



Agenda Report for Noting

Meeting Date: 20 February 2025

Item Name	Proposed Amendments to the Codes of Conduct	
Presenters	Alysse Farnan & Jessica Koop	
Purpose of Report	Noting	
Item Number	6.1	
Strategic Plan Reference	N/A	
Work Plan Reference	N/A	
Confidentiality	Not Confidential (Release Immediately)	
Related Decisions	N/A	
Conflicts Declared	Nil	
Is the Report author aware of any potential undeclared conflict?		NO

Recommendation

It is recommended that the State Planning Commission (the Commission) resolves to:

1. Approve the designation of this item as *Not Confidential (Release Immediately)*.
2. Note the Minister's letter dated 31 January 2025 inviting the State Planning Commission to provide feedback of proposed amendments to the Assessment Panel Member Code of Conduct and the State Planning Commission Code of Conduct.

Background

The Minister for Planning has written to the Chair of the Commission advising of proposed amendments to the Assessment Panel Member and the State Planning Commission Codes of Conduct (**Attachment 1**).

A full review of all the codes of conduct adopted under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (the Act) has been undertaken due to the time elapsed since initial implementation of them. The proposed amendments seek to ensure consistency with other Codes of Conduct nationally and to provide clarity of the expectations of those working in statutory roles under the Act.

Discussion

The review included research and benchmarking against planning, building and development Codes of Conduct established by other State and Territory regulators, the Planning Institute of Australia and the model guidance recommended by the Australian Building Codes Board following the 2019 Building Confidence Report. Proposed amendments to the State Planning Commission Code of Conduct also considered the *Public Sector Code of Ethics*, the Department of Premier and Cabinet's *Honesty and accountability for members of government boards – March 2011* document and provisions of the *Public Sector (Honesty and Accountability) Act 1995*.

The Minister's correspondence included a summary of the proposed amendments (**Attachment 2**), a copy of the draft Assessment Panel Member Code of Conduct (**Attachment 3**) and a draft copy of the State Planning Commission Code of Conduct (**Attachment 4**).

Any feedback provided by the Commission will be considered by the Minister before the Assessment Panel Member and the State Planning Commission Codes of Conduct are finalised.

Attachments:

1. Minister's letter to the State Planning Commission Chairperson (#22790550)
2. Summary of proposed Codes of Conduct amendments (#22790556)
3. Draft Assessment Panel Member Code of Conduct (#22790563)
4. Draft State Planning Commission Code of Conduct (#22790566)

Prepared by: Alysse Farnan, Senior Compliance Officer

Endorsed by: Ben Sieben and Jane Trotter

Date: 7 February 2025

Hon Nick Champion MP



**Government
of South Australia**

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Mr Craig Holden
Chairperson
State Planning Commission

By email: saplanningcommission@sa.gov.au

Dear Mr Holden

I write to invite the State Planning Commission (the Commission) to provide feedback about proposed amendments to the Assessment Panel Members Code of Conduct and the State Planning Commission - Code of Conduct (the Codes), adopted under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (the Act).

The Codes were originally adopted on 1 October 2017 and set out the standard of conduct and professionalism to be observed by Assessment Panel and Commission Members. Given the time elapsed since the implementation of the Code, it is appropriate that I undertake a review to ensure they remain up to date and relevant.

I am pleased to enclose a draft version of the updated Codes for consultation and invite you to provide feedback via email to DHUD.APSAudit@sa.gov.au by 5:00 pm on Monday 3 March 2025. On completion of the consultation period, your feedback will be considered and the Codes updated.

I anticipate the final version of the Codes to be released in the second quarter of 2025, along with a series of training sessions and educational material for those required to comply with the Codes.

For further information or queries in relation to these matters, please contact Alysse Farnan, Senior Compliance Officer by email to DHUD.APSAudit@sa.gov.au.

