

Guidelines on direct supervision

Purpose

These Guidelines explain the meaning and practical application of the term 'direct supervision' as it is used in the *Professional Engineers Registration Act 2019* (the Act).

They cover the:

- requirement for direct supervision under the Act
- elements that must be satisfied to meet the direct supervision requirement
- obligations imposed by direct supervision
- direct supervision in practice
- record keeping requirements, and
- problems to be avoided.

These Guidelines also provide checklists for ensuring that the direct supervision requirement is met.

What the Act requires

It is an offence under section 67 of the Act for a person to provide professional engineering services in or for Victoria in an area of engineering listed in the Act¹ unless they are registered with the Business Licensing Authority (BLA) in that area of engineering. It is also an offence, under section 68 of the Act, for a person who is not registered to represent that they are able to provide professional engineering services. The penalty for these offences is a fine of up to 500 penalty units.²

There is no offence, and a person is not required to be registered to provide professional engineering services if they are providing the services under the 'direct supervision' of a registered practising professional engineer.

Direct supervision is defined in section 67(2) of the Act to mean that the supervising registered practising professional engineer (the supervising registered engineer):

- directs another person (unregistered person) in the carrying out of professional engineering services, and
- oversees and evaluates the carrying out of the services by the other person (unregistered person).

Clauses 6 and 7 of the 'Code of Conduct for Professional Engineers' (the Code) set out the responsibilities of a supervising registered engineer and include to:

- only directly supervise an unregistered person within their area of competence
- not knowingly permit an unregistered person under their direct supervision to provide professional engineering services that fall outside their area of competence
- be competent in, and have sufficient knowledge of, the professional engineering services being carried out by the unregistered person

¹ The areas of engineering are listed in section 4 of the Act and are structural engineering, civil engineering, electrical engineering, mechanical engineering and fire safety engineering.

² For the value of a penalty unit see <https://www.dtf.vic.gov.au/financial-management-government/indexation-fees-and-penalties>.

- have sufficient control over any outputs of the professional engineering services to ensure that the professional engineering services being carried out by the unregistered person are at the standard expected of a registered professional engineer, and
- take responsibility for the professional engineering services carried out by the unregistered person under their direct supervision.

The direct supervision exemption, in practice, means that a portion of professional engineering services can be performed by unregistered persons provided supervising registered engineers take responsibility for those services. It is one of two exemptions from the requirement to be registered under the Act. The second exemption is where an engineering service is provided only in accordance with a prescriptive standard.

The direct supervision requirements apply to all professional engineers including those whose registration has been endorsed by the BLA to engage in the building industry and the unregistered persons they supervise.

For guidance on professional engineering services, prescriptive standards and the extraterritorial application of the Act see the “Guidelines on professional engineering services”, the “Practice Note – What is a prescriptive standard?” and the “Guidelines on the extraterritorial application of the Act” at consumer.vic.gov.au/engineers.

Establishing direct supervision

Each of the following six elements must be met to satisfy the direct supervision requirement of the Act. The supervising registered engineer must:

- provide supervision that is **direct** to the unregistered person
- be **competent** and have **sufficient knowledge** to perform the service
- direct** the unregistered person in the carrying out of the service
- oversee** the carrying out of the service by the unregistered person
- evaluate** the carrying out of the service by the unregistered person, and
- take **responsibility** for the carrying out of the service.

These elements are described in detail below.

(i) Provide supervision that is direct


The supervision must be **direct** and not through a third person. This means that the supervising registered engineer must have direct contact with the unregistered person.

Direct contact may be in person, for example if the supervising registered engineer and the unregistered person work at the same office, or be remote if one or both work from home or they work in different offices including an office based outside of Australia or New Zealand. Direct supervision of work carried out by an unregistered person that occurs in a separate physical location may be carried out under specific instructions which may include direction on what to observe, check, confirm, test, record and report back on.

Where engineering decisions are required, contact must first be made with the supervising registered engineer so that they make the engineering decisions and provide any further instructions or directions to the unregistered person that may be required. However, all contact must be directly between the supervising registered engineer and the unregistered person, and not through a third person.

(ii) Be competent and have sufficient knowledge to perform the service

Under clause 7 of the Code a supervising registered engineer must have sufficient knowledge of and competence in the professional engineering service being undertaken by an unregistered person to be responsible for its accuracy, completeness and for it being professionally performed.



The competency and knowledge required of a supervising registered engineer will depend on the nature of the professional engineering service and the actual circumstances of each situation.

A supervising registered engineer should only supervise a service that they are competent to perform by virtue of their knowledge and experience and that is within the area/s of engineering for which they are registered. They should also ensure that they adequately understand the service being provided before accepting responsibility for the performance of that service.

