

## Submissions on the Trans-Tasman Patent Attorney Code of Conduct

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for Ipiphany

We raise two items.

### First item:

S19(2) reads

(2) A registered attorney must not use or disclose confidential information which the registered attorney has obtained from or on behalf of: (a) a former, current or prospective client; or  
(b) another registered attorney; or  
**(c) any other person; or**  
(d) a company:  
(i) which is a client; and  
(ii) of which the registered attorney is, or has been, a director, officer or shareholder; unless the confidentiality is no longer applicable.

S19(2)(c) appears to be intended as a backup catch-all in case something doesn't fall within (a), (b) or (d). However, (c) effectively makes the others redundant as the section does not specify that the confidential information is restricted in some way to the attorney's professional duties. Currently, ANY breach of confidence under ANY circumstance, including non-professional, would appear to fall within this section.

This problem could perhaps be resolved by adding text along the lines of "*A registered attorney must not use or disclose confidential information which the registered attorney has obtained **in the course of their duties** from...*"

### Second Item:

We believe there needs to be an explicit definition of "interest" in the code and some additional explanation on what would fall within the definition of "interest" with respect to a "Duty-Interest" conflict.

It's not clear whether there's still a Duty-Interest conflict if the interests of the client and attorney are not necessarily in 'conflict' but the attorney gains a benefit from an external interest, E.g. if the attorney receives a commission from a third party for using that third party in relation to the client's business.