



Code of Conduct

For Independent Certifier Panel Members

January 2024

Preamble

Members of the Society of Construction Contract Practitioners (“SCCP”) appointed to the Independent Certifier Panel acknowledge and commit to complying with this Code of Conduct.

All references to Independent Certifier shall also apply to the Engineer to the Contract (“EtC”) under NZS3910:2013 and similar contract administration roles (under NZIA, FIDIC, NEC4 and the like).

The Code of Conduct represents an undertaking by members to uphold a high standard of integrity, independence and impartiality when discharging their role. There is a requirement that those not demonstrating the behaviours and expectations set out below may be subject to a review and assessment process.

General Expectations of an Independent Certifier

The general expectations of an Independent Certifier are twofold:

- they reflect industry expectations that an Independent Certifier will demonstrate the “soft skills” expected of an individual trusted by both parties to perform the contract administration role professionally; and
- where appropriate to engage the parties collaboratively, and with particular emphasis on face-to-face engagement (if practicable), in the interests of mitigating problems and avoiding disputes without departing from the contract. This includes taking active steps to resolve matters by clear decision-making and/or working with the parties to avoid or reduce the risk of matters being referred to dispute.

Specific Obligations of an Independent Certifier

A Member shall, at all times, when performing the role of an Independent Certifier:

1. Act independently and impartially: SCCP strives to be an inclusive and diverse society, therefore acting independently does not necessarily mean being independent from other consultancies providing professional services. Acting independently and impartially are fundamentally behavioural attributes.
2. Resolve conflicts of interest: Disclose, before appointment and throughout the contract, any perceived, potential or real conflict of interest which impairs or is likely to impair the ability to act fairly and impartiality in the role of Independent Certifier and resign where the conflict of interest cannot be resolved to the reasonable satisfaction of the parties to the contract.
3. Act professionally: Act at all times in good faith, and in a professional, diligent, orderly and timely manner.
4. Make all decisions impartially: Act fairly, impartially, honestly, with integrity, without bias, consistent with and in reliance on the relevant contract, exercising professional judgment in all decision-making under the contract including, without limitation, contractual interpretation, assessment, compliance, contractual entitlement, valuation, or certification. Obtain independent legal or other advice where necessary to inform decision-making.
5. Principal's Representative: Act as representative of the Principal only when prescribed by the contract.
6. Advise Principal and Contractor: Provide advisory opinions to the Principal and the Contractor in respect of matters in relation to the contract, taking care to avoid acting as an advocate of either party. As far as reasonably practicable, advise the Principal / Client of their obligations within their contract, the Construction Contracts Act 2002, the Construction Contracts Amendment Act 2015 and the Construction Contracts (Retention Money) Amendment Act 2023.
7. Comply with time requirements: Perform all duties of the Independent Certifier within the time or times stated in the contract, or, where no time limit is stated, within a reasonable time.
8. Be decisive: Make decisions where required by the contract, promptly, with appropriate reasons.

END