

Guidance note
Developing,
implementing, and
revising association
Codes of Ethics

For professional standards schemes
under professional standards legislation

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This guidance note was issued in October 2022 and is based on legislation and regulations as at the date of issue.

Document number	1.0
Last endorsed	New document
Next review	October 2023 and every three years thereafter
Endorsed by	Codes of Ethics Reference Group
Approved by	Professional Standards Councils

Revision history:

Version	Approved by	Approved date	Effective date	Sections modified
1.0	Professional Standards Councils	17 June 2022	1 November 2022	This is a new guidance

1. What is the purpose of this guidance note?

This guidance note is intended to assist occupational associations to understand how to build or review a code of ethics, which is oriented towards improving professional standards and consumer protection. Adherence to a code of ethics is a vital element in setting professional standards. This guidance is aimed at helping associations to establish and continuously improve their codes of ethics.

Consistent with the objects of professional standards legislation,¹ an association must be mindful of the consumer protection and standards improvement aspects of code operation.

For associations with existing approved schemes, this guidance builds on the work which they completed for their initial scheme application (now required under the Scheme Application Framework relating to submodule 4.1: *Association codes: codes of ethics and codes of practice* and 4.0.2: *Professional risk management strategies guidance*).

The code approach presented in this guidance centres on a consumer protection code of ethics. This approach is sourced from the work of Dr Hugh Breakey, Senior Research Fellow (Moral Philosophy) at Griffith University's Institute for Ethics, Governance and Law, prepared and submitted at the request of the Professional Standards Councils. The guidance was further developed by a Reference Group of the Councils and technical writer Paul Hayes.

For ease of review, this guidance is divided into separate parts as follows:

- **Part One:** important questions to consider before preparing a code
- **Part Two:** developing a code (if a code of ethics oriented towards improving professional standards and consumer protection is not already in place)
- **Part Three:** implementing a code (if the substance of an existing code is appropriate, but the systems supporting it need improving), and
- **Part Four:** revising a code (if an existing code needs improving).

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¹ While there is minor variation in the form of words used in some jurisdictions, the objects of the legislation are fourfold, namely, (1) to enable the creation of Schemes to limit the civil liability of professionals and others; (2) to facilitate the improvement of occupational standards of professionals and others; (3) to protect the consumers of the services provided by professionals and others; and (4) to establish the Professional Standards Councils to supervise the preparation and approval of Schemes and to assist in the improvement of occupational standards and protection of consumers.

2. Other Councils resources

In reading this guidance, the Councils recommend associations also refer to:

- Research articles in the Councils' website 'Research Library of Modern Professionalism', including 'Ethics Codes' and 'Professional Values', at: www.psc.gov.au/research-library/ethics-and-conduct
- The proceedings of the Councils' Professional Standards Forum: Putting the Consumer First in Ethics - 15 October 2020, at: www.psc.gov.au/forums.

3. Key issues to consider

As indicated in the Framework submodule 4.1: *Association codes: codes of ethics and codes of practice*, an association's members may be subject to one or more occupational codes of ethics and codes of practice. For example, there may be:

- a legally prescribed code applicable to an occupational association in a particular jurisdiction
- a code operated by an individual association, or
- both an association code and a legally prescribed code operating concurrently.

In all cases, the Councils' interest is in maintaining and improving professional standards and protecting consumers of the services provided by an association's members. Codes should be clearly communicated and publicly available.

Setting the standards of conduct and competency which a consumer can expect from every association member is critical in this process. In doing so, codes point the way to required conduct. Codes also point the way to avoid causing harm to consumers. Consumer harm relates to the suffering caused by an adverse outcome that consumers may experience in their dealings with an association's members.

Importantly, codes provide the basis for public accountability and transparency.

The four parts of this guidance will assist associations in understanding the main phases of building a new code or revising an existing code.

4. Building or reviewing a code – suggested steps

The following is a broad summary of suggested steps for building a new code or revising an existing code.

1. Beginning, planning and research

Identify the key values, principles, and standards

- consider the values, principles and standards of professional and personal conduct endorsed by the association as a basis for the code of ethics
- consider at the same time any synergies in developing/reviewing association by-laws, policies and procedures to embed continuous ethical improvements in, for example:
 - risk management
 - complaint resolution
 - discipline of members.

