

PROBLEMS WITH YOUR ARCHITECT?

If you are having problems with your architect, the New Zealand Registered Architects Board (NZRAB) may be able to help. The NZRAB administers:

- a procedure by which complaints about architects' work can be investigated and, if warranted, disciplinary action can be taken
- a separate procedure by which an architect's competence and therefore his or her registration can be reviewed.

Which architects are covered?

All New Zealand Registered Architects are subject to the Registered Architects Act 2005, which includes disciplinary procedures. In New Zealand, no one can offer architectural services and call themselves an architect unless they are registered.¹

It is easy to find out whether a person is a Registered Architect. Go to the NZRAB website (www.nzrab.nz) and enter his or her name into the search facility on the home page. That quickly tells you if the person is a Registered Architect. It also shows if the architect has been disciplined in the last three years.

The NZRAB sometimes receives complaints about the work of designers who are NOT architects. The Board can not help with these complaints, though a complaint to the Licensed Building Practitioner Board² is another option.

Laying a complaint

When should you complain?

The primary purpose of the NZRAB's disciplinary procedures is to protect the public from incompetent architects. The NZRAB's ultimate sanction is to deregister an architect.

Financial compensation is not provided for in these disciplinary procedures. If financial compensation is your primary interest, a claim in a civil court may be a better course, though the legal costs are much higher, especially if you lose.

¹ Architects registered in other countries may offer architectural services in New Zealand and call themselves an architect so long as they make clear that they are registered elsewhere. These persons are NOT subject to the Board's disciplinary procedures.

² <http://www.business.govt.nz/lbp>

Also, the NZRAB receives some complaints that are trivial and they don't proceed. Before complaining, ask whether the issue really warrants the time and effort. For some things, it is better to move on in your life.

What does laying a complaint cost?

There are no fees or costs that a complainant has to pay. However, the complainant is responsible for any travel costs, documentation and for any legal or technical advice that he or she commissions. There is also the value of the complainant's time to consider.

What can complaints be about?

All complaints must be made in terms of section 25 of the Registered Architects Act 2005. The main reasons are that the architect has practiced in a negligent or incompetent manner, or has breached the Code of Minimum Standards of Ethical Conduct for Registered Architects. The Code is reproduced below.

Complaints about technical competence or the quality of the work of architects are rare. Mostly the problems are about inadequate control of the project budget and reflect misunderstandings or poor communications. Typically the client has received a bill far higher than expected, to which the architect replies that the client kept changing the specifications, which required extensive costly rework or drove up the construction costs.

How does the complaints procedure work?

The following steps apply.

1. People wishing to discuss a concern about an architect can telephone 04 471 1336, email info@nzrab.org.nz or write to:
New Zealand Registered Architects Board
P O Box 11106,
Wellington 6142.
2. Complaints must be in writing, and should include a timeline and relevant documentation, eg the terms of appointment.
3. Once a complaint is received, the architect is immediately notified and invited to provide a written response.
4. Then the complaint is referred to an Investigating Committee which investigates the complaint.
5. The task of the Investigating Committee is to determine whether what's alleged warrants being taken further and, if yes, whether there is a case to answer.
6. Typically, during the investigation further information is sought from the complainant and the architect and occasionally, though not often, the Investigating Committee meets the complainant and the architect.
7. The Investigating Committee then decides to either dismiss the complaint or that a Disciplinary Hearing is required.
8. If required, a Disciplinary Hearing is a formal hearing where typically both parties are present and the architect has legal counsel.

9. The Disciplinary Hearing is heard in front of a panel of at least three members of the Board of the NZRAB.
10. A charge is heard and witnesses are cross examined, and then a decision is made as to whether the architect is at fault.
11. If the complaint is upheld, after further submissions decisions are made in regard to penalty, costs and public notification.
12. The architect has the right to appeal the decision in the District Court.

During a Disciplinary Hearing, the NZRAB lays the charge against the architect, so in effect the complainant is then a witness.

What are the penalties that the Board can apply?

The Board can:

1. order that the architect pays a fine of up to \$10,000, although the money does not go to the complainant
2. order that the architect undertakes training
3. order that for up to three years the architect practises under supervision or is subject to other specific requirements
4. censure the architect
5. suspend the architect's registration for up to 12 months or until he or she meets specific registration requirements, so that for that time he or she cannot practice
6. as a last resort, cancel the architect's registration and remove his or her name from the Architects' Register, setting a time period during which the person may not apply for registration again. Effectively, this terminates the architect's career.

