted in a manner that, whilst not necessarily leading to a charge of Unprofessional Conduct, is nonetheless in breach of Governance Policy 19 and therefore warrants some action, the Council may issue that member with a formal reprimand. The reprimand should:

- (a) cover the matters that have led to the reprimand;

- (b) cover the improvements in practice considered necessary;
- (c) state that further reprimands issued under this Governance Policy may lead to a charge of unprofessional conduct being brought against the member;
- (d) advise that the member may respond to the reprimand;
- (e) advise that the member has the right to have the reprimand reviewed by a panel of three Councilors appointed by the Executive Committee of Council.

#### 23.6 **Professional Misconduct:**

- (a) If in the course of considering a complaint made under these Governance Policies the Council considers that a member who is a Licensed Cadastral Surveyor may be guilty of Professional Misconduct as defined by Schedule 2 of the Cadastral Survey Act 2002, the Council may lodge a complaint to the Cadastral Surveyors Licensing Board under s.35 of that Act.
- (b) If the Cadastral Surveyors Licensing Board has found a member guilty of professional misconduct, Council may, under these Governance Policies, initiate its own action against such member.

### 24. PENALTIES

#### 24.1 **Unprofessional Conduct:**

24.1.1 If any member has been convicted, whether in New Zealand or elsewhere, of any offence punishable by imprisonment which in the opinion of the Council is derogatory to the profession of surveying or calculated to dishonour such member, or if any member has been guilty of unethical or unprofessional conduct or malpractice, or if in the opinion of the Council any member has been guilty of a breach of any of these Governance Policies, the Council may, after proper enquiry:

- (a) expel that member from the Institute; and/or
- (b) suspend that member from enjoyment of all or any of the privileges of membership for such period as the Council thinks fit; and/or
- (c) cancel or suspend any honour, diploma, title, distinction, scholarship or bursary conferred by the Institute and held by that member; and/or
- (d) impose a fine, exclusive of costs, not exceeding \$25,000
- (e) require the member to undergo a programme of mentoring.

24.1.2 Where the Council is dealing with any matter that constitutes an offence for which the person has been convicted by a Court, the Council shall not impose a fine pursuant to its powers under Governance Policy 24.1.1 (d).

#### 24.2 **Enquiries:**

24.2.1 Before expelling or suspending from the privileges of membership or fining any member pursuant to Governance Policy 24.1.1 the Council shall give to such member not less than 56 days' notice of the place, hour and date of such enquiry specifying the ground or grounds of the complaint. The place, hour and date of the enquiry may at any time be altered or postponed and such enquiry may be adjourned. At such enquiry the member concerned and the complainant shall be entitled to be heard with such witnesses as such member and the complainant may produce and may be represented by counsel and counsel may be present to assist the Council in the conduct of the enquiry. The decision of every such enquiry shall be published in an official Institute publication.

24.2.2 If the member concerned in an enquiry by the Council is resident in New Zealand, the Council may apply to the Branch of the district in which the member resides for an investigation of the matter. If in the opinion of the Council a reasonable time has been afforded to the Branch to complete the investigation, then the Council may proceed with the enquiry notwithstanding that such investigation has not been completed.

24.2.3 No member shall be expelled or suspended from the privileges of membership or fined pursuant to Governance Policy 24.1 unless a committee of the Council, consisting of not less than four members of the Council, established for the purpose

of conducting an enquiry. That committee, by simple majority of those present, shall certify in writing that in their opinion sufficient grounds have been proven to justify the Council taking such action. The member shall be notified of the decision together with the reasons for that decision. In the event that the committee is unable to reach a majority decision, the chairperson of the committee will have the casting vote.

24.2.4 The Council may require any member or members to pay the reasonable costs incurred by the Council in investigating and hearing any matter concerning breaches of Governance Policies 19, 20, 21 or 22 in any case where the Council could impose a fine under these Governance Policies whether or not such a fine has been imposed.

24.2.5 Notwithstanding Governance Policies 24.2.1, 24.2.2 and 24.2.3, a member, once in receipt of the grounds for the complaint, may indicate in writing that these facts are accepted. In such case a formal hearing need not be held and Council may find against the member and impose a penalty under these Governance Policies.

**24.3 Claims:**

No person whose membership has ceased for any reason shall have any right or claim upon the Institute or its property or funds.

**NZIS Council**