



ACS - Professional Standards Scheme

The Australian Computer Society Inc (ACS) has applied to remake its professional standards scheme (PSS) under *the Professional Standards Act 1994* (NSW) (Act) in New South Wales. The scheme will have effect in all Australian states and territories.

Each state and territory have professional standards legislation to:

- protect consumers of professional and other occupational services
- improve occupational standards
- allow scheme participants to limit their civil liability

The Professional Standards Council (PSC) of the New South Wales invites public comments and submissions on the ACS PSS by 24/07/2024.

Your comments will provide valuable insight into how consumers view and understand ACS' proposed scheme. This will help the Professional Standards Councils (the Councils) decide whether to approve the scheme or not. If the Councils approve the scheme, it will then need the relevant attorney-general or minister's authorisation.

1. ACS AND ACS MEMBERS

The Australian Computer Society (ACS)

ACS is the leading professional association representing Australia's technology community, with over 47,000 members across industry, government, and education.

Our key aim is to grow the nation's technology and digital skills capabilities, industry capacity and inspire the next generation of technology professionals.

Through four value drivers – Community, Career, Capability, Migration - we bring together networks and nurture a thriving tech community: powering positive change, opening career pathways for Australia's pipeline of technology professionals, setting skills, experience and quality service standards, and improving diversity and addressing critical technology skills needs through skilled migration.

ACS is governed by elected members and is run by a team of staff from offices around Australia that:

- researches and fosters digital capability and innovation in the public interest
- helps employers develop their technology workforce capability
- sets ethical standards for technology professionals
- provides training and information to keep technology professionals' skills up to date
- assesses and certifies individual technology professionals
- assesses migrant technology professionals on the authority of the Australian Government
- accredits technology higher education courses, ensuring they meet current industry needs

ACS members are committed to service excellence and accountability and to the values and professional behaviours contained in ACS' Code of Professional Ethics (CoPE 2023) and Code of Professional Conduct.



In ACS' own *Digital Pulse* (2023, p39), the importance of trust and confidence in technology professionals is highlighted by the then CEO, Chris Vein

The critical factor to making sure we get the right outcomes is to enable society to trust in the promise of technologies. We need to make sure we have trust in tech and the people using the tech to thrive in this fast-paced environment.

ACS' CoPE 2023 drives ethical and professional member behaviours and decision-making across rapidly changing technology environments – ACS' ethical values are honesty, trustworthiness, respect and CoPE 2023 expands on the professional behaviours that support these values.

The importance of having a PSS increases as:¹

- the dispersal of technology professionals across Australian industries widens (p83).
- the rate of growth of Australia's technology workforce increases (pp75-82).
- the rate of technology change accelerates and the automation and augmentation of roles with technology escalates (p20).

Who are ACS members?

ACS members are right across Australia's technology workforce – in all Australian industries and most Australian workplaces - which is currently over 928,000 strong and forecast to grow by between 205,000 and 237,000 by 2030, depending on the uptake of critical technologies.² A growing demand for technology skills by Australian employers and businesses continues to outstrip the supply of local industry entrants – school leavers and VET and higher education graduates - but technology skills are portable. Skilled migrants are also recruited to fill skills gaps and further global technology knowledge exchange.

Digital capability is key to Australia's productivity, international competitiveness and economic growth. Corporates, governments, not-for-profits and the wider community are increasingly exposed to technology opportunities, challenges and threats, bearing out the clear need for qualified and trusted professionals to deliver expert technology services and provide expert advice and leadership.

With the ongoing demand for technology professionals to support the use of critical technologies, again reported in ACS' Australia's Digital Pulse 2023, in cybersecurity; enabled cloud technology; the Internet of Things (IoT); advanced data analytics; additive manufacturing; AI, ML and NLP (natural language processing); advanced robotics and sensors; virtual worlds; quantum technologies,³ ACS offers professional members, often working in these fields with less structured employment arrangements and limited liability through ACS' PSS.

While technology professionals are not regulated by governments, ACS members and executive leadership continue to pursue a self-regulated professional culture which is supported by:

- [ACS' Code of Professional Ethics](#) (CoPE)
- [ACS' Code of Professional Conduct](#) (CoPC)
- [ACS' Complaint Procedure](#)

¹ ACS – Australia's Digital Pulse, 2023

² ACS – Australia's Digital Pulse, 2023, p25

³ ACS – Australia's Digital Pulse, 2023, p26 & others



ACS has the following grades of membership:

- Fellow
- Senior Member
- Member
- Associate

The grades Fellow, Senior Member and Member make up the Professional Division of ACS.

In addition, for individual members that demonstrate threshold competencies, ACS offers assessment and recognition as either a Certified Professional (CP) or Certified Technologist (CT).

