

## **SAFEGUARDING IMPARTIALITY OF BUILDING CONTROL BODIES**

### **1.0 Background**

1.1 For Approved Inspectors Regulation 9 of the AI Approved Inspector Regulations, titled 'Independence of approved inspectors' deals with safeguarding impartiality, setting out that 'Approved inspectors shall have no professional or financial interest in the work they supervise unless it is minor work.'

1.2 It is considered that this Regulation was intended to address the potential for conflict of interest occurring during the building control approval process.

1.3 It is the BCA's view that similar principles should apply to public sector Building Control Bodies

1.4 The underlying principle of the building control process being an independent third party check is paramount.

### **2.0 Guidance on Safeguarding Impartiality**

2.1 The following guidance incorporates many of the principles of ISO/IEC 17065: 2012 which is used in the management of Competent Persons Schemes (CPS).

2.2 The Building Control Function should be carried out impartially and be perceived to be impartial

2.3 The Building Control Body (BCB) shall be responsible for the impartiality of its building control service and shall not allow commercial, financial or other matters to compromise impartiality.

2.4 The BCB shall identify risks to its impartiality on an ongoing basis. This shall include those risks that arise from its activities, from its relationships, or from the relationships of its personnel. However, such relationships may not necessarily present a BCB with a risk to impartiality.

*Note: A relationship presenting a risk to impartiality of the BCB can be based on ownership, governance, management, personnel, shared resources, finance, contracts, marketing (including branding) and payment of a sales commission or other inducement for the referral of new clients. Etc.*

2.5 A risk to impartiality is considered to occur principally where a design or construction function is being provided on the same project by the same organisation carrying out the Building Control function. A risk to Impartiality may also occur in other ways such as financial involvement, personal or family involvement etc.

2.6 If a risk to impartiality is identified, the BCB shall be able to demonstrate how it eliminates or minimises such risk. This should comprise a written policy specifically aimed at meeting these requirements and in the case of Approved Inspectors specifically Regulation 9. This policy should be publicly available, for example on the BCB's website and regularly reviewed.

2.7 For larger commercial organisations incorporating a BCB, typically Public and Private Limited Companies and Limited Liability Partnerships, elements of a policy that tends to safeguard impartiality may but not necessarily or exclusively include:

- The BCB as a separate legal entity

- An independent Senior Management Team
  - Common Directors should be avoided
  - Directors or partners should have no responsibility as a Director or member of a Senior Management Team of any other legal entity providing a design or construction function on the same project.
- A clear published whistleblowing policy
- There should be no financial incentive for the AI to market other organisational design or construction services on the same project
- Design and construction services should not be bundled with the Building Control service or discounts offered for appointment on both.
- Design and construction services should be marketed separately from the Building Control service
- Terms of appointment for the Building Control service should be independent of design and construction services and should incorporate an independence clause confirming that there are no contractual responsibilities for design or construction services on the project.
- The AI should not take on any responsibility for design services (even if sub-contracted to other parties)
- The service delivery system of the building control process should be wholly independent of design or construction functions
- Management of the Building Control Process for the project should be wholly independent of design or construction functions. This should include the ITC systems.
- Personnel delivering the Building Control Function should be wholly independent of design or construction functions
- The complaints policy should allow for customer to escalate potential breaches of impartiality
- There should be a regular review of the impartiality policy
- If there are aspects of the design which the AI company needs third party expertise to verify, that third party cannot be an organisation that was involved in the design

2.8 It should be noted that BCB's may use other Corporate Governance measures to demonstrate the safeguarding of impartiality. In the case of an AI they must satisfy themselves that they meet the requirements of Regulation 9.

2.9 Other BCB's should demonstrate the safeguarding of impartiality using similar principles.

2.10 The BCB shall have top management commitment to impartiality

2.11 All BCB personnel shall act impartially.