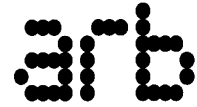


# Response Form - Consultation paper 2008/05



Architects Registration Board

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## **Consultation 2008/05 - Amendments to the Architects Code: Standards of Professional Conduct and Practice**

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**Response from:**

(Name)  
(Job Title)  
(Organisation)  
(Postal address)  
(email address)

Please complete and return to Architects Registration Board, Ability House, 7 Portland Place, London W1B 1PP, by 5pm on Friday 16 January 2009.

This response form is also available to complete electronically at <http://www.arb.org.uk/news/consultations/index.shtml> and may be submitted by email to [info@arb.org.uk](mailto:info@arb.org.uk)

Responses may also be returned by fax to 020 7436 5269

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### **Consultation Questions.**

The table on the following pages can be used to comment against specific standards of the Code. However, we would also welcome your general views, specifically in response to the following questions:

1. Is the Code clear and easy to understand in terms of its language and structure?

2. If you are an architect, does the Code introduce any aspects that you could consider onerous?

3. If you are not an architect, does the Code help to identify the standards of conduct and competence expected of architects?

4. Are there any omissions that you believe should be included?

5. Are there any standards that you believe to be ambiguous?

5. Is the status of the Code clear in that it reflects expected standards, and is not a set of rules?

Draft Code	Notes	Comments
<p>The Architects Code: Standards of Professional Conduct and Practice</p> <p>As an architect you are expected to:</p> <ol style="list-style-type: none"> <li>1. Be honest and to act with integrity</li> <li>2. Be competent</li> <li>3. Promote your services honestly and responsibly</li> <li>4. Carry out your work conscientiously and to the best of your ability</li> <li>5. Consider the wider impact of your work</li> <li>6. Be trustworthy and to look after your clients' money properly</li> <li>7. Have appropriate insurance arrangements</li> <li>8. Co-operate with regulatory requirements and investigations</li> <li>9. Safeguard the reputation of the profession in the public interest</li> <li>10. Manage your business professionally</li> <li>11. Deal with disputes or complaints appropriately</li> <li>12. Have respect for others</li> </ol>	<p>This 'at-a-glance' guide citing the twelve Standards serves as a quick reference to architects and consumers and seeks transparency from the outset</p>	

Draft Code	Notes	Comments
<p>By Section 13 of the Architects Act 1997 (“the Act”), the Architects Registration Board (“the Board”) is required to issue a Code laying down the standards of professional conduct and practice expected of persons registered as architects under the Act. This is that Code. Any failure to comply with the provisions of this Code is not of itself to be taken as constituting unacceptable professional conduct or serious professional incompetence, but it must be taken into account in any disciplinary proceedings before the Board’s Professional Conduct Committee.</p> <p>The fact that a course of conduct is not specifically referred to in the Code does not mean that it cannot form the basis of disciplinary proceedings. You are expected to be guided in your professional conduct and professional work by the spirit of the Code as well as by its express terms. Each case is judged on its facts, and there may be circumstances in which unacceptable professional conduct or serious professional incompetence is found even where there has been no clear breach of the express terms of the Code.</p> <p>Not every shortcoming on your part, or failure to comply with the provisions of the Code, will</p>		

Draft Code	Notes	Comments
<p>necessarily give rise to disciplinary proceedings.</p> <p>A disciplinary order may be made against you if you are convicted of a criminal offence other than where that offence has no material relevance to your fitness to practise as an architect.</p> <p><b>Standard 1</b> <b>Honesty and Integrity</b></p> <p>1.1 You are expected at all times to act with integrity and to avoid any action or situations which are inconsistent with your professional obligations. You should not make any statement which is contrary to your professional opinion or which you know to be misleading, unfair to others or discreditable to the profession.</p> <p>1.2 Where a conflict of interest arises you are expected to disclose it and to do your best to manage it to the satisfaction of all affected parties. Where this cannot be done you should cease acting for one or more of the parties to remove the conflict. If you are in any doubt, you should seek written assurances that all parties involved give their informed consent to your continuing to act.</p>		

Draft Code	Notes	Comments
<p>1.3 Where you offer, or take part in offering, a service which combines architectural services with non-architectural services, you are expected to make the distinction clear to all parties in writing.</p> <p>1.4 Where you make or receive any payment or other inducement for the introduction or referral of work, you should disclose the arrangement to the client or prospective client at the outset.</p> <p>1.5 This standard underpins the Code and will be taken to be required in any consideration of your conduct under any of the other standards.</p>	<p>The current Standard 1.4 of the Code was no longer considered to be of such importance as to merit inclusion. The proposed replacement will hopefully encourage greater transparency and benefit the consumer.</p>	