In addition, under clause 7 of the Code a supervising registered engineer must not knowingly permit an unregistered person to provide professional engineering services that fall outside their area/s of competence.

(iii) Direct the unregistered person

The supervising registered engineer must direct the unregistered person to carry out the professional engineering service. To do this, they should give ongoing guidance and instruction, as required, and be in control of the work in the sense of directing the unregistered person to carry out the service. A supervising registered engineer should not merely observe the carrying out of the service.

(iv) Oversee the work of the unregistered person

The supervising registered engineer must oversee the carrying out of the professional engineering service by the unregistered person. In addition, to comply with clause 7 of the Code they must have sufficient control over any outputs of the service to ensure that it is being carried out to the standard expected of a registered professional engineer.

This means they must be involved at all stages of the carrying out of the service by the unregistered person. Merely providing an end of project or service 'approval', 'review', 'checking', 'sign-off' or 'certification' is not enough to meet the requirement to oversee the work of the unregistered person.

(v) Evaluate the work of the unregistered person

The supervising registered engineer must review and evaluate the carrying out of the service by the unregistered person. They must be satisfied that, at all times, the unregistered person is exercising adequate knowledge, skill, judgement and care, and that the service they are carrying out is:

- to a standard required of a registered professional engineer, and
- undertaken in a professional and competent way.

This will require the supervising registered engineer to be satisfied about the information the unregistered person has gathered and the calculations and the judgements they have made to apply engineering principles and data to carry out the service.

(vi) Take responsibility for the service

Under clause 7 of the Code, the supervising registered engineer must take professional responsibility for the service.

This means that if a complaint is made about the standard of the service, the supervising registered engineer must accept that:

- the complaint will attach to them as the person who provided direct supervision of the carrying out of the service, and
- they may be the subject of investigation and subsequent disciplinary action.

The obligations imposed by direct supervision

The direct supervision requirement places obligations on both the supervising registered engineer and the unregistered person.

The supervising registered engineer must take responsibility for the professional engineering service being performed by an unregistered person and, in doing so is subject to the same standards of professional conduct and competence as if they had completed the service themselves.

For an unregistered person, direct supervision means that they cannot act independently or take responsibility for professional engineering services without first consulting their supervising registered engineer.

An example of the responsibilities of a supervising registered engineer and an unregistered person, and how they work together:

Unregistered Person	Registered Supervising Engineer
<ul style="list-style-type: none">Creates most of the design drawings	<ul style="list-style-type: none">Reviews the work at regular intervals and discusses any new issues or further engineering decisions that must be made with the unregistered person
<ul style="list-style-type: none">Completes the drawings	<ul style="list-style-type: none">Conducts a careful review, including verification of key decisions and calculations

The onus is on the unregistered person to ensure there is appropriate direct supervision for each service they provide. This is because they are relying on the direct supervision exemption to provide professional engineering services without being registered.


Direct supervision in practice

Direct supervision is required at all stages of the provision of a professional engineering service including at the start, during and at the end of the delivery of the work.

For example, for a design project a supervising registered engineer:

At the start of the project	<ul style="list-style-type: none">Establishes the work plan and identifies specific tasksDiscusses the design and engineering criteria
During the project	<ul style="list-style-type: none">Regularly reviews work and progress reportsChecks various designs (concept, functional and detailed) and other elementsProvides input and further direction where neededIs available for consultation and advice
On completion of the project	<ul style="list-style-type: none">Carries out a detailed review of the documents and completed designs before approving the work

Different registered engineers may concurrently or sequentially supervise different stages or components of the project depending on the area/s of engineering in which they are registered and their competency. Additionally, there may be components of a project which are not professional engineering services and, therefore, are not required to be supervised by a registered professional engineer or it is irrelevant that the supervisor is registered.



The level of direct supervision required by a supervising registered engineer is a matter for their professional judgement. It may depend on the complexity or risk of the professional engineering service being provided and the experience and competency of the unregistered person. As an unregistered person gains more experience over time, they may have increasing independence and responsibility. However, while the level of direct supervision of an unregistered person may decrease, the unregistered person must still be directly supervised and the ultimate responsibility for the service provided remains with the supervising registered engineer.

As the unregistered person relies on the direct supervision exemption to provide professional engineering services, if their supervising registered engineer is unavailable, for example because they are on leave, another registered professional engineer must be available to directly supervise the provision of the professional engineering service.

A supervising registered engineer may supervise an unregistered person who they employ, is employed by the business they work for, is a contractor or consultant of that business or is an employee of a contractor or consultant they have engaged.