Yours sincerely

Hon Nick Champion MP
Minister for Planning

31 / 1 / 2025

- Encl.
1. Summary of proposed changes to the Codes of Conduct
 2. Draft Assessment Panel Members Code of Conduct
 3. Draft State Planning Commission Code of Conduct



Summary of proposed Codes of Conduct amendments

Following a thorough analysis of the current Codes of Conduct adopted by the Minister under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (the Act), the following key amendments are proposed –

Clause	Summary of changes made	Why?	Codes affected
Professionalism	<p>New requirements are proposed to ensure that people exercising powers under the Act are:</p> <ul style="list-style-type: none"> not acting in a way that brings their profession into disrepute; and treating others with respect and not bullying or pressuring any person <p>And for Accredited Professionals -</p> <ul style="list-style-type: none"> keeping their clients/relevant parties informed of any relevant change 	<ul style="list-style-type: none"> Some complaints received show conduct that is not condoned by the department Provides clarity on the behaviours already expected Provides consistency with other professional codes across Australia and recommendations by the ABCB 	<ul style="list-style-type: none"> Accredited Professionals Scheme Assessment Panel Members State Planning Commission Members Joint Planning Board Members Infrastructure Scheme Coordinators
Duty of care	<p>A clause relating to providing misleading information, previously noted under 'Duty of care', is proposed to be absorbed by other requirements under the heading 'Regard for honesty'</p>	<ul style="list-style-type: none"> Ensures requirements are more appropriately aligned and not duplicated 	<ul style="list-style-type: none"> Accredited Professionals Scheme
Procedures	<p>New clauses have been proposed requiring Accredited Professionals to ensure they have –</p> <ul style="list-style-type: none"> appropriate complaint procedures in place adequate level of indemnity insurance (unless exempt by the Act) 	<ul style="list-style-type: none"> Provides clarity on the implied expectations Provides consistency with other professional codes across Australia and recommendations by the ABCB 	<ul style="list-style-type: none"> Accredited Professionals Scheme
Procedures	<p>A new clause is proposed for State Planning commission members to ensure compliance with legislative procedures</p>	<ul style="list-style-type: none"> Provides consistency across other codes adopted by the Minister Provides clarity on the implied expectations 	<ul style="list-style-type: none"> State Planning Commission Members



Honesty and accountability	Minor amendments proposed to remove the date of the document referenced	<ul style="list-style-type: none"> Ensure code does not become outdated 	<ul style="list-style-type: none"> State Planning Commission Members
Regard for honesty	<p>Amendments proposed include:</p> <ul style="list-style-type: none"> the removal of requirement to not discriminate, which will be absorbed by the added 'Professionalism' clauses an amendment to the wording of existing clause to provide more concise expectations 	<ul style="list-style-type: none"> Ensures requirements are more appropriately aligned and not duplicated 	<ul style="list-style-type: none"> Accredited Professionals Scheme Assessment Panel Members State Planning Commission Members Joint Planning Board Members Infrastructure Scheme Coordinators
Acting within level of professional competence	Additional requirements are proposed to ensure that advice provided is within the scope of their qualifications and expertise, and to highlight the requirement to ensure Accredited Professionals maintain professional competencies	<ul style="list-style-type: none"> Highlights and reinforces CPD requirements Provides consistency with other professional codes across Australia and recommendations by the ABCB 	<ul style="list-style-type: none"> Accredited Professionals Scheme
Making decisions and taking action	Minor wording changes are proposed	<ul style="list-style-type: none"> Ensures requirement is clear and concise Provides clarity regarding expectations 	<ul style="list-style-type: none"> Accredited Professionals Scheme Assessment Panel Members
Maintain adequate records	A new requirement is proposed to ensure Accredited Professionals are maintaining documented reasons for decisions	<ul style="list-style-type: none"> Provides consistency with other professional codes across Australia and recommendations by the ABCB 	<ul style="list-style-type: none"> Accredited Professionals Scheme
Protection and use of information	<p>Proposed wording changes for Accredited Professionals to be condensed to one requirement that is more concise</p> <p>And for State Planning Commission members, additional requirement relating to the protection and use of information acquired in the course of their duties</p>	<ul style="list-style-type: none"> Ensures requirement is written more concisely and removed duplication Provides consistency across other codes adopted by the Minister Provides clarity on the implied expectations 	<ul style="list-style-type: none"> Accredited Professionals Scheme State Planning Commission Members



