

Board of Architects of Queensland

CODE OF PRACTICE

EXPLANATORY NOTES

The code

- A. The *Architects Act 2002* (Qld) (“**the Act**”) requires the Board of Architects of Queensland (“**the Board**”) to make a code of practice to provide guidance to architects as to appropriate professional conduct or practice.
- B. The Board’s “Code of Practice” (“**the code**”) was first approved under regulation by the Governor in Council on 9 June 2005. The revised code is approved from 8 July 2019.
- C. In developing the code initially, the Board consulted with, among others: the schools of architecture in Queensland, The Royal Australian Institute of Architects, Queensland Chapter, the Australian Association of Consulting Architects, Queensland Branch, and registered architects in Queensland.
- D. The Act allows the Board to make a code of practice by adopting another entity’s code of practice with or without changes.
- E. The Board adopted, with changes, the *Architects’ Model Statutory Code of Professional Standards and Conduct* dated 11 August 2003 (“**the model code**”) prepared jointly by the Architects Accreditation Council of Australia and The Royal Australian Institute of Architects. The model code is intended to provide core requirements that can be adopted in each State and Territory.
- F. By using the model code to develop the code, the Board’s intention was to harmonise the regulation of architects and architectural services in Queensland with that of other states and territories in Australia.
- G. In developing the code, the Board:
 - (a) confined itself to those parts of the model code which are consistent with the objectives and provisions of the Act;

- (b) incorporated additional elements which reflect the standards of appropriate professional conduct expected of architects, in the practice of architecture, in Queensland, including:
 - (i) communicating with clients in relation to costs;
 - (ii) charging appropriate fees or costs;
 - (iii) managing conflicts of interest;
 - (iv) acting in a manner that is not prejudicial to a client's interest;
 - (v) undertaking continuing professional development;
 - (vi) providing architectural services with adequate levels of professional indemnity and other insurance;
 - (vii) communicating to clients regarding the adequacy of insurance; and
 - (viii) avoiding the following conduct:
 - (A) misleading statements or representations;
 - (B) offering or giving inducements or rewards to obtain a commission;
 - (C) speculative commissions;
 - (D) serious neglect or undue delay in the performance of commissions; and
 - (E) failing to maintain reasonable standards of competence and diligence.
- H. The Act requires the Board to review its code of practice at least once every three years.
- I. Following a review in 2017 and public and industry consultation in 2017-18, an amended code (the current version of the code) was approved under regulation which came into effect on 8 July 2019.
- J. The purpose of the changes in the amended code is to provide greater clarity to architects, and the public, about the standards expected of an architect in the provision of architectural services.

- K. The Board intends to amend the code, as may be appropriate from time to time, to maintain harmonisation with the model code and to ensure the continued relevance of the code over time.

Non-compliance with the code

- L. The Board may commence disciplinary action against a registered architect on disciplinary grounds, which include that the architect has, whether before or after the commencement of the Act, behaved in a way that constitutes unsatisfactory professional conduct.
- M. “Unsatisfactory professional conduct”, is defined in the Act as:
- (a) conduct that is of a lesser standard than that which might reasonably be expected of the architect by the public or the architect’s professional peers;
 - (b) conduct that demonstrates incompetence, or a lack of adequate knowledge, skill, judgment or care, in the practice of architecture;
 - (c) misconduct in a professional respect;
 - (d) fraudulent or dishonest behaviour in the practice of architecture; or
 - (e) other improper or unethical conduct.
- N. The Board may conduct an investigation of an architect’s conduct, following receipt of a complaint or the Board forming a reasonable belief that a ground for disciplinary action may arise against an architect.
- O. After receiving a report about the investigation, the Board must decide to do one or more of the following—
- (a) start a disciplinary proceeding against the architect in the Queensland Civil and Administrative Tribunal (“**QCAT**”);
 - (b) enter into an undertaking agreed with the architect about a matter relating to the architect carrying out architectural services, including, for example, to submit to an audit of the architect’s practice of architecture;
 - (c) caution or reprimand the architect;
 - (d) impose a condition, agreed to by the architect, on the architect’s registration;

- (e) take no further action about the matter the subject of the investigation.
- P. QCAT has jurisdiction, upon an application from the Board, to conduct a disciplinary proceeding to decide whether a disciplinary ground is established.
- Q. Under the Act, if QCAT is making a decision about whether an architect has behaved in a way that constitutes unsatisfactory professional conduct or practice, QCAT must have regard to the code.
- R. The code is admissible as evidence of appropriate professional conduct or practice in a disciplinary proceeding brought against an architect registered under the Act.