Planning

- develop a communication and implementation plan to enable the code to be well understood, readily available and utilised
- be mindful of changes in community expectations of relevant professional behaviour

- appoint a sponsor or reference group within the association to guide and develop the new/revised code
- subject to the association's strategic objectives, set a realistic timeframe and plan for key approval dates.

Legal and governance issues

- consider obtaining legal advice when drafting new or revising existing codes to ensure consistency with national/state legislation and regulations
- consult with Authority staff who may be familiar with those requirements
- consult with the appointed sponsor or reference group within the association, who may also provide approval of, and guidance on, seeking legal advice.

Research

- consult with association members and stakeholders
- complementing this guidance, undertake research into good practice models from other occupations and regulators, together with use of the Councils' online research library on modern professionalism at www.psc.gov.au/research-library
- keep a reference list of research data for ease of access and circulation to association members and stakeholders, if required.

2. Draft, consult and finalise

Drafting

- allocate responsibilities within the association to scope and draft the code in accordance with information received from the above four steps
- if proceeding to stakeholder engagement, seek the endorsement of the board or other ultimate governing body.

Stakeholder engagement

- ensure stakeholder engagement occurs at key points of the drafting of the new/ amending code
- keep detailed records of association members and stakeholders who were consulted, and any feedback provided on consultation drafts
- incorporate stakeholder feedback into drafts as appropriate
- report back to the sponsor or reference group as required.

3. Approve

- obtain the endorsement of the association's chief executive officer and the relevant reference group, then seek the approval of the board or other ultimate governing body for the new or revised code.

4. Communicate, implement, and educate

- take all necessary steps to communicate the approved code with association members and relevant stakeholders
- ensure appropriate training of association staff and members
- monitor the need for updating or revising a code where needed (for example, where any new obligations arise, or changes to relevant procedures or corporate values are made).

5. Feedback and review

- give association members the opportunity to provide suggestions for changes to the code whenever reviews are conducted (which should be regularly, or if significant changes which may impact a code occur)
- monitor the code's review date to make sure the document is issued for consultation with sufficient time to complete the review cycle
- note it may be important to review the code following major changes to the association structure, operating environment, or strategic direction (if relevant), or at least every three years.

5. Communication and education

Continual communication with, and education of, association members about the code is critical for effective implementation. This will help to embed the code within the association through an evolving process of cultural improvement, involving professional practitioner standards and consumer protections. Consumer access to the association's code of ethics is also critically important through, for example, placing the code on the association's website.

Integrating ethics into all aspects of association communications is recognised as a useful approach. This can leverage current association practices to demonstrate to staff and members that ethics is an integral part of all activities and decision-making. This may require differentiation between staff and members. Some association staff may need greater awareness of a code to promote compliance. It is important that all members are aware, and continually reminded, of the need to embed ethics in their practices. This approach involves integrating ethics and compliance training materials such as:

- staff and member inductions
- member training and other aspects of day-to-day activities.

6. Other embedding strategies to consider

Good practice strategies to facilitate the embedding process are summarised below.

1. Organising the code's development

Typically, a project management approach is used, drawing on such tools as an initial survey of prospective or current association members and a gap analysis of an association's policies and procedures. This assists in understanding the extent of work required in developing good ethical practices.

2. Identify and renew an association's values

Ethics programs are most effective when perceived by staff and members to be 'values-driven', rather than simply for compliance. Values-based programs are most effective in reducing unethical behaviour, strengthening member commitment, and making members more willing to report matters.

3. Secure visible commitment from the CEO and management of an association

It is crucial to enlist senior management support for an ethics program to be successful. Examples include: senior managers participating in training sessions, making ethics a regular element in speeches and presentations, and aligning management behaviour with association standards.

4. Engage the board or other ultimate governing body

Engage boards and individual directors in the ethics process by (for example), placing ethics on the board agenda as a regular item for discussion, having the board receive regular reports on the members' compliance with the code including actions taken to improve compliance.

Consider special training to enable directors to understand the importance of these tasks.

5. Build ethics into mission and vision statements

Many associations build ethical values and goals into their mission and/or vision statements given their importance to the membership. These can reflect and reinforce the values embedded in codes of ethics for members. Members should be encouraged to think of values and ethical standards as integral to all member activities and planning, and not simply as 'add-ons' to be considered after important decisions have been made.

End.