Conflict of interest	<p>Proposed amendments include:</p> <ul style="list-style-type: none"> highlighting the requirement to avoid conflicts of interests between their statutory duties and their personal/business interest prohibiting Accredited Professionals from acting if they have a conflict of interest, including when they, or any employer has been involved in the design of the development <p>And for Panel and Board members –</p> <ul style="list-style-type: none"> amendments to the existing clause to clarify when person is expected to declare a conflict of interest <p>And for State Planning Commission Members –</p> <ul style="list-style-type: none"> the introduction of ‘Conflict of interest’ clauses 	<ul style="list-style-type: none"> Provides clarity on the implied expectations Provides consistency across other codes adopted by the Minister 	<ul style="list-style-type: none"> Accredited Professional Scheme Assessment Panel Members State Planning Commission Members Joint Planning Board Members
Gifts and benefits	<p>Additional clauses proposed to specify expectations when a member is offered a gift or benefit</p> <p>And for State Planning Commission Members, the introduction of a ‘Gifts and benefits’ clause</p>	<ul style="list-style-type: none"> Provides clarity on the implied expectations Provides consistency across other codes adopted by the Minister Provides consistency with other professional codes across Australia 	<ul style="list-style-type: none"> Assessment Panel Members State Planning Commission Members Joint Planning Board Members
Ensure adequate supervision of employees	<p>New clauses are proposed, requiring Accredited Professionals to be accountable for persons they engage or employ</p>	<ul style="list-style-type: none"> Provides clarity on the implied expectations Provides consistency with other professional codes across Australia and recommendations by the ABCB 	<ul style="list-style-type: none"> Accredited Professional Scheme
Annual disclosure of interests	<p>New clause proposed to require Assessment Panel members to regularly disclose all personal and pecuniary interests that could potentially constitute a conflict of interest</p>	<ul style="list-style-type: none"> Highlights the requirement under Schedule 1 of the Act Provides consistency with other professional codes across Australia 	<ul style="list-style-type: none"> Assessment Panel Members



Assessment Panel Members – Code of Conduct

Introduction

The Minister has adopted a code of conduct to be observed by members of an assessment panel established under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (the Act).

This Code of Conduct sets out the standards of conduct and professionalism that are to be observed by all members of assessment panels under the Act, and must be read in conjunction with the Act.

All members of assessment panels must carry out, and be seen to carry out, their functions with the highest ethical standards to maintain public confidence in the integrity of the planning and development system. The Code of Conduct is the key tool to ensure that all members of assessment panels act honestly and ethically with a high degree of accountability.

If a member of an assessment panel has any doubt in regard to any function they may perform under the Act, they should seek the advice of the panel's assessment manager or some other appropriate person.

While some members of an assessment panel may also be bound by other codes of conduct or professional standards issued by their respective professional associations, they have no legal status under the Act. If there is a conflict between a requirement in this code of conduct and any other professional code or standard, this code prevails for the purposes of the Act.

Code of conduct requirements

In acting as a member of an assessment panel, a member must comply with the following requirements.

General duties

1. A member of an assessment panel must, in performing, exercising or discharging a function, power or duty under the Act, act in accordance with the general duties as set out in section 15 of the Act.

Professionalism

PROPOSED NEW REQUIREMENT

2. A member of an assessment panel must at all times act in a manner which does not bring their profession or the public's perception of the industry into disrepute.
3. A member of an assessment panel must not exert undue influence, intimidate, bully and harass, or pressure any person while performing their duties.
4. A member of an assessment panel must not discriminate against any person or organisation in performing their duties.

Act in the public interest

5. A member of an assessment panel must act in a manner that promotes or protects the public interest.

Procedures

6. A member of an assessment panel must ensure that the procedures specified in the Act or prescribed in the *Planning Development and Infrastructure (General) Regulations 2017* are complied with.
7. A member of an assessment panel must comply with the panel procedures in relation to public comments and communication with the media.

Regard for honesty

AMENDED EXISTING REQUIREMENT

8. A member of an assessment panel must act with integrity, good faith and equity.

PROPOSED NEW REQUIREMENT

9. An assessment panel member must not engage, whether by act or omission, in misleading or deceptive conduct relating to the performance of assessment panel work.
10. A member of an assessment panel must advise the assessment manager and the State Planning Commission immediately if the member:
 - a. is the subject of a formal investigation into, or has been found to have, breached any other code of conduct, ethical standards or similar, either in another State or through a professional body of which they are a member; and/or
 - b. has been found guilty of a breach of any legislation related to planning, building or a development related matter.

