

IS 3: Information Sheet for Consumers: *Making a Complaint about an Architect*

Our Role

The Board of Architects of Queensland (the BOAQ) is established under section 4 of the *Architects Act 2002* (Qld) (the Act), with the objects of the Act being to:

- **protect the public** by ensuring architectural services are provided in a professional and competent way;
- **maintain public confidence** in the standard of services provided by architects; and
- **uphold the standards of practice** of architects in Queensland.

The BOAQ's functions and powers include considering complaints from persons aggrieved by an architect's conduct in carrying out architectural services. It may also conduct or authorise investigations about the professional conduct of architects.

Complaining about an Architect

Practising architects in Queensland are required to comply with the Act, the *Architects Regulation 2019* (the Regulation), and the *BOAQ Code of Practice* (the Code), which sets out standards of conduct expected of members of the architectural profession. You can access a copy of the Act, Regulation and Code on the BOAQ website at: www.boaq.qld.gov.au

If you are unsatisfied with the conduct, competence, or services of an architect in carrying out architectural services, you can make a complaint to the BOAQ.

Please note, complaints can only be made to the BOAQ about an architect registered to practice in Queensland.

If you are unsure whether your 'architect' is legally registered to practice architecture in Queensland, you can perform a simple search using the 'Search Register' tab on the BOAQ website, or contact the Registry on: [\(07\) 3069 2397](tel:0730692397).

Preparing to Make a Complaint

Before you prepare to make your complaint, there are several things to do to ensure your matter can be resolved as quickly as possible.

Talking to your architect

The BOAQ encourages all consumers to raise any concerns with their architect before considering making a complaint or commencing other dispute resolution processes. This may help resolve any miscommunications that may have occurred and can be a time and cost efficient way of reaching a solution to a problem.

When talking to your architect, be clear about what the problem is and focus on trying to reach agreement about a reasonable way to solve the problem.

It is a good idea to keep a written record of what you have discussed with your architect, including any promises, agreements, or concessions made. Records should include details of what happened, when it happened, who you spoke to, and the outcome of the discussion.

Considering your options

Depending on the outcome you are seeking, you may wish to consider an alternative dispute resolution (ADR) process, such as mediation. This involves both parties presenting their case and attempting to reach an agreement with the help of an impartial mediator facilitating the conversation.

Please note, there may be a fee involved in a mediation process, which may be shared between the parties.

You should also check whether the contract or agreement you have with your architect specifies a dispute resolution process. If there is no process specified or you fail to reach an agreement using the specified process, you may wish to proceed by making a complaint to the BOAQ.



BOARD OF ARCHITECTS
OF QUEENSLAND

For more information about mediation and other ADR processes, or to find a mediator, please visit Queensland Law Society's website: https://www.qls.com.au/For_the_community/Alternative_Dispute_Resolution.

Gathering evidence

If you decide to submit a complaint to the BOAQ, it is important that it is complete, clear, and supported by evidence. The evidence should include copies of documentation supporting your claim, which could be:

- proof of engagement of architectural services (such as an invoice, contract, or client-architect agreement);
- proof of payment for architectural services (such as a receipt);
- evidence of the fault or problem (such as photos); and/ or
- communications with the architect relating to the fault or problem (such as emails or letters).

Make sure you keep the originals of all documents in a safe place as you may need them in the future if the matter is investigated or results in a disciplinary hearing in the Queensland Civil and Administrative Appeals Tribunal (QCAT).

Preparing your grounds

It is your responsibility as the complainant to clearly explain the grounds on which your complaint is being made, making sure you identify any relevant evidence. If you believe the architect's conduct in providing architectural services is unsatisfactory, please detail your reasons for this belief, with direct reference to the section/s of the Code that you believe your architect has failed to abide by.

You will also need to inform the BOAQ if there are any other legal proceedings underway related to your matter.

How to Submit a Complaint

Complaints to the BOAQ about architects must be in writing, clearly stating the grounds for the complaint, and be supported by copies of any relevant documentation.

Before making a complaint, ensure you have taken the necessary steps to prepare your

Board of Architects of Queensland

complaint and fill in the prescribed form: *Form 3 – Making a Complaint about an Architect*.

Complaints and attachments must be submitted to one of the following addresses:

Mail: Registrar
Board of Architects of Queensland
GPO Box 316
BRISBANE QLD 4001

Email: registrar@boaq.qld.gov.au

What Happens Next?

Stage 1: The BOAQ assesses the complaint

After you have submitted a complaint, the BOAQ will acknowledge that it has received the complaint within a reasonable time.

It will then make an initial assessment to decide whether the complaint contains sufficient information to make a decision under the Act. The BOAQ may request you to give further information, including information in the form of a statutory declaration.

If the BOAQ considers the complaint to be frivolous, vexatious or trivial, it may reject it. If the complaint is rejected, no further action will be taken.

You may also withdraw a complaint at any time. However, once a complaint has been made, the BOAQ retains the power to investigate the matter of its own volition.

Stage 2: The BOAQ may investigate the complaint

The BOAQ may decide to conduct an investigation if it has received a complaint about an architect's conduct in carrying out architectural services, or when it reasonably believes an architect's conduct may provide grounds for discipline, pursuant to section 36 of the Act. The BOAQ may conduct the investigation itself, or authorise an investigator to conduct the investigation.

Before deciding whether to investigate the complaint, the BOAQ may invite the architect to make a submission about the matter.

