

Guidance

Codes of ethics and practice

Using this guidance

Your association codes form part of your professional risk management strategy, which you must submit for us to consider as part of your application. Codes are oriented towards improving professional standards and consumer protection.

This document details the requirements for Submodule 4.1. It explains the content typically included in a code of ethics or code of practice, and then provides guidance on how to complete the Codes of ethics and practice [template](#).

When completing this submodule, we recommend that you also refer to:

- our research articles on ethics codes and professional values, available in our [Research Library of Modern Professionalism](#)
- our broader guidance on developing, implementing, and revising association codes, available on the Councils' website
- the proceedings of our [Putting the Consumer First in Ethics](#) Forum (15 October 2020)
- our Model Code of Ethics Principles (2002), available in our [Resource Centre](#).

Understanding the requirements for this submodule

Codes are aimed at protecting and improving professional practitioner standards and consumer protection. They differ across occupations because each occupation offers different services and poses different risks. There is no one set of code content that can be applied to all occupations.

Typically, an association's members may be subject to one or more occupational code of ethics and code of practice, for example:

- There may be statutory codes in a single document, or statutory codes that are dispersed throughout various laws dealing with the occupation's particular regulatory environment
- There may be an occupation-wide code or codes, or a code operated by the individual applicant association
- Association codes may operate in addition to, and augment, a statutory code.

In all cases, our interest is with how codes protect and improve professional practitioner standards and the protections for consumers of the services provided by an association's members. This is important for both the associations and consumers as well as to be clearly communicated to, and available to, the public.

This guidance outlines the typical content that codes oriented towards improving professional standards and consumer protection should include. Please read this then complete Template 1.

In [Template 1](#) you will provide, explain, and compare your association's codes with the typical code content that we set out below. Template 1 also requires information including:

- their structure



- how they are implemented
- any statutory or regulatory codes that apply
- their governance
- how you plan to improve them and measure their effectiveness.

Understanding the typical content in codes of ethics and practice

Introduction

Our broader guidance for developing, implementing, and revising association codes is a good starting point to understand the code requirements (see the Councils' website). Our broader guidance includes important questions to consider before preparing a code and suggested steps for building new or revising codes.

Looking at the typical content in a code, its structure usually begins with a brief introduction, followed by the main content covering the association's values, principles, and standards. The introduction launches the code, evoking the occupation's highest aspirations and ethical traditions. It may include the following sections. We provide example text in shaded boxes.

Mission statement

A mission statement describes the occupation's positive contribution to society.

[This occupation] aims to provide [core social benefit] through [key activities] while always respecting [relevant constraints].

Statement of intent

A statement of intent describes the code's purpose and significance.

Oath

Members can use this oath to publicly declare their allegiance to the code's mission, values, and principles.

Statements that harness key sources of code legitimacy

These statements may harness:

- **ownership** – there are longstanding ethical traditions for the occupation, such the Hippocratic Oath in medicine
- **ethical content** – members deliver important social goods
- **contractual legitimacy** – the occupation's special ethical obligations are a fair exchange.

To deserve the trust necessary for us to perform our important role in society, we promise to ...
or

To be worthy of the privileges the law gives us, we promise to ...



Overarching guidance statements

These may include statements of:

- **ethical priority** – the code’s principles must be prioritised over other pressures and incentives

The code principles must not be compromised due to any other factors, including market, employer, and institutional pressures.

Employee and organisational codes may add new obligations to the member’s responsibilities but can never remove them.

- **stakeholder priority** – some principles have ultimate priority in ethical decision-making

If in doubt, consumer safety will be members’ ultimate goal.

- **comprehensiveness** – the code’s principles and values are comprehensive

The code’s values and principles apply to all occupational work. Any examples in this code illustrate rather than limit how the codes’ principles and values should be applied.

- **review and growth** – the code is a living document that must be continually evaluated and revised to ensure it is fit for purpose, and feedback and ongoing consultation are welcomed
- **guidance** – the code must inform, but not replace, each member’s moral decision-making, and members are empowered to seek advice from sources such as supervisors, peers, official resources and (ideally) an advice hotline.
- **organisational support** – employers should understand the code, and institutional incentives and opportunities should encourage all to adhere to it
- **accountability** – breaching the code’s standards can lead to disciplinary action, and all members promise to participate in disciplinary processes.

