



**Ministry of Business,
Innovation & Employment**



Building & Housing

Canterbury Earthquakes Royal Commission

Supplementary submission
Hearing 10 September

Training of engineers and the organisation of the profession

Context

1.1 There are two critical issues with the regulation of engineers and the organisation of the profession, these are the confusion within and about the Code of Ethics and the appropriateness of the current regulatory framework.

The Code of Ethics

2.1 The Code of Ethics can be perceived as creating competing obligations and therefore engineers can select a clause to suit the argument they wish to make at any particular point. There are some who have interpreted the Code of Ethics as precluding the disclosure of information to anyone other than the client who commissioned the work even if the building represents a risk to the occupants and the public. As a consequence of this view there is then the possibility that appropriate action is not taken such as notification to the appropriate authority in the case of a dangerous building or indeed in the assessment of buildings post earthquake where there is a public, including occupants, interest.

There also seems to be confusion as to whether the Code of Ethics permits, (it certainly does not actively require) laying a complaint by another engineer about performance of an engineer which has resulted in non compliant work being done.

2.2 The second issue is that the Code of Ethics requires that engineers work within their scope of competence which is self identified and self assessed. The Ministry has suggested that scope of practice is defined and that Chartered Professional Engineers are robustly assessed against this and that this assessment and scope are on a public register. There are no defined scopes of practice and in the longer term this is proposed to be considered under the occupational regulation review.

In the meantime it must become a key plank of the Code of Ethics that engineers operating outside their scope of competence are identified (Code of Ethics would require engineers to practice within their scope - penalties would be for the Board to enforce) and their Chartered Professional Engineer status or IPENZ membership is reviewed and appropriate sanctions imposed where work beyond scope is identified. The Code currently requires working within competence but this as the hearings have identified is a weak control. The best placed people to identify work beyond competence are engineers and

Building Consent Authorities where non compliant design work is submitted for consent.

2.3 The Ministry will invite the Chartered Professional Engineers Council through the Output Agreement with the Minister to substantively revise the Code of Ethics to:

- make clear what hierarchy Code clauses have
- make explicit to which authority, when and how non compliant work must be disclosed,
- what commissioned work needs to be shared with specified authorities
- how they plan to ensure that self assessed competence is robust
- engineers are actively required to consider evidence of operating beyond scope and lodge information to IPENZ.

Occupational Regulation Review

3.1 It is proposed the Occupational Regulation review will consider if the legislation governing all engineers and other design professionals in the Building and Construction Sector needs to sit under the purpose and principles of the Building Act 2004 as it relates to life safety. The Ministry will also consider how to enable complaints by such as Building Consent Authorities in case a legal mandate is required. The review will also consider whether a common approach for registration and competency assessment is made mandatory for all building and construction professionals.

3.2 In addition in relation to engineers, the review will consider the role of Codes of Ethics, voluntary or mandatory registration, what other categories of specialist engineer may be necessary, beyond dams, and the separation of the registration function from membership.

3.3 In discussions with IPENZ they have already been invited to make the separation, under the current arrangements, more transparent and this too is a matter in the short run to be addressed through the Output Agreement between the Minister and the Council.