Conflict of interest

PROPOSED NEW REQUIREMENT

11. An assessment panel member must take all reasonable steps to avoid actual or potential conflict of interest between their panel member duties and their personal or business interests.

12. A member of an assessment panel who has a direct or indirect personal or pecuniary

AMENDED EXISTING REQUIREMENT

interest in a matter for which the panel is the relevant authority (other than an indirect interest that exists in common with a substantial class of persons) must:

- a. as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the presiding member and assessment manager; and
 - b. not take part in any hearings conducted by the panel; and
 - c. must be absent from the meeting when any deliberations are taking place or decision is being made.
13. A member of an assessment panel will be taken to have an interest in a matter for the purposes of item 12 if an associate of the member (within the meaning of section 3(7) of the Act) has an interest in the matter.
14. If an interest has been declared by a member of an assessment panel, the nature of the interest must be recorded in the minutes of the panel meeting.

Bias

15. A member of an assessment panel should always have regard to any affiliation, disposition or any material, pecuniary or other interest that would lead to a reasonable apprehension that they may be biased in carrying out any aspect of their role under the Act.

Making decisions and taking action

16. A member of an assessment panel must take all reasonable steps to obtain all relevant facts and information when making a decision on a matter before the panel.
17. A member of an assessment panel must ensure that the member's decisions and actions are reasonable, fair and appropriate to the circumstances, based on consideration of all relevant facts obtained, and supported by adequate documentation.
18. A member of an assessment panel must not approach or discuss with an applicant or representor any application where the panel is the relevant authority, or will come before the panel at some future time, except during the course of a panel meeting where the application forms part of the agenda and the applicant or representor has a right to be heard by the panel. **AMENDED EXISTING REQUIREMENT**
19. Except where required as part of the assessment of a particular decision (such as a formal panel viewing of a site of a proposed development) an assessment panel member must not enter the site, even if invited by the land owner or a neighbouring property owner or any other person. **AMENDED EXISTING REQUIREMENT**
20. A member of an assessment panel must not: **AMENDED EXISTING REQUIREMENT**
- a. engage in consultation outside of the panel process with any party on a proposed development application that is likely to be heard by the panel; and/or
 - b. give advice to an applicant or other third party on a development application outside of a panel meeting after the development application has been lodged; and/or
 - c. speak at a public meeting for or against a proposal where the purpose of the meeting is to discuss either a proposed development or a development application, unless required by the Act; and/or
 - d. express an opinion on a development application for which the panel is the

relevant authority, or a proposed development that is likely to come before the panel in the future, outside of a panel meeting; and/or

- e. engage in any other act or omission which may give rise to a reasonable presumption that they have prejudged a development proposal or application for which the panel is the relevant authority.

Public comment

- 21. Only the presiding member (or another person determined by the panel) is permitted to speak publicly to the media and address the public on behalf of the panel. No other panel member may make comment to the media or the public in relation to any matter before the panel or any decision of the panel.

Proper exercise of power

- 22. A member of an assessment panel must not take advantage of the member's position, power or duties for the purpose of obtaining, either directly or indirectly, any preferential treatment or other improper advantage for the member or any other person.

Gifts and benefits

- 23. A member of an assessment panel must not seek or accept a gift or benefit that is intended to, is likely to, or could be perceived as likely to, cause them to act in an unfair or biased manner in the course of the member's duties.
- 24. A member of an assessment panel must take all reasonable steps to ensure that a person related to the member does not receive gifts or benefits that could appear to be an attempt to influence or secure or have the effect of influencing or securing a favour from the member of an assessment panel.

A person is related to a member of an assessment panel for the purpose of this provision if the person is a spouse, de facto partner, sibling, parent or child of the member of the assessment panel.

PROPOSED NEW REQUIREMENT

- 25. If a member of an assessment panel is offered or receives a gift or benefit they must disclose this to the presiding member or assessment manager as soon as practical.
- 26. If a member of an assessment panel receives a gift or benefit that cannot be reasonably returned or refused, they must surrender the gift or benefit to the assessment manager.