Some codes of ethics also have a subsection expanding on the statement of accountability. This section sets out arrangements for implementing and enforcing the code and managing complaints.

Hayne’s 6 norms of conduct

These norms establish an ethical framework for professional conduct and come from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

The norms are:

1. Obey the law
2. Do not mislead or deceive
3. Act fairly
4. Provide services that are fit for purpose
5. Deliver services with reasonable care and skill
6. When acting for another, act in their best interests.

More detail is available in Commissioner Hayne’s [final report](#).

Values, principles and standards

Codes are oriented towards improving professional standards and consumer protection. They may include the values and principles below. Each subheading represents a broad value, which is broken into related



principles in the left column of the table. In the shaded boxes, we provide example content that may appear in a code.

Note that, while almost all occupations will endorse these values, not all principles will suit all occupations. For example, under the ‘Care for consumers and others’ value, every occupation should uphold the principle of respecting consumers’ best interests. However, only some need to consider prohibiting close relationships between members and consumers.

Expertise

Ongoing education	Members will have suitable initial education and will keep their knowledge comprehensive and up to date. They will aim to improve and deepen knowledge in their field of expertise.
Competency	Members will only work within their spheres of competency and will never mislead others about their qualifications and expertise.
Diligence	Members will work conscientiously, efficiently, and effectively. Their work will be thorough and timely, in line with professional standards and the consumer’s needs and situation.
Peer and entrant education	Members will contribute to the occupation’s high standards through helping to educate and train all colleagues, especially initiates and trainees, as appropriate.

Objectivity

Prohibition on conflicts of interest	Wherever possible, members will avoid conflicts of interest by removing the conflict, rebating kickbacks or removing themselves from the situation. Members will be alert to any new causes of potential conflicts (such as changing business practices).
Independence	Members will observe restrictions on bonuses, gifts and other perks, and on accepting offers of work (such as ‘speaking fees’), if these could create a conflict of interest.
Impartiality and disclosure	If it is not possible or appropriate to remove a conflict, members will fully disclose it to the consumer. They will never alter their service or advice for personal gain, organisational incentives or company profit.
Prohibition on over-servicing	Members will never do work, or recommend that work is done, beyond the consumer’s best interests and in line with their informed consent.

Care for consumers and others

Consumer best interests	Unless the code’s principles direct otherwise, members will prioritise the consumer’s best interests and never act to harm or exploit those interests.
Care for the vulnerable	Members have special duties to ensure highly vulnerable consumers are cared for properly. Vulnerable consumers are people who are, due to their personal circumstances, especially susceptible to harm. This includes people with cognitive impairments or disability, people with chronic health problems and elderly people.
Prohibition on inappropriate relationships	Acknowledging their power over vulnerable consumers, members will keep their private and professional relationships distinct. They will avoid inappropriate relationships with consumers, whether these are people or corporations.



Confidentiality, privacy and record keeping

Consumer confidentiality	Members will respect consumer confidentiality and privacy within the limits of legal duties to public institutions.
Record keeping	Members will keep suitable records of consumer information and the services they have provided. They will keep all confidential information secure.

Consumer autonomy

Informed consent	Members will respect consumers' autonomy. They will: <ul style="list-style-type: none"> • ask consumers to give voluntary informed consent to their services • be completely clear about all fee structures and costs.
Communication	Members will provide all advice and information in accessible language and work with consumers to ensure they understand it.