Board of Architects of Queensland

CODE OF PRACTICE

PART 1 - PRELIMINARY

Introduction

1. *The Architects Act 2002* (Qld) (“**the Act**”) provides for the registration and regulation of architects, and the regulation of the practice of architecture, in Queensland.
2. The Board of Architects of Queensland (“**the Board**”) is established under the Act and has the functions set out in the Act, including the function of making a code of practice to provide guidance to architects as to appropriate professional conduct or practice.

The code

3. The Board has made this Code of Practice (“**the code**”).

Commencement and effect

4. The code:
 - (a) first took effect from 9 June 2005, when it was approved by regulation; and
 - (b) is a statutory instrument within the meaning of the *Statutory Instruments Act 1992* (Qld).
5. This amended Code takes effect from 8 July 2019, when it was approved by regulation.

Objects of the code

6. The objects of the code are to:
 - (a) ensure that architects provide architectural services in a professional and competent way;
 - (b) provide guidance to architects as to appropriate standards of professional conduct and practice;

- (c) protect consumers of architectural services and ensure that they can fully inform themselves about the skills of architects and the nature of the architectural services to be performed;
- (d) promote and maintain high standards in the provision of services by architects; and
- (e) promote public confidence in the architectural services provided by architects.

Application of Code

- 7. The code applies to architects registered under the Act in the provision of architectural services and the practice of architecture.

Definitions

- 8. In the code, unless the context requires otherwise:
 - (a) particular words have the same meaning as they have in the Act;
 - (b) “architectural practice” means the totality of acts, performance of services and provision of advice by an architect in or related to designing, constructing, procuring or using buildings.
 - (c) “client” means one or more individuals and/or bodies corporate who, separately or together and with or without payment, contract with an architect for the performance of services related to the design, construction procurement or use of buildings or for advice related to the design, construction, procurement or use of buildings.
 - (d) “services” means architectural services, which, as defined in the Act, means services about architecture ordinarily provided by an architect.
 - (e) “supervise” means the architect supervising and approving services (the supervising architect):
 - (i) directs the supervised person in carrying out the service;
 - (ii) oversees the carrying out of the service by the supervised person; and
 - (iii) evaluates the carrying out of the service by the supervised person.

PART 2 – GUIDANCE AS TO APPROPRIATE PROFESSIONAL CONDUCT AND PRACTICE

Division 1 – Services

Reasonable standards of conduct

9. An architect must:
- (a) act honestly and with reasonable care in the provision of services; and
 - (b) comply with applicable laws, statutory rules, and statutory codes.

Suitability to perform and knowledge of services

10. An architect in charge of a client's project must:
- (a) have suitable skill and experience to be in charge of the project; and
 - (b) maintain a thorough knowledge of the services to be provided and of matters relating to the performance of those services.
11. If, as part of providing services at a particular office, or offices, in Queensland, services are performed at another office, a temporary office, interstate or overseas, the architect responsible for the client's project must supervise and take responsibility for the services performed.
12. An architect should provide services with reasonable promptness according to the time programmes agreed with the client for the provision of the services, or within a reasonable time as far as is permitted by the provision of instructions to the architect by the client.

Continuing Professional Development

13. A practising architect must take all reasonable steps to maintain and improve the skills and knowledge necessary for the provision of services that the architect normally provides, and abide by:
- (a) the Board's requirements in relation to continuing professional development, as published by the Board, to demonstrate the maintenance and improvement of an architect's skill and knowledge; and
 - (b) any other codes, standards, guidelines or other information issued by the Board.

14. A practising architect must, if required by the Board, report to the Board on the steps taken by the architect to maintain and improve the skills and knowledge necessary for the provision of the services that the architect normally provides.

Approval of documents

15. An architect must not sign as checked, approved or supervised, any drawings or other documents which the architect has not checked, approved or supervised.
16. If an architect is supervising and approving services being undertaken by a non-registered person as part of a project, the architect (the supervising architect) must ensure that:
 - (a) the non-registered person is supervised by the supervising architect; and
 - (b) the supervising architect takes full professional responsibility for the services.
17. An architect must not permit the architect's name to be used in relation to any services, document or publication to misleadingly imply authorship of, responsibility for or agreement with the content or form of the services, document or publication.