Draft Code	Notes	Comments
<p><b>Standard 2 Competence</b></p> <p>2.1 You are expected to be competent to carry out the professional work you undertake to do and if you employ others to do that work you should ensure that they are competent to do so.</p> <p>2.2 You should ensure that you have adequate professional, financial and technical resources when entering into a contract and throughout its duration. You should also, where appropriate, ensure you have sufficient suitably qualified and supervised staff to provide an effective and efficient service to clients.</p> <p>2.3 You are expected to make arrangements for the continuation of your professional work in the event of your death, incapacity, absence from, or inability to, work.</p>	<p>The provisions of the current Standard 2.1 have been amalgamated and re-worded into the new proposed Standard 2.</p>	

Draft Code	Notes	Comments
<p>2.4 It is your responsibility to ensure that you have the necessary language skills and local knowledge to enable you to properly interpret your client's requirements.</p> <p>2.5 You are expected to keep your knowledge and skills relevant to your professional work up to date.</p> <p>2.6 You should observe any guidelines or requirements of the Board for maintaining your professional skills or your continuing professional development.</p>	<p>This Standard is beneficial in terms of aiding and raising awareness of architects who may not have previously practiced in the UK to ensure that they have the necessary skills to operate effectively.</p>	



Draft Code	Notes	Comments
<p><b>Standard 3</b>  <b>Honest promotion of your services</b></p> <p>3.1 You are expected to promote your professional services in a truthful and responsible manner.</p> <p>3.2 In advertising and promoting your professional services you should comply with the codes and principles applying to advertising generally. These include those of the Advertising Standards Authority or any other body having oversight of advertising standards in various media.</p> <p>3.3 You are expected to describe your business accurately. For example, if you are a sole principal, you should not imply that there is more than one architect in the practice by using “Architects” as part of your business name or in your promotional material.</p>	<p>This Standard has been introduced in response to a high number of specific queries the Board has received on this matter.</p>	

Draft Code	Notes	Comments
<p>3.4 If you are a principal in an architectural practice you are expected to ensure that all professional work is under the control and management of an architect, and that the name of that architect is made known to clients and any relevant third party. You should notify your client promptly of any change in the architect responsible for the work.</p>		
<p>3.5 You are expected to tell your clients of any proposed changes in terms and conditions which occur during the course of a specific agreement (including any change in the legal identity of the person or business with whom they entered into the agreement), and to seek their agreement to the proposed changes.</p>	<p>The addition of this Standard was considered useful in response to a high number of specific queries the Board has received on this matter.</p>	

Draft Code	Notes	Comments
<p><b>Standard 4</b> Carrying out work conscientiously and to the best of your ability</p> <p>4.1 You are expected to carry out your work promptly and with skill and care.</p> <p>4.2 You should make every effort to keep within the timescales and cost limits agreed with your clients, to keep them regularly informed of progress and to notify them promptly of any issue which might materially affect the quality or cost of a project.</p> <p>4.3 You are expected to maintain your professional independence and act according to your best professional judgment.</p>		

Draft Code	Notes	Comments
<p><b>Standard 5</b>  <b>Considering the wider impact of your work</b></p> <p>5.1 You are expected to bear in mind at all times, and to draw your client's attention to, the wider impact that architectural projects can have on the environment. You should consider the reasonable steps that can be taken to mitigate any adverse effects.</p> <p><b>Standard 6</b>  <b>Trustworthiness and safeguarding clients' money</b></p> <p>6.1 You are expected to keep proper records of all money held by you which belongs to a client or other third party, and to account for it at all times.</p> <p>6.2 You should keep such money in a designated interest-bearing bank account, called a "client account" which is separate from any personal or business account.</p>		

Draft Code	Notes	Comments
<p>6.3 You are expected to instruct the bank in writing and ensure that all money in the client account is held as clients' money, and that the bank cannot combine it with any other account, or exercise any right of set-off or counterclaim against it.</p> <p>6.4. You should ensure that money is not withdrawn from a client account to make a payment unless it is made to or on behalf of a client on the client's specific written instructions.</p> <p>6.5 Unless otherwise agreed by the client, you should arrange for any interest (or other benefit) accruing from a client account to be paid to the client.</p>		

Draft Code	Notes	Comments
<p><b>Standard 7</b> <b>Insurance arrangements</b></p> <p>7.1. You are expected not to undertake professional work without adequate and appropriate insurance cover.</p> <p>7.2 The need for cover extends to professional work undertaken outside your main professional practice or employment, and for work carried out by any employees that you may have.</p> <p>7.3. If you are an employed architect you should, as far as possible, ensure that insurance cover or other appropriate cover is provided by your employer.</p> <p>7.4 Without limiting your duty to maintain insurance cover which is adequate and appropriate for the work you are undertaking you are expected, in any event, to maintain a minimum level of cover as specified in the Board's guidance.</p>	<p>This Standard has been revised to reflect changes in the Board's guidance and FAQ's which have come about as a result of advice received from the Professional Indemnity Insurance Working Group. The term 'insurance' rather than 'professional indemnity insurance' offers greater flexibility to changes in the insurance market.</p>	

Draft Code	Notes	Comments
<p>7.5 You are expected to provide evidence of compliance with this Standard in such form as the Board may require.</p> <p><b>Standard 8</b>  <b>Co-operation with regulatory requirements and investigations</b></p> <p>8.1 You are expected to co-operate fully and promptly with the Board, within any specified timescale, if it asks you to provide information which it needs to carry out its statutory duties, including evidence that you are complying with these Standards.</p> <p>8.2 You should notify the Board promptly of any changes in the details held about you on the Register, including your address. Under the Act, architects who do not tell the Board of a change of address may be removed from the Register.</p>	<p>The Architects Act 1997 specifies the requirement to inform the Board of any change in address under Sections 3(2) and 11; however, the inclusion within the Code may help to reduce administrative</p>	

Draft Code	Notes	Comments
<p><b>Standard 9</b>  <b>Safeguarding the Profession's reputation in the public interest</b></p> <p>9.1 You should ensure that your personal and professional finances are managed responsibly.</p> <p>9.2 You are expected to conduct yourself in both your professional and personal life in a way which does not bring either yourself or the profession into disrepute. If you find yourself in a position where you know that you have fallen short of these standards, or that your personal conduct could reflect badly on the profession, you are expected to report the matter to the Board. For example (without limit), you should notify the Registrar within 28 days if you:</p> <ul style="list-style-type: none"> <li>• are convicted of a criminal offence;</li> </ul> <p>are made the subject of a court order disqualifying you from acting as a company director;</p>	<p>problems of incorrect entries on the Register, including preventable removals from the Register.</p>	



Draft Code	Notes	Comments
<ul style="list-style-type: none"> <li>• are made the subject of a bankruptcy order;</li> <li>• are a director of a company which is wound up (other than for amalgamation or reconstruction purposes);</li> <li>• make an accommodation with creditors (including a voluntary arrangement);</li> </ul> <p>fail to pay a judgment debt.</p> <p>The above are examples of acts which may be examined in order to ascertain whether they disclose a wilful disregard of your responsibilities or a lack of integrity.</p> <p>9.3 In appropriate circumstances, you should to report to the Board and/or other public authority another architect whose professional or personal conduct falls short of the expected standards. If you are in doubt as to whether such a report is required, you should consult the Board for guidance.</p> <p>9.4 Where you are appointed as an arbitrator, adjudicator, mediator, conciliator or expert witness and are in receipt of privileged information the Board accepts that your duty in that role may take precedence over any requirement to report breaches of the Code to the Registrar.</p>		

Draft Code	Notes	Comments
<p>9.5 You should not enter into any contract (other than in a settlement of a dispute) the terms of which would prevent any party from reporting an apparent breach of the Code to the Board.</p> <p>9.6 If you attempt to frustrate the investigation of a complaint, for example by making an unreasonable threat of defamation proceedings, this may be regarded as unacceptable professional conduct.</p> <p><b>Standard 10</b> <b>Professional management of your business</b></p> <p>10.1 You are expected to have effective systems in place to ensure that your business is run professionally and that projects are regularly monitored and reviewed.</p>		

Draft Code	Notes	Comments
<p>10.2 You should ensure that adequate security is in place to safeguard both paper and electronic records for your clients, taking full account of data protection legislation, and that clients' confidential information is safeguarded.</p> <p>10.3 You are expected to ensure that before you undertake any professional work you have entered into a written agreement with the client which adequately covers:</p> <ul style="list-style-type: none"> <li>• the scope of the work;</li> <li>• the fee or method of calculating it;</li> <li>• who will be responsible for what;</li> <li>• any constraints or limitations on the responsibilities of the parties;</li> <li>• a statement that you have at least the minimum insurance cover as specified by the Board;</li> <li>• the provisions for terminating the agreement;</li> <li>• your complaints-handling procedure (see Standard 11), including details of any special arrangements for resolving disputes (e.g. arbitration);</li> </ul>	<p>The wording concerning insurance has been included to remind clients that architects hold insurance.</p> <p>This also reflects the recent amendments to the Board's guidance and FAQ's.</p>	

