

Advisory Note 17: Learnings from a complaint case—Building work without consent and reporting failures

Ensure you fully understand building consent requirements, provide clients with explicit guidance on legal necessities, and report any non-compliance immediately to avoid serious repercussions and uphold professional integrity.

Summary of the case

An architect was recently found to have breached Rule 49 (Skill, care, and diligence) of the Registered Architects Rules 2006 and section 25(1)(c) of the Registered Architects Act 2005. The breach involved negligent or incompetent practice in the following areas:

1. Assisting the client in proceeding with building work despite knowing that no building consent had been approved.
2. Failing to advise the client that they could not proceed without the necessary building consent.
3. Failing to promptly inform the Council upon learning that building work had commenced without consent.

Key learnings

1. Understanding consent requirements

- A competent architect must be fully aware of when building consent is required. It is essential to understand the legal implications of commencing work without the necessary consent.

2. Providing clear guidance to clients

- Architects have a professional duty to clearly advise clients on the necessity of obtaining building consent before any construction work begins.
- Explicit communication with clients about the legal requirements and the risks associated with non-compliance is crucial.

3. Immediate reporting of non-compliance

- Upon becoming aware that construction has started without a building consent, architects must immediately inform the relevant authorities, such as the Council.
- Failing to report can lead to significant legal and professional repercussions.

Conclusion

This case underscores the critical importance of adherence to the legal requirements for building consents and the professional responsibilities of architects. It serves as a reminder that clear communication with clients and prompt action in cases of non-compliance are essential to uphold the standards of the profession and protect public safety.



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