Also, the Registered Architects Act 2005 (S21) requires that if an Architect has been disciplined, any penalties imposed must be shown on the Architects Register for three years. You can access the Register at www.nzrab.nz

Competence Concern

There is another option aside from laying a complaint. If you have a more general concern about an architect's competence, you can write to the NZRAB.

Where a competence concern is raised in this way, the NZRAB considers the matter and, if warranted, reviews the architect's registration. The NZRAB is required to review all architects every five years, but where there is good reason, the NZRAB can also do this as a one off. This is not a disciplinary procedure, but if the architect is found to no longer meet the minimum standard for continued registration, his or her registration is withdrawn.

More information is available at <https://www.nzrab.nz/c/Competence-Concern>.

Is there anything I should do to ensure that problems with my Architect don't occur in the first place?

Absolutely. Most commonly, problems occur because the parties have not communicated with each other effectively. No matter how small, every job should have a written contract. Never be embarrassed to talk about money. You and your Architect should be absolutely clear about how fees are to be charged and especially how extra fees will be charged if additional work is commissioned. Don't order any re-design without getting in writing what it will cost. This protects you and the Architect.

Also, whatever your budget is for the project, make absolutely sure that your Architect has that in writing. If you have any doubts, talk to your Architect. And always ask whether any redesign will push up the construction costs.

The New Zealand Institute of Architects (Inc) provides advice to the public at www.architecturenz.net and www.talktoanarchitect.co.nz/

For further information contact:

New Zealand Registered Architects Board
PO Box 11106
Manners Street
Wellington 6142

064 4 471 1336, info@nzrab.org.nz

Code of Minimum Standards of Ethical Conduct for Registered Architects

(Taken from the Registered Architects Rules 2006)

Standards related to the public

46. Not misrepresent himself or herself

A Registered Architect must not represent or promote himself or herself, his or her business, or his or her professional services in a false, fraudulent, misleading, or deceptive manner.

47. Uphold the law

A Registered Architect must abide by the professional codes of ethics and conduct and laws in force in the countries or jurisdictions in which he or she provides professional services.

Standards related to the client

48. Exercise unprejudiced and unbiased judgement

A Registered Architect must exercise unprejudiced and unbiased judgement.

49. Care and diligence

A Registered Architect must perform his or her professional work with due care and diligence.

50. Terms of appointment

A Registered Architect must not undertake professional work unless the Registered Architect and the client have agreed the terms of the appointment, which may include but need not be limited to:

- (a) scope of work
- (b) allocation of responsibilities
- (c) any limitation of responsibilities
- (d) fee, or method of calculating it, and terms of trade
- (e) any provision for termination
- (f) provision for professional indemnity insurance.

51. Remuneration and inducements

A Registered Architect must:

- (a) be remunerated solely by the fees and benefits specified in the appointment or employment agreement; and
- (b) not offer any inducements to procure an appointment.

52. Confidentiality of client's affairs

- (1) A Registered Architect must observe the confidentiality of the client's affairs and must not disclose confidential information without the prior consent of the client.
- (2) Subclause (1) does not apply if the Registered Architect is required by law to disclose that information.

53. Conflict of interest

A Registered Architect must disclose to clients, owners, or contractors significant circumstances known to the Registered Architect that could be construed as creating a conflict of interest. The Registered Architect must ensure that the conflict does not interfere with the Registered Architect's duty to render unprejudiced and unbiased judgment.

Standards related to profession

54. Act with honesty and fairness

A Registered Architect must pursue his or her professional activities with honesty and fairness.

Standards related to other Registered Architects

55. Acknowledge colleagues' contributions

A Registered Architect must:

- (a) build his or her professional reputation on the merits of his or her own performance; and
- (b) not claim as his or her own intellectual property and ideas of other Registered Architects.

56. Not maliciously or unfairly criticise

A Registered Architect must not maliciously or unfairly criticise or attempt to discredit another Registered Architect's work.

57. Conflicts of professional appointment

A Registered Architect must, on being approached to undertake professional work for which he or she knows, or by reasonable inquiry ascertains, that another Registered Architect has a current appointment with the same client, notify the other registered Architect.

58. Giving an opinion on the work of another Registered Architect

A Registered Architect must, when appointed to give an opinion on the work of another Registered Architect, notify the other Registered Architect unless the appointed Registered Architect is aware of any current or pending litigation concerning the work that is the subject of the opinion.