

Subject	Code of Conduct Consultation		
Status	Open		
Purpose	For Decision		
From	Simon Howard, Professional Standards Manager		
History	Parent Committee	First Submitted	Revision Number
	N/A	17/09/2015	1

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1. Purpose

To consider the responses to the consultation on the Architects Code of Conduct, and decide whether ARB needs to issue a revised Code in 2016.

2. Recommendations

It is recommended that the Board does not issue a revised Code of Conduct in 2016.

3. Terms of Reference

Section 13 (1) Architects Act 1997 provides that the Board shall issue a code laying down standards of professional conduct and practice expected of registered persons.

Section 13(2) Architects Act 1997 provides that the Board shall keep the code under review and vary its provisions whenever it considers it appropriate to do so.

4. Open/Confidential

Open Session

5. Contribution to the Board's Purpose and Objectives

In delivering the Act, ARB's objectives are:

Protect the users and potential users of architects' services by providing a clear code setting out what they can expect of an architect, thereby generating confidence in the profession.

Support architects through regulation by providing a clear framework of expected standards of conduct and competence in their professional lives.

6. Key Points

- i. The Architects Code: Standards of Conduct and Practice is a key ARB document, setting out the 12 standards of conduct and competence expected of architects. A copy is at [Annex A](#). Its status is one of guidance, and while it can be taken into

account in the course of disciplinary proceedings, failure to comply with any of the provisions of the Code will not of itself amount to misconduct. The Code is not a set of rules which must be obeyed; nor does it repeat obligations already laid down in general law.

- ii. Paragraph 5 of The Regulators Code¹ provides that Regulators should ensure that clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply. It further says that the advice or guidance should not impose unnecessary burdens in itself.
- iii. The Code of Conduct was last reviewed in 2009, with a new version being published in 2010. In 2015 the Board agreed that it would undertake a consultation and decide whether a new Code should be published in 2016.
- iv. In May 2015 a consultation was launched, seeking interested parties' views on whether a new Code of Conduct was required. There was a healthy response and a summary of the 36 consultees' views is at [Annex B](#).
- v. There was no real consensus from the consultation as to whether or not the Code should be changed, although there were various views on the merits and shortcomings of the current version. The Board may wish to consider the following factors when deciding whether a new Code should be drafted and published in 2016.

Arguments for issuing a new Code of Conduct in 2016

- vi. The Code of Conduct has not been updated since January 2010. It is important that ARB reviews its guidance regularly to ensure that it remains fit for purpose and in line with the best regulatory practice.
- vii. There is an argument to say that to have two codes of conduct for architects is confusing and unnecessary. The ARB and RIBA codes should align to encourage consistency and clarity.
- viii. Changes in laws and regulations (for example the Consumer Contract Regulations and the Alternative Dispute Resolution Directive) mean that there are potentially omissions within the current version of the Code.
- ix. Some consultees have highlighted areas in which the wording of the Code should be strengthened – e.g. in areas of environmental awareness and ethics – while others have submitted that the current version is overly prescriptive.
- x. Many consultees have suggested drafting improvements.

¹ ARB is not bound by the Regulators Code, but has agreed to pay regard to it when making decisions

Arguments against issuing a revised Code in 2016

- xi. ARB is fulfilling its statutory duty to keep the Code under review by undertaking this exercise. Codes, rules and regulations should not be changed unless it is necessary; there are advantages to having a consistent and embedded code so that architects understand what is expected of them, and others know what they can expect of an architect.
- xii. In principle, it is arguable that the core principles of a code should never become out-dated. Honesty and integrity, client welfare, and protecting the reputation of the profession are the cornerstones of any professional code. In contrast the introduction of new laws and regulations is perpetual and it is impractical to suggest that a code should change each time an external development occurs. There is already a mechanism for supplementary guidance to be published and revised when necessary.
- xiii. The ARB and RIBA are distinctive organisations fulfilling different roles. ARB is a statutory body responsible for setting minimum standards for qualifications, conduct and competence for inclusion on the Register. The RIBA is a professional body aiming to promote architecture. It would be inappropriate and probably unworkable for the two to be bound together, not least to the exclusion of other interested parties and bodies. In any event, while the style and wording of the two codes differ, there is little difference in substance.
- xiