

PROBLEMS WITH YOUR ARCHITECT?

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.

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. 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 matters, though a complaint to the Licensed Building Practitioner Board is another option.¹

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 deregistration.

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.

However, laying a complaint is warranted when an architect has not performed professionally and should be held to account, and to protect the public in the future.

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.

¹ Architects registered in other countries working in New Zealand are NOT subject to the NZRAB's disciplinary procedures.

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.

Note that on 1 January 2018 the code was revised. If what is alleged occurred prior to 1 January 2018, the earlier code applies. Both versions are reproduced below.

How does the complaints procedure work?

The following steps typically 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 a complaints form is available on the NZRAB website.
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 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 raising that concern. The NZRAB considers the matter and, if warranted, reviews the architect's registration in terms of whether the architect is still fit to practice. 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.

For further information contact:

New Zealand Registered Architects Board
PO Box 11106
Wellington 6142
064 4 471 1336, info@nzrab.org.nz

Applying to events that occurred prior to 1 January 2018)

**Code of Minimum Standards of Ethical Conduct for
Registered Architects**

(Source: Registered Architects Rules 2006, part 3)

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.

Applying to events that occurred on or after 1 January 2018

**Code of Minimum Standards of Ethical Conduct for
Registered Architects**

(Source: Registered Architects Rules 2006, part 3)

46. Uphold the law

A registered architect must abide by the laws and professional codes of ethics and conduct in force in the countries and jurisdictions in which the architect performs professional activities.

47. Honesty and fairness

A registered architect must perform the architect's professional activities with both—

- a) honesty; and
- b) fairness.

48. Professional judgement

A registered architect must exercise unprejudiced and unbiased professional judgement.

49. Skill, care, and diligence

(1) A registered architect must perform the architect's professional activities with reasonable skill, care, and diligence.

(2) A registered architect who becomes aware that the architect's professional advice has not been followed, and considers that a failure to follow that advice may lead to significant harm, damage, or financial loss, must advise the recipient of the advice of the potential consequences.

50. Obligations to report on risk

If a registered architect has reasonable grounds to believe that an architectural matter with which the architect is professionally involved could put the safety of any person at risk, the architect must bring the matter to the attention of the appropriate person or authority.

51. Misrepresentation

A registered architect must not represent or promote the architect's capability, business, or professional services and activities in a false, fraudulent, misleading, or deceptive manner.

52. Conflicts of interest

A registered architect must—

- a) avoid any significant conflict of interest; or
- b) manage any significant actual or potential conflict of interest and disclose it to all relevant parties.

53. Abuse of authority

A registered architect must not abuse the architect's professional authority.

54. Malicious criticism

A registered architect must not maliciously or in bad faith criticise or attempt to discredit another registered architect or another registered architect's practice.

55. Conflicts of professional appointment

If a registered architect, acting in the architect's own capacity or representing a practice, is approached to provide professional services in relation to a project, and the architect knows that another registered architect has a current agreement for services for that project, the architect must notify the other registered architect.

56. Remuneration and inducements

A registered architect, in respect of the architect's professional activities,—

- a) must be remunerated solely by the fees and benefits specified in the architect's written terms of appointment or employment agreement; and
- b) must not offer or accept any significant inducement that creates, or may create, a conflict of interest; and
- c) must not offer any significant inducement to procure an agreement for services or gain an unfair advantage.

57. Professional reputation

A registered architect must—

- a) build the architect's professional reputation on the merits of the architect's own performance; and
- b) acknowledge the contributions of others to projects where those contributions are significant.

58. Competence

A registered architect must—

- a) actively maintain the currency of the architectural knowledge and skills that are relevant to the architect's work; and
- b) perform only architectural work for which the architect is competent, or obtain appropriate support to ensure that the work is completed to a competent standard; and
- c) if the architect tasks others to do architectural work, ensure that their work is appropriately supervised so that the work is completed to a competent standard.

58A. Terms of appointment

(1) A registered architect must provide professional services only if—

- a) written terms of appointment appropriate to the commission or services to be undertaken have been provided; and
- b) the client, having agreed to the written terms of appointment, has provided an instruction to proceed.

(2) The written terms of appointment must cover—

- a) the scope of the work; and
- b) the allocation of responsibilities; and
- c) any limitation of responsibilities; and
- d) fees, or any methods for calculating fees; and
- e) how billing will occur.

58B. Client communication

A registered architect must—

- a) ensure that, where applicable, effective systems are in place during a commission to establish and monitor its quality, budget, cost estimates, and time line; and
- b) advise the client in a timely manner of any significant issues that arise, or are identified, at any time during the commission.

58C. Confidentiality

A registered architect must observe the confidentiality of their clients' affairs and must not disclose confidential information without the prior consent of the client unless required by law to do so.

58D. Registration status of others

A registered architect who owns, manages, or controls a practice must ensure that nothing is done by the practice that creates, or may create, the impression that an unregistered person working for the practice is a registered architect.