Stage 3: The process of investigation

If the BOAQ decides to conduct an investigation under the Act, it will notify the



BOARD OF ARCHITECTS
OF QUEENSLAND

architect as soon as practicable, giving notice about the nature of the complaint or the grounds forming the basis for the investigation.

The architect will be invited to make a submission to the BOAQ or the investigator about the complaint.

After completing the investigation, the BOAQ or the investigator will prepare a written report outlining findings from the investigation about the complaint.

Stage 4: Decision following an investigation

After receiving and considering the report about the investigation, the BOAQ must decide to do one or more of the following:

- start a disciplinary proceeding against the architect in QCAT;
- enter into an undertaking agreed with the architect about a matter relating to the architect carrying out architectural services;
- caution or reprimand the architect;
- impose a condition, agreed to by the architect, on the architect's registration; and/ or
- take no further action about the matter the subject of the investigation.

The BOAQ will inform the complainant of its decision about the matter as soon as practicable after taking into account timeframes relating to the architect's statutory appeal and review rights.

Overview of BOAQ's complaint handling process

For an overview of how the BOAQ manages complaints and investigations, please refer to the BOAQ Flowchart: *Process for Management of a Complaint about an Architect*.

What the BOAQ Cannot Do

The BOAQ has a public regulatory role and does not have the power to deal with private disputes relating to contractual obligations or intellectual property rights. If your dispute is of a commercial nature, you should seek independent legal advice and may need to commence a claim in a civil court.

Under the Act, the BOAQ can only consider matters that relate to an architect's professional

Board of Architects of Queensland

conduct in carrying out architectural services. Therefore, matters relating to workplace relations or employment are outside the BOAQ's jurisdiction.

If your complaint relates to employment agreements, awards, pay rates, etc., you may wish to contact the Fair Work Ombudsman.

You can find more information about the Fair Work Ombudsman at:

<https://www.fairwork.gov.au/>.

If your complaint relates to workplace bullying and/ or harassment, please refer to the website of the Fair Work Commission:

<https://www.fwc.gov.au/>.

The BOAQ also cannot provide legal advice to help complainants prepare a complaint or commence civil proceedings against an architect.

Review Rights

If you are unsatisfied with the BOAQ's conduct or decision in resolving your complaint, you may be able to apply to an external body to have the matter reviewed.

Queensland Civil and Administrative Tribunal

If the BOAQ decides to take no further action after conducting an investigation, section 121(2)(e) of the Act allows the complainant to apply to QCAT for a review of the decision.

QCAT will review the case on its merits and can consider new information in certain circumstances. It has the power to take any of the following actions:

- confirm or amend the decision;
- set aside the decision and substitute its own decision; or
- set aside the decision and remit the matter to the Board for reconsideration, with any directions the Tribunal considers appropriate.

For more information about how to apply to QCAT for a review of a BOAQ decision, please contact the BOAQ or visit the QCAT website directly: www.qcat.qld.gov.au.

Queensland Ombudsman

Under the *Ombudsman Act 2001*, the Queensland Ombudsman has powers to



BOARD OF ARCHITECTS
OF QUEENSLAND

assess the BOAQ's conduct or decisions in managing complaints.

If you have a complaint against the BOAQ, the Ombudsman can assess your complaint to decide whether it is within its power to investigate it.

The Ombudsman may conduct an investigation and make non-binding recommendations to the BOAQ. It cannot investigate the conduct of an architect.

If your complaint is more than 12 months old, the Ombudsman may not be able to investigate the matter unless special circumstances exist.

For more information about making a complaint to the Ombudsman, please visit:
<https://www.ombudsman.qld.gov.au/>.

Queensland Human Rights Commissioner (QHRC)

In carrying out its functions, the BOAQ is required to act compatibly with your rights as contained in the *Human Rights Act 2019* (Qld) (HR Act) unless it is justifiable to reasonably limit them.

Under the HR Act, you can make an internal complaint to the BOAQ if you believe it has:

- acted or made a decision in a way that is not compatible with your human rights; and/ or
- failed to give proper consideration to a relevant human right in making a decision.

Complaints about human rights can be made to the BOAQ using the prescribed form: *Form 7 – BOAQ Complaint under the Human Rights Act 2019 (Qld)*.

If you make an internal complaint to the BOAQ and it does not respond within 45 days, or you consider its response inadequate, you may make a complaint to the QHRC. The QHRC may take actions such as investigating the complaint, conducting a conciliation conference and/ or writing a report about an unresolved complaint.

Board of Architects of Queensland

This complaint process relates to conduct and decisions by the BOAQ only. The QHRC cannot investigate the conduct of the architect originally complained about.

For more information about complaints to the QHRC, please visit:

<https://www.qhrc.qld.gov.au/>

Please note: *The relevant laws in the HR Act commenced on 1 January 2020 and as such, this option only applies to conduct and decisions by the BOAQ after that date.*

Privacy Statement

Your personal information is collected by the BOAQ for the purposes of administering the Act. Those purposes include receiving and investigating complaints about architects and making disciplinary decisions.

Please note that the information you submit to the BOAQ in your complaint may be disclosed to the relevant architect and other relevant third parties in connection with any investigation, disciplinary proceeding or prosecution resulting from the complaint. Such parties may include investigators, legal professionals, and/ or QCAT. By submitting a complaint, you consent to the information contained within to be shared with those parties.

The BOAQ will not use or disclose your personal information for any purpose not connected with the administration of the Act without your consent, unless authorised or required by law.

For more information about your right to information privacy, please visit:

<https://www.qld.gov.au/law/your-rights/privacy-and-right-to-information/privacy-rights>.

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