Commitment to law and society

Respect for law	Members will respect all legislation and regulations related to their field.
Respect for legislative intention	Members will follow the spirit, and the letter, of all relevant laws and regulations. They will not act to subvert legislative intentions. They will never exploit ambiguity in the law to disadvantage consumers. Note: This obligation can be challenging and must be carefully considered. For example, members will need detailed guidance to judge whether exploiting a loophole in the law is a legitimate strategy or a wrongful violation of legislative intent.
Non-discrimination	Members will not discriminate based on gender, ethnicity, religion, sexuality or any other arbitrary distinction.
Public interest	Members will respect all obligations to social institutions (such as lawyers' duties to the court) and to third parties relying on their declarations.
Human rights	Members acknowledge their direct contribution (for consumers) and indirect contribution (for third parties and the public) to respecting and protecting human rights, as enshrined in the Universal Declaration of Human Rights.
Complicity	Members who learn that their employer or consumers are violating or plan to violate laws and expose third parties to serious risks will: <ul style="list-style-type: none"> • raise their concerns with that party • refuse any work that would make them complicit in any wrongdoing • report a deliberate breach of the law to the relevant professional standards regulator (association and/or to the relevant government regulator, or police as appropriate). They will do so subject to their other responsibilities. Risks could include safety risks or risks of fraud.

Collective support of standards

Support for colleagues and subordinates	Members who work in teams or supervise, contract, mentor or employ other members will support their peers and subordinates to use the code.
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Appropriate use of resources	Members will use all available resources for guidance about what the code requires. This may include consulting colleagues, supervisors or helplines to ensure their decisions are objective.
Accountability	Members will uphold the code's ethical standards, both as individuals and with their peers, and hold each other accountable. Members will properly credit and recognise other members for their work.
Non-retaliation	Whistle-blowers, or any members acting in good faith to highlight ethical issues within the occupation (including through complaints processes), will be: <ul style="list-style-type: none"> • supported appropriately • protected from retaliation.

Integrity

Honesty	Members will tell the truth and avoid misleading others in all services and any commercial activities associated with those services. They will stand by their public statements and the terms of any promises or contracts.
Transparency	Members will provide fully transparent information in all appropriate cases, such as to alert the consumer to an unavoidable conflict of interest.
Candour	Members will acknowledge errors and report adverse outcomes, mistakes and near misses to consumers and higher authorities. Reporting to higher authorities will be done as required under the relevant occupational rules.

Cooperativeness

Collective delivery	Members will cooperate to collectively deliver the occupation's high ethical standards.
Teamwork	Members who work in teams will ensure that the team's organisation and communication uphold all consumer protections. They will not diffuse responsibility for this across the team.
Non-plagiarism	Members will take care when using, expressing or publishing work that other service providers have prepared. They will never mislead consumers or others about the authorship of any documents and will properly attribute others' work.

Competitiveness

Collegiality and fair competition can press in opposite directions. The first principle is a longstanding tradition in some professions (such as law). The second responds to changing laws (such as competition law) and social expectations.

Collegiality	To enhance the occupation's dignity and avoid wasteful advertising 'arms races', inter-occupation competition (such as advertising) may be constrained in line with local law.
Fair competition	Members will compete fairly in the market, never engaging in price-fixing or misleading advertising.

Ethical culture

Building ethics regimes	Members will promote ethical culture in all organisations they work with as employees, consultants, contractors or executives.
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Completing Template 1

In [Template 1](#), list the codes that apply to your members. These could be current or draft codes, such as:

- your code of ethics
- your code of practice
- any statutory codes.

Then, complete the Code comparison tables to show how these codes align with the typical code content in this guidance. If more than one code applies to your members, specify which code includes the corresponding content – for example, ‘See Code 2, page 4, “Core principles”’. Add comments as needed.

Finally, complete the questions on code structure, implementation, governance, communication, improvement, and consumer protection outcomes.

Related modules

We will assess your association’s other professional risk management processes in the following modules and submodules:

- [2.2 – Insurance standards](#)
- [4.2 – Consumer complaints system](#)
- [4.3 – Disciplinary system](#).

Copyright and document control

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1.0	PSC	18 June 2021	1 July 2021	This is new guidance

Disclaimer

This guidance applies only to an occupational association preparing a scheme for approval under professional standards legislation. It is not legal or other professional advice and should not be relied on as such. An occupational association should seek its own legal/professional advice to find out how the professional standards legislation and other relevant laws and regulations may apply to it. Go to www.legislation.nsw.gov.au to access NSW legislation.



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