ACS Certified Professionals, with the post-nominals – MACS (Member of ACS) CP, MACS Snr CP, FACS (Fellow of ACS) CP – can be recognised for their professionalism, commitment to ethical practice and ongoing professional development through access to ACS PSS.

ACS has over 1600 CP members and has specialist certifications in CyberSecurity and Safety Critical Systems to meet emerging community and workplace needs.

What types of work do ACS members do?

ACS members work in the full range of technology roles in small or large corporates, governments and not-for-profits, across all Australian industries and sectors. They support technology functions within an organisation or provide external technology services and consultancies. They create or improve technology systems, enable business operations, management, client interfaces, research and education. Many ACS members have technology degrees, while others have VET qualifications or recognised school outcomes and can be assessed and certified for professional capabilities developed through experience and ongoing workplace learning.

There are more than 20 high-level streams of technology work in which ACS members participate:

AI, ML and NLP (natural language processing)	Advanced robotics and sensors	Cloud storage & security
Security - cyber, systems, information	DevOps	Database - design, development, management
Deep data analytics	Digital transformation	Governance & quality management
Design & development - software, platforms, processes, systems	High performance computing	Infrastructure & facilities
IoT	Organisation capability	Procurement & vendors
Programming/software design	Project, program, portfolio management	Product management, startup, innovation



Research, development & Education	Service delivery & management (including MSP - Managed Service Provider)	Service transition & integration
System administration	Technology leadership	Testing
Virtual worlds, quantum technologies	Web design & development	

What is a professional standards scheme?

A professional standards scheme, regulated by the PSC, is a legal arrangement that caps the civil liability, or damages arising from a civil legal proceeding, in the event that a court upholds a claim against a person who is, or was at the time of the event/omission that is the subject of the claim, a participant of that professional standards scheme. Such a scheme, in return for capping civil liability, obliges an association (in this case ACS) to monitor and enforce the professional standards of its scheme participants, thereby reducing consumer risks for the professional services provided by those participants.

The PSC are independent statutory bodies established under professional standards legislation in every state and territory, to facilitate, approve and supervise professional standards schemes of occupational associations (again in this case ACS). The Professional Standards Authority is the PSC's national regulatory support agency and is typically the first point of contact for associations. When PSC approve a scheme, this creates a regulatory relationship between the Councils and the association. PSC oversee the association's implementation of its scheme and members' compliance with PSS requirements.

2. ACS' PROPOSED SCHEME

What is the proposed ACS PSS?

Like all professional standards schemes, the ACS PSS is constituted by a brief legal document known as the Scheme Instrument which sets out the details of the ACS PSS' scope, jurisdiction, duration and limitation of liability. The Scheme Instrument document may be considered by a court in the event of a claim.

The ACS PSS limits the occupational liability of eligible ACS members participating in the ACS PSS to a maximum of \$2 million in the event a claim is brought against them. Details of the operation of the ACS PSS is set out in the next section titled 'How does the PSS operate?'

The scheme is monitored and reviewed on an ongoing basis by ACS and the PSC. Future changes in claims history and consumer risk can result in adaptation of controls, including requirements of members, and adjustments to liability caps under the Scheme.

Insurance markets tend to be cyclical and professional communities have had times of crisis in accessing professional indemnity (PI) and other business insurances. Having demonstrable and defensible professional standards and liability caps help to ensure that professional communities remain of interest to insurers despite insurance market cycles, and Scheme compliance systems ensure individual professionals carry suitable PI insurance cover – good for both ACS PSS participants and consumers of their services.

The professional standards regulated by the ACS include:



- education and professional experience thresholds
- continuing occupational education requirements and audit
- consumer risk management
- ethics and conduct codes
- complaint systems
- limited liability disclosure
- insurance requirements and standards

How does the ACS PSS operate?

The ACS PSS caps occupational liability of participants to \$2 million per claim if the following requirements can be satisfied:

- ACS PSS participation pleaded as a defence at the commencement of a proceeding
- They were an ACS PSS participant at the time of the event of the event/omission giving rise to the claims
- They have a current PI insurance policy that:
 - insures them against the 'occupational liability' to which the cause of action relates
 - the amount payable under the PI insurance policy is not less than the amount of the monetary ceiling applicable at time of the act/omission which gave rise to the claim (i.e. \$2 million)
 - the PI insurance is compliant with the ACS Insurance Standards

The ACS PSS covers civil liability arising (in tort, contract or otherwise) directly vicariously from anything done or omitted by a person who was a Participating Member acting in the performance of the ACS member's 'Occupation'.

'Occupation' is defined in the ACS Scheme Instrument as 'the occupational vocation carried out by Participating Members by application of the qualifications, training, skills, practices, disciplines, specialisations, standards, guidelines and experience of an ordinary person who holds the ACS certification of Certified Professional'.

The ACS PSS is not intended for damages or compensation arising from death or personal injury to a person, breach of trust, fraud or dishonesty.

Who administers the ACS PSS?

The ACS administers the ACS PSS.

The ACS Management Committee (MC - Board equivalent) governs the ACS PSS, and acts on expert advice from ACS' Professional Standards Board (PSB) in relation to evolving professional standards, benchmarks and continuous improvement opportunities. The ACS executive team, PSS team and other staff collaboratively administer the compliance activities under PSS; the Chief Growth Officer has executive responsibility and Director Capability operational responsibility for the ACS PSS.

Where does the scheme operate?

The ACS PSS will operate in all Australian states and territories. If the ACS PSS is approved in NSW under the ACT, the ACS PSS will also be recognised in other Australian states and territories under mutual recognition provisions of the respective professional standards legislation.



When will the scheme apply?

The current ACS PSS will commence on 1 January 2025 and will operate for five years until 31 December 2029, subject to approval processes under the Act and corresponding provisions of the professionals standards legislation in all other jurisdictions.

Does the scheme apply to all members?

The ACS PSS will only apply to current ACS members who hold the CP certification, for whom compliance with the PSS obligations will be mandatory. The ACS PSS will operate on an all-in basis, with the option to apply for exemption in certain cases. It is estimated that there will be 900 participants in the ACS PSS once all exemptions have been processed.

How is participating members' level of limited liability determined?

The ACS PSS will limit all occupational liability of participating members to \$2 million per claim.

Can an ACS member leave the ACS PSS?

All current ACS members with the CP certification must participate in the ACS PSS, unless exempted.

A current ACS member with the CP certification may apply for exemption from the requirement to participate in the ACS PSS if they:

- are unemployed or do not provide professional services in technology;
- solely provide internal organisation services;
- are employed by government; or
- are solely in academic or education practice.

If an ACS PSS participant becomes eligible for exemption due to an employment status, they may apply for exemption and exit from the ACS PSS. Such member's past occupational liability will still benefit from limited liability of \$2 million if they continue to hold the benefit of a compliant PI insurance policy.

The ACS encourages all eligible members to remain in the ACS PSS as an individual professional's employment status can change from time to time. ACS also provides all eligible members with a level of PI insurance cover through the ACS' complimentary member insurance scheme.

How will consumers know if an ACS member is covered by the scheme?

Participating members must display the following disclosure statement on all business documents (defined under section 34(5) of the Act) sent to existing and potential clients:

'Liability is limited by a scheme approved under Professional Standards Legislation'.

In addition, ACS maintains an internal register of ACS PSS participants. ACS also publishes a public register of ACS members with CP certification on an opt-in basis. ACS will respond to public inquiries regarding PSS participation status of members and promote awareness of the ACS PSS across the national technology landscape, i.e. beyond ACS' immediate membership.



3. BENEFITS OF ACS PSS

How will consumers benefit from the ACS PSS?

A key benefit of the ACS PSS is that it recognises ACS Certified Professional (CP) members as professionals with a commitment to an ethical code and maintaining technical competence and professional skills. This is increasingly important with the growing profile of business and consumer risk in the digital environment, and the erosion of public trust in experts.

Consumers who engage technology professional services may directly benefit from the public register of individuals who meet requisite professional standards, and from the reassurance of regulatory oversight by the ACS and Professional Standards Councils.

In addition, the ACS PSS ensures the safety net of PI insurance. At present, the number of PI insurance claims against technology professionals are relatively low, PI insurance is readily accessible to technology professionals and there is little reliance on PI insurance as a remedy when things go wrong. The technology environment is however in rapid evolution and the risk profile of technology professional services may change.

PI insurance protects both the professional service providers, the clients and consumers of technology service providers. ACS advocates universal PI insurance coverage of technology professionals in everybody's interest and sees the PSS as key to raising awareness and uptake, as well as ensuring ongoing access to, and affordability of, PI insurance.

How does the ACS PSS enhance members' occupational standards?

The ACS PSS provides further recognition of ACS CP certification and professional standards and strengthens ACS' advocacy for professionalism across the technology sector. Everybody is an indirect consumer of technology professional services, and all consumers benefit from enhancement of professional standards in technology.

