

Engineers Australia's Stage 2 Competencies



MEET LEGAL & REGULATORY REQUIREMENTS

Checklist

- 1.** Remember always that the law is the low bar. You must comply with all of your lawful obligations but once that threshold is achieved, you can add or subtract as many constraints or controls as you wish. That will depend on the risk appetite of your company and its board and/or owners. However, the more comprehensive and complex the controls, the more expensive they become to manage and administer increasing the bureaucracy and burden. Perform a cost/benefit analysis before layering controls so that you're not chasing diminishing returns.
- 2.** It's a furphy to think you can remember all the laws, codes and regulations governing your engineering practice. Don't try. Instead, know where to go and, in particular, who to go to for advice and make sure you get them involved early in the project lifecycle to avoid disappointment and rework at the other end! However, you should have a working knowledge of the legislation, codes and regulations that govern your engineering specialisation. A working knowledge combined with specialist advice is good protection for managing the downside risk.
- 3.** If you hold yourself to a much higher standard than the law or the codes demand, just remember you could be held to that higher standard. In other words, if you raise the bar yourself, it can be construed or deemed as your "new normal" and recourse to the law (of a lower standard) may not be an option. You can't always go backwards at your convenience or when it suits. Be careful and take advice before you raise that bar.
- 4.** Legal advice is nearly always conservative. You will need to weigh the risks of proceeding once the advice is received based on the trade-offs involved. When it comes to commercial risk, decide how much risk you will actually be carrying based on the nature of the project. If the real or effective risk isn't as great as the inherent risk, then you might be able to trade-off some of the indemnities, insurances and other onerous clauses that usually get in the way.
- 5.** Lawyers can be an engineer's best friend. Sometimes they're offered as double degrees. Consider taking one! If you didn't, develop strong relationships with your in-house team as well as the specialist legal advisers they use so you can test your decision-making and options against a legal argument. Inhouse teams are always a good place to start but specialist advice is usually more nuanced and current. Legal firms see a lot more case law than inhouse lawyers and their comprehensive advice will reflect that.
- 6.** Intellectual property (IP) should always be protected and respected. Don't divulge matters that are commercial-in-confidence or trade in IP. Similar, work product that is not yours can only be used under license or with permission. If you don't and you get caught, your freedom and/or personal finances will be at risk and your professional reputation in tatters.
- 7.** When it comes to the law or codes of practice, if there's doubt, there is no doubt. Stop, think, check, ask. Always seek clarification on points of law or

code if you're confused or in any doubt. In fact, in the early stage of career, it's good to be doing that all the time anyway.

- 8.** Procurement can seem bureaucratic but they are true business partners. Contractual matters are obviously worth discussing with legal counsel but procurement also have history, context and a wealth of experience when it comes to the operation of contracts. The Contract Triad for producing robust project documentation and then enforcing it is always Engineering-Procurement-Legal.
- 9.** Laws, codes and regulations are living documents and may not survive the project lifecycle. Ensure there is a process in place to keep track of governing changes so that you are apply the most up-to-date and enforceable . A paper copy is not a controlled copy. Ensure there is - and you personally have - a robust process to confirm that you're operating with the latest laws and codes.
- 10.** Always assume the burden of proof of innocence will be on you if things go wrong. On many occasions, particularly in large organisations, it will be on you! Everyone else will be heading for the hills. Keep your notes, minutes, decisions and project documentation up-to-date.

STILL HAVE MORE QUESTIONS?

Just email us at tellus@myengineerexchange.com and we'll get right back to you.