Impartiality

18. An architect:
 - (a) must act with fairness and impartiality in administering building contracts;
 - (b) must not:
 - (i) give or receive inducements to show favour to any party to a building contract;
 - (ii) show disfavour to any party to a building contract.

Division 2 – Client relations

Client agreements

19. Where an architect intends to provide services to a client or prospective client, the architect must enter into an agreement with the client in writing.
20. The architect should enter into such an agreement before commencing the services concerned.

21. An agreement must include the following:
- (a) the parties to the agreement;
 - (b) the name, registration number and contact details of the architect responsible for the carrying out of the services at the architect's place of business;
 - (c) the scope, nature and specific requirements of the services to be provided to the client;
 - (d) where possible, the timeframes within which it is intended that the services described in the agreement will be provided to the client, including reference to any relevant contingencies;
 - (e) the professional fees and costs of the services to be provided, or method of calculation;
 - (f) where possible, reasonable itemised estimates of disbursements;
 - (g) arrangements for the payment of professional fees and costs, including disbursements;
 - (h) identification of who will be responsible for relevant aspects of the project, including the identification of who will be responsible for:
 - (i) monitoring the project budget and project costs; and
 - (ii) the engagement, monitoring and payment of other professionals, consultants, or sub-consultants in relation to the project;
 - (i) the manner in which:
 - (i) the client is to authorise the architect to proceed with the services, or any part of the services, described in the agreement;
 - (ii) the architect is to obtain the client's authorisation to change or amend the services described in the agreement and the professional fees and costs arising from such change;
 - (iii) the architect is to report to the client on progress in the provision of the services;
 - (iv) variations to the agreement will be made, and associated costs communicated;

- (v) the client is to provide requested information and/or decisions to the architect, and associated time/cost implications communicated;
- (vi) the agreement may be terminated by the architect or the client for specified or other reasons; and
- (j) the circumstances, referred to in paragraph 34 of the code, in which the architect must withdraw from the agreement and cease providing services.

Professional fees and costs

22. An architect must, in relation to an agreement with a client made under paragraphs 19-21 of the code:
- (a) ensure that the fees and costs charged in relation to the services reflect the fee structure detailed in the agreement; and
 - (b) provide statements of account in accordance with the agreement.

Obligation to inform client

23. An architect must:
- (a) take reasonable steps to ensure that the client is informed of decisions required of the client in respect of the services;
 - (b) provide sufficient relevant information with reasonable promptness to enable a client or prospective client to make an informed decision in relation to the provision of services;
 - (c) respond, with reasonable promptness, to a client's reasonable requests for information or other communications about the provision of services to the client; and
 - (d) take reasonable steps to ensure that all information and material provided to a client or prospective client is truthful, accurate, unambiguous, and relevant to the client's interests.

Changes in circumstances

24. An architect must promptly advise the client, in writing, of anything which would, or would be likely to, prevent the architect from following the client's instructions in relation to the services, including the obligation of an architect to withdraw from the provision of services under paragraph 34 of the code.

Record keeping and documents

25. An architect should take reasonable steps to adequately secure and safeguard
- (a) paper and/or electronic records for their clients; and
 - (b) clients' confidential information, taking full account of legislation.
26. An architect must, during the performance of services for a client and for at least seven (7) years after the completion of those services (or longer if required by legislation), maintain records of:
- (a) correspondence and documents sent and received;
 - (b) financial transactions;
 - (c) client instructions and meetings related to the services provided to the client;
 - (d) photographs of services in progress, as appropriate, where the architect is engaged to deliver construction phase services;
 - (e) project journals, diaries or the like; and
 - (f) drawings and other documents
- in electronic or another form.
27. If maintained in electronic form, an architect should, maintain adequate copies to enable records to be restored should one copy be destroyed or damaged.

Confidentiality

28. An architect must not disclose to any person any information, agreed or understood to be confidential, which is acquired from or provided to a client in the course of the provision of services to the client, unless authorised to do so by the client in writing or as required by law.

Conflicts of interest

29. An architect must inform a client or employer of the existence or likelihood of conflict between the architect's personal or business interests and those of the client or employer.
30. An architect must not, without the informed consent of a person who may be detrimentally affected by the conduct of the architect, enter into a contract or like

arrangement with a client or employer where an actual or potential conflict of interest would exist or could reasonably be considered as likely to arise.