Draft Code	Notes	Comments
<p>10.4 You are expected to ensure that your client agreements record that you are registered with the Architects Registration Board and that you are subject to this Code; and that the client can refer a complaint to the Board if your conduct or competence appears to fall short of the standards in the Code potentially amounting to unacceptable professional conduct or serious professional incompetence.</p> <p>10.5 You should make clear to the client the basis upon which any architectural services required are being provided other than by yourself.</p> <p>10.6 At the end of a contract (if requested) or otherwise upon reasonable demand you should promptly return to a client any papers, plans or property to which the client is legally entitled.</p>		

Draft Code	Notes	Comments
<p><b>Standard 11</b> Deal with disputes or complaints appropriately</p> <p>11.1 You are expected to have a written procedure for prompt and courteous handling of complaints and provide this to clients.</p> <p>11.2 Complaints should to be dealt with by the architect in control and management of the architectural work.</p> <p>11.3 Complaints should be handled courteously and promptly at every stage; and where appropriate in accordance with the following time scale:</p> <ul style="list-style-type: none"> <li>a an acknowledgement within 10 working days from the receipt of a complaint; and</li> <li>b a response addressing the issues raised in the initial letter of complaint within 30 working days from its receipt.</li> </ul>		

Draft Code	Notes	Comments
<p>11.4 If appropriate, you should encourage alternative matters of dispute resolution, such as mediation or conciliation.</p> <p><b>Standard 12</b> <b>Respect for others</b></p> <p>12.1 You should treat all clients and others fairly and in line with the law. You should not discriminate because of disability, age, gender, religion or belief, sexual orientation, race, or any other inappropriate consideration.</p>	<p>This wording has been taken from the Equality &amp; Human Rights Commission and is reflective of current policy expectations.</p>	

A

General Guidance

A Interpretation

B Legal Proceedings

C Leaflets and Advice

A Interpretation

This Code is issued by the Architects Registration Board in accordance with Section 13 of the Architects Act 1997.

Throughout this Code:

- *Architect* has the meaning given to it by the Architects Act 1997.
- *Bank* may also mean a similar institution.
- *Client* means the person or body to whom the architect agrees to supply services or goods.
- *Board* means the Architects Registration Board.
- *Registrar* means the Registrar of the Architects Registration Board.
- *Professional Conduct Committee* means the Professional Conduct Committee of the Board.
- *Disciplinary Proceedings* means proceedings taken in accordance with the Architects Act 1997.

A word in the singular shall be taken as including the plural; and a word in the plural shall be taken as including the singular, unless otherwise specified.

The following sections provide guidance on the Board's approach to complaints which are made in the context of court proceedings or arbitrations. It is not part of the Code.

B Legal Proceedings

1 Parallel Proceedings

The Board may suspend an investigation pending the outcome of civil or criminal proceedings where this is necessary in the interests of justice.

2 Civil or Tribunal Proceedings

It will not automatically lead to disciplinary proceedings if a civil action is successfully brought against you. However, the facts giving rise to a civil suit may result in disciplinary proceedings if they disclose serious professional incompetence or unacceptable professional conduct.

Conduct resulting in proceedings against you relating to your employment of others, whether based on unfair dismissal, disability, age, gender, religion or belief, race

discrimination or otherwise, may amount to unacceptable professional conduct and judicial findings may be evidence in the disciplinary process.

### 3 Criminal Proceedings

The Board does not determine whether or not a criminal offence has been committed and the Board will not assume the responsibilities allocated to the criminal justice system.

If you are acquitted by a court of a criminal charge, you may nonetheless be still subject to disciplinary proceedings arising from the same factual circumstances.

#### Criminal Convictions

A criminal conviction may be materially relevant to your fitness to practise, if, for example (this list is not exclusive):

- a) it constitutes an offence under the Architects Act 1997 or other legislation directly affecting architects;
- b) it arises directly out of your professional activities;
- c) it constitutes an offence of dishonesty;
- d) it otherwise calls into question your integrity.

## C Leaflets and Advice

- 1 The Board does not give legal advice, nor does it become involved in the settlement of disputes. The Board does publish a range of information leaflets about different aspects of its work. If you are in doubt in doubt as to how to act in a particular situation, you should seek independent professional or legal advice.
- 2 You are expected to observe this Code wherever in the world you work. In a country where there are accepted standards of professional conduct for architects, you are expected to (and, if registered there, you should) also conduct yourself according to that country's codes and ethical standards.
- 3 Advice on the appointment of Architects, including the appointment of expert witnesses or advisers in the case of disputes, can be obtained from the Royal Institute of British Architects, the Royal Incorporation of Architects in Scotland, the Royal Society of Ulster Architects, the Royal Society of Architects in Wales, the Association of Consultant Architects, or other relevant professional organisation.