Direct supervision may be managed remotely through virtual voice and video meetings, written correspondence (letters, drawings, or emails) and telephone contact.

Some examples of direct supervision in practice

Graduate engineer with multiple supervisors

The unregistered engineer is a recent graduate who works in the same Melbourne office as their main supervisor. For a specialised component of their work they report to a supervisor in the Perth office.

The supervisor in the Melbourne office relies on physical proximity to supervise the unregistered engineer while the Perth supervisor uses virtual tools. For both supervisors the approach to supervision includes:

- holding regular one-on-one meetings to provide instructions and make decisions (face-to-face, virtual)
- being available to provide further guidance and make decisions (open door, email, messaging)
- frequently reviewing work including checking calculations and providing feedback (face-to-face, written feedback, electronic document exchange), and
- approving work (hard copy, electronic).

The Melbourne supervisor consults with the Perth supervisor before approving work at key milestones, as required.

Overseas consultancy – remote supervision

The supervising registered engineer is located in Melbourne and the unregistered consulting engineer is based in Paris. Virtual and electronic cyber secure channels are used for communications (instructions, review and feedback), site visits, simulations and document exchange and include:

- a start-up meeting to initiate the project and set the scope, milestones and schedule
- milestones meetings to present and discuss deliverables and provide further instructions, as required
- regular video and telephone catchups to report progress and discuss issues and feedback, and
- a final meeting to formally accept deliverables and close the project.

The supervising registered engineer must have sufficient information to understand and evaluate the service being provided.

Record keeping

A good practice approach to ensuring direct supervision is for both the unregistered person and the supervising registered engineer to keep records.

The records should collectively:

- provide evidence of the existence and nature of the supervision, and

- demonstrate the supervisory involvement of the supervising registered engineer in directing, overseeing and evaluating the professional engineering services provided.

Examples of the records that may be kept include:

<ul style="list-style-type: none"> • records documenting reviews and comments • completed forms or checklists 	<ul style="list-style-type: none"> • file notes and diary entries • meeting minutes and records • emails 	<ul style="list-style-type: none"> • phone records • other communications documenting major instructions and contacts
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Records may be electronic or hard copy and may be part of an employer’s record keeping and quality management systems.

Potential problems to be avoided

Supervising multiple subordinates

In some organisations, supervising registered engineers may find themselves supervising multiple unregistered persons. This may potentially make it very difficult to maintain an active level of supervision or involvement in each professional engineering service.

Setting a maximum number of unregistered persons for each supervising registered engineer may be inappropriate where unregistered persons with different levels of experience require different levels of supervision. Nevertheless, a supervising registered engineer should be careful not to take on responsibility for more unregistered persons than they can reasonably supervise at one time.

Supervising multi-disciplinary activities

For professional engineering services that are multi-disciplinary, one supervising registered engineer may find themselves nominally ‘in charge’ of the complete service and for supervising multiple unregistered persons while not having competence in all of the activities or areas of engineering required for the service.


In these circumstances, the supervising registered engineer should not provide direct supervision outside their area of competence. This will mean that additional supervising registered engineers with competence in the activities and areas of engineering will be required to provide this supervision.

The decision as to who will take responsibility for each activity and direct the work in each area, should be based on the competency requirements for the activity and ideally be made before the activity starts or as soon as possible after it starts. A record should be kept of each supervising registered engineer’s contribution and responsibility.

Checklists

A supervising registered engineer must:

- have direct contact, i.e. not through a third party, with the unregistered person they are supervising that is regular and ongoing, and
- ensure they are not responsible for more unregistered persons than they can reasonably directly supervise at one time, and
- only provide direct supervision of professional engineering services that they are competent and knowledgeable to perform, and
- actively control the work of the unregistered person they supervise, and

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- ☑ be involved in all stages of a professional engineering service and have sufficient control over any outputs of the work carried out by an unregistered person, and
 - ☑ review and evaluate the work of the unregistered person they supervise to ensure that it is carried out to the standard required of a registered professional engineer, and
 - ☑ take responsibility for the professional engineering services being delivered.

A person working under the direct supervision of a supervising registered engineer must:

- ☑ not act independently or take responsibility for professional engineering services, and
- ☑ continuously consult and take direction from their supervising registered engineer, and
- ☑ exercise adequate knowledge, skill, judgement and care and only provide professional engineering services that they are competent to perform, and
- ☑ carry out work in a professional and competent way and to a standard that is required of a registered professional engineer, and
- ☑ inform their supervising registered engineer if an activity requires qualifications and experience outside their area of competence, and
- ☑ keep records demonstrating the involvement of their supervising registered engineer in directing, overseeing and evaluating their work.