The ACS PSS is subject to ongoing scrutiny by the Professional Standards Councils, which enhances the professional standards of ACS members by requiring:

- ongoing review of entry requirements and assessment processes
- maintenance of suitable standards of education and professional experience
- audits and enforcement of continuing occupational education obligations
- a focus on consumer risks in its education and information
- maintenance and promotion of its ethical and professional conduct codes
- strong complaint and disciplinary systems
- members to maintain suitable insurance cover in the public interest
- data collection (e.g. claims and complaints) to manage emerging risks and educate members

How does limiting participant liability help consumers?

Professional standards schemes are designed to ensure ongoing access to PI insurance for an occupational group – in ACS' case, technology professionals. Insurance markets are cyclical and there are times when insurers actively reduce their liability exposure to occupation groups/industry sectors by either declining new policies, raising premiums or introducing policy exclusions.

A PSS puts a cap on, or limits, occupational liability reflecting the actual claims history of occupation groups/industry sectors. This allows consumers/purchasers of services, to pursue claims consistent



with historic levels and gives insurers greater predictability. Liability caps/limits give insurers the confidence to remain in specific markets without risk of random runaway claims, and provide a buffer to adjust to any sudden change in the risk profile of occupation groups/industry sector/professional activity.

Limiting liability of PSS participants helps consumers/service purchasers by ensuring that occupational groups remain insured and a PI insurance safety net that can be relied on.

PI insurance access has not been an issue in the technology sector to date, and there has been no significant history of consumer/service purchaser claims of negligence against technology professionals. The ACS PSS nevertheless provides a plan and a foundation for the broader ongoing professionalisation of those working in technology roles or the sector.

Is the scheme a professional indemnity insurance scheme?

No, ACS' PSS is not a source of PI insurance. To maintain the benefit of capped liability, however, participating members must, inter alia, hold PI insurance that meets the requirements of the ACS Insurance Standards, which accompanies the Scheme Instrument.

Under a related but separate member service initiative, ACS provides a complimentary member insurance scheme covering all members with an errors and omissions (form of PI insurance) policy and general liability insurance covering product and public liability. All ACS members earning a gross annual fee income under certain thresholds (\$250,000 for CP members and \$125,000 for all other members) can benefit from the insurance coverage.

In short, a member's PI insurance policy of at least \$2 million pays for the claim while the ACS PSS caps the amount of damages payable to \$2 million, effectively reducing personal liability exposure.

What continuing education can member access?

There are a wide range of education and related skills learning resources available to ACS' professional members, including CP members, with a strong focus on ethical decision making, conduct and accountability.

Particular resources are available:

- through ACS' [online learning platform](#)
- via ACS' Ethics Education - [Professional ethics, conduct and complaints](#) – resources
- at a range of [masterclass and other professional events](#)

How are complaints and discipline managed?

ACS has a [Complaint Procedure](#) that is managed through the 14-member [Disciplinary Committee](#). It is a formal process through which complaints about members can be considered, evaluated and, where appropriate, disciplinary action taken.

The key steps in ACS' Complaint Procedure are to:

- complete and submit a Complaint Summary Form (provided in the Complaint Procedure)
- ensure all sections of the Complaint Summary Form are completed, including evidence to support the complaint
- include contact details of the person/entity making the complaint and others that support the complaint



If the complaint is assessed as compliant with the Complaint Procedure it will be:

- referred by the CEO to ACS' Disciplinary Committee

If a complaint is found to need to be answered:

- mediation will first be attempted
- if unsuccessful, a Disciplinary Hearing Panel will be convened to consider the complaint

NB: under its Complaint Procedure ACS:

- is not able to award compensation or damages or levy a fine or other financial penalty
- cannot accept anonymous complaints

4. COMMENTS AND SUBMISSIONS

How can I make a comment or submission?

In your submission, you may wish to respond to the following questions:

- Are you a member of ACS?
- Are you a consumer/service purchaser of the type of services covered by the proposed scheme?
- Do you think the scope of the scheme is clear, including work, jurisdiction, membership classes covered?
- Is it clear how you, as a member or consumer/service purchaser, could make a complaint?
- Can you describe how consumers/service purchasers would benefit from ACS members' services being covered by a PSS?

Please send comments and submissions to:

The Chief Executive Officer
Professional Standards Councils
Level 2, St James Centre
111 Elizabeth Street
Sydney NSW 2000.

You can also contact the Councils by:

- email: pscinfo@psc.gov.au
- phone: 1300 555 772 or (02) 8315 0800
- web: www.psc.gov.au

How are comments and submissions managed?

The Council must consider all comments and submissions it receives, in line with the public consultation process under the Act, section 8.

Comments and submissions will be:

- made public unless you request confidentiality
- subject to the *Privacy Act 1988* (Cth) and the Australian Privacy Principles.



Where can I find out more?

To find out more about ACS, our PSS and proposed PSS remake application, please contact: pss@acs.org.au or go to [ACS PSS](#).