Disclosure of promotions or endorsements

31. An architect must disclose to a client or a prospective client if the architect has received, or has been promised, any payment or other advantage for any endorsement given or comment made about products or services that are or are likely to be used in connection with the provision of services to the client.

Gratuities and inducements

32. In the conduct or promotion of an architect's practice, an architect must not accept an engagement to provide services to a client, who has been introduced or referred to the architect by a third party to whom the architect has given or offered to provide a fee, benefit or reward for the referral of clients or potential clients, unless the architect has first disclosed the architect's arrangement with the third party to the client or potential client.
33. An architect must not act for a client in any dealing with a third party from whom the architect may receive, directly or indirectly, any fee, benefit or reward in respect of that dealing unless:
 - (a) the architect advises the client, free of any constraint or influence which might be imposed on the architect by the third party;
 - (b) the architect's advice is fair and free of any bias caused by the architect's relationship with the third party; and
 - (c) the nature and value of any fee, benefit, or reward, which may be received by the architect, is:
 - (i) fair and reasonable, having regard to objective commercial standards; and
 - (ii) disclosed fully in writing to the client before the dealing is commenced.

Refusal to act

34. An architect must withdraw from the provision of any services to a client where the architect reasonably believes, in the architect's professional judgment, that the provision of the services would require the architect to act in breach of:
 - (a) the Act and any regulations made under the Act; and/or

- (b) the code.

Division 3 – Architectural Practice

Disclosure of professional qualifications, registration and awards

- 35. When dealing with the public or clients in the course of an architect's professional practice, an architect must be accurate and truthful in:
 - (a) any statements made about the architect's qualifications, experience, awards, honours and authorships;
 - (b) identifying the architect's name, business address, and telephone number on stationery, signboards, websites, public notices, architectural plans, and in publications placed by the architect in connection with the architect's professional practice; and
 - (c) the attribution of architecture-related awards, honours and qualifications , particularly where recipients are nominated as participants in prospective project teams led by the architect in tender, contract or promotional documents.

Insurance

- 36. An architect must:
 - (a) take all reasonable steps to procure and maintain a policy of professional indemnity insurance during each year that is appropriate for the services being provided by the architect; and
 - (b) upon request by a client of the architect, provide the client with information relating to the insurance maintained by the architect for the services to be provided to the client; and
 - (c) upon request by the Board, provide the Board with requested information relating to insurance maintained by the architect.
- 37. For paragraph 36(b), the information relating to insurance to be provided to the client is a current Certificate of Currency issued by an insurance underwriter or insurance broker setting out the name of the insured, policy number, issue date, expiry date, name of insurer, level of cover in the aggregate (exclusive of legal costs), summary of cover provided, policy excess and jurisdictional and territorial limits.

38. Paragraph 37 does not apply to an architect in respect of the provision of a service if:
- (a)
 - (i) a person, other than the architect, is engaged to provide a service; and
 - (ii) the architect provides the service only as an employee of that person and not on the architect's own account; and
 - (iii) the person has complied with the requirements of paragraph 36 for, or on behalf of, the architect; or
 - (b)
 - (i) the insurance is unavailable or would be economically unviable for the architect, taking into account all relevant factors including:
 - (A) the cost of insurance; and
 - (B) the previous and expected future turnover of the relevant business or part of the business; and
 - (ii) the architect has, before entry into an agreement with a client for the provision of services, advised the client in writing that the architect does not maintain a policy of professional indemnity insurance for provision of the services.

Division 4 – Duties to the Public and the Profession

39. In any dealings with other architects or clients in the course of the architect's professional practice, the architect should maintain a high standard of integrity and act honestly and fairly.
40. An architect must, by the architect's conduct, endeavour to engender confidence in, and respect for, the profession of architecture, and not act in a way that brings either the architect or the profession into disrepute.
41. An architect must, by the architect's conduct, endeavour to maintain the standards and integrity of the profession of architecture.
42. To protect the public and enhance the reputation of the profession, if an architect reasonably suspects that a person, company or other entity has breached the Act, any regulation under the Act, or the code, the architect should refer the matter to the Board for investigation.

43. An architect has a responsibility, where possible, to contribute to the quality and sustainability of the natural and built environment and the health and safety of the general public and in particular, to give proper consideration to the:
- (a) public interest;
 - (b) natural environment whilst striving to improve the built environment and quality of life;
 - (c) conservation of the nation's heritage; and
 - (d) conservation of natural resources.