Annual disclosure of interests

PROPOSED NEW REQUIREMENT

- 27. A member of an assessment panel must ensure they formally report all personal or pecuniary interests that could reasonably be seen to constitute a conflict of interest to the assessment manager annually.

Protection and use of information

- 28. A member of an assessment panel must maintain the integrity and security of confidential information in their possession and must not use confidential information gained by virtue of the member's official position for the purpose of securing a private benefit for the member or any other person.
- 29. A member of an assessment panel must not disclose information acquired in the course of their professional work other than if consent of the relevant person has been granted or where there is a legal or professional duty to disclose such information.

Legislative framework

Under section 15 of the PDI Act, all members of assessment panels are subject to a statutory duty as described in the section as follows:

- (1) *It is expected that a person or body that—*
 - (a) *seeks to obtain an authorisation under this Act; or*
 - (b) *performs, exercises or discharges a function, power or duty under this Act; or*
 - (c) *takes the benefit of this Act or is otherwise involved in a process provided by this Act,*
will—
 - (d) *act in a cooperative and constructive way; and*
 - (e) *be honest and open in interacting with other entities under this Act; and*
 - (f) *be prepared to find reasonable solutions to issues that affect other interested parties or third parties.*
- (2) *Without limiting subsection (1), a person or body performing, exercising or discharging a function, power or duty under this Act must—*
 - (a) *exercise professional care and diligence; and*
 - (b) *act honestly and in an impartial manner; and*
 - (c) *be responsible and accountable in its conduct; and*
 - (d) *comply with any code of conduct, service benchmark or other requirement that applies in relation to the person or body.*
- (3) *The Minister may, after taking into account the advice of the Commission, establish and maintain service benchmarks for the purposes of this section.*
- (4) *The principles and benchmarks under this section—*
 - (a) *do not give rise to substantive rights or liabilities; but*
 - (b) *may lead to action being taken on account of a breach of a code of conduct or professional standard that applies in relation to a relevant person or body.*



State Planning Commission Members – Code of Conduct

Introduction

The Minister has adopted a code of conduct to be observed by members of the State Planning Commission under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (the Act).

This Code of Conduct sets out standards of conduct and professionalism that are to be observed by all members of the State Planning Commission and must be read in conjunction with the Act.

All members of the State Planning Commission must carry out, and be seen to carry out, their functions with the highest ethical standards to maintain public confidence in the integrity of the planning and development system. The Code of Conduct is the key tool to ensure that all members of the State Planning Commission act honestly and ethically with a high degree of accountability.

While some members of the State Planning Commission may also be bound by other codes of conduct or professional standards issued by their respective professional associations, they have no legal status under the Act. If there is a conflict between a requirement in this Code of Conduct and any other professional code or standard, this code prevails for the purposes of the Act.

Code of conduct requirements

In acting as a member of the State Planning Commission, a member must comply with the following requirements.

General duties

1. A member of the State Planning Commission must in performing, exercising or discharging a function, power or duty under the Act, act in accordance with the general duties as set out in section 15 of the Act.

Professionalism

PROPOSED NEW REQUIREMENT

2. A member of the State Planning Commission must at all times in a manner which does not bring their profession or the public's perception of the planning and development industry into disrepute.
3. A member of the State Planning Commission must not exert undue influence, intimidate, bully and harass, or pressure any person while performing their duties.
4. A member of the State Planning Commission must not discriminate against any person or organisation in performing their duties.

Public sector code of ethics

5. A member of the State Planning Commission must ensure that, in performing any duties related to their role as a Commission member, they act in accordance with the *Code of Ethics for the South Australian Public Sector*.

Procedures

PROPOSED AMENDED REQUIREMENT

6. A member of the State Planning Commission must take reasonable steps to ensure compliance with the procedures specified in the Act or prescribed in the *Planning, Development and Infrastructure (General) Regulations 2017* (the Regulations) insofar as they apply in relation to the member or the activities of the Commission.
7. A member of the State Planning Commission must comply with the Commission procedure in relation to public comments and communication with the media.

Honesty and accountability

PROPOSED AMENDED REQUIREMENT

8. A member of the State Planning Commission must ensure that they comply with the document *Honesty and accountability for members of government boards* issued by the Department of Premier and Cabinet.
9. A member of the State Planning Commission must have an understanding of the requirements of the provisions of the *Public Sector (Honesty and Accountability) Act 1995* that apply in relation to the member.

Regard for honesty

PROPOSED AMENDED REQUIREMENT

10. A member of the State Planning Commission must act with integrity, good faith and equity.
11. A member of the State Planning Commission must advise the Minister for Planning immediately if the member:
 - a. is the subject of a formal investigation in respect of, or has been found to have breached, any other code of conduct, ethical standards or similar, including in another State or Territory or through a professional body of which they are a member; and/or

- b. has been found guilty of a breach of any Act the applies in another jurisdiction related to planning, building or a development related matter.

Conflict of interest

PROPOSED NEW REQUIREMENT

- 12. A member of the State Planning Commission who has a direct or indirect personal or pecuniary interest in a matter before the Commission, or due to come before the Commission (other than an indirect interest that exists in common with a substantial class of persons) must:
 - a. as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the Commission; and
 - b. not take part in any meetings conducted by the Commission on the matter; and
 - c. be absent from the meeting when any deliberations are taking place or decision is being made.
- 13. A member of the State Planning Commission will be taken to have an interest in a matter for the purposes of item 12 if an associate of the member (within the meaning of section 3(7) of the Act) has an interest in the matter.
- 14. If a member identifies they have a conflict of interest prior to the related Commission meeting, the member must disclose the nature and extent of the interest in writing to the Governance team.
- 15. If an interest has been declared by a Commission member, the nature of the interest must be recorded in the minutes of the meeting.

Gifts and benefits

PROPOSED NEW REQUIREMENT

- 16. A member of the State Planning Commission must not seek or accept a gift or benefit that is intended to, is likely to, or could be perceived as likely to, cause them to act in an unfair or biased manner in the course of the member's duties.
- 17. A member of the State Planning Commission must take all reasonable steps to ensure that a person related to the member does not receive gifts or benefits that could appear to be an attempt to influence or secure or have the effect of influencing or securing a favour from the member.

A person is related to a member of the State Planning Commission for the purpose of this provision if the person is a spouse, de facto partner, sibling, parent or child of the member.
- 18. If a member of the State Planning Commission is offered or receives a gift or benefit they must disclose this to the Governance team as soon as practical.
- 19. If a member of the State Planning Commission receives a gift or benefit that cannot be reasonably returned or refused, they must surrender the gift or benefit to the Governance team.

Protection and use of information

PROPOSED NEW REQUIREMENT

- 20. A member of the State Planning Commission must maintain the integrity and security of confidential information in their possession and must not use confidential information gained by virtue of the member's official position for the purpose of securing a private benefit for the member or any other person.
- 21. A member of the State Planning Commission must not disclose information acquired in the course of their professional work other than if consent of the relevant person has been granted or where there is a legal or professional duty to disclose such information.

Legislative framework

Under section 15 of the Act, all members of the State Planning Commission are subject to a statutory duty as described in the section as follows:

- (1) It is expected that a person or body that—*
 - (a) seeks to obtain an authorisation under this Act; or*
 - (b) performs, exercises or discharges a function, power or duty under this Act; or*
 - (c) takes the benefit of this Act or is otherwise involved in a process provided by this Act, will—*
 - (d) act in a cooperative and constructive way; and*
 - (e) be honest and open in interacting with other entities under this Act; and*
 - (f) be prepared to find reasonable solutions to issues that affect other interested parties or third parties.*
- (2) Without limiting subsection (1), a person or body performing, exercising or discharging a function, power or duty under this Act must-*
 - (a) exercise professional care and diligence; and*
 - (b) act honestly and in an impartial manner; and*
 - (c) be responsible and accountable in its conduct; and*
 - (d) comply with any code of conduct, service benchmark or other requirement that applies in relation to the person or body.*
- (3) The Minister may, after taking into account the advice of the Commission, establish and maintain service benchmarks for the purposes of this section.*
- (4) The principles and benchmarks under this section—*
 - (a) do not give rise to substantive rights or liabilities; but*
 - (b) may lead to action being taken on account of a breach of a code of conduct or professional standard that applies in relation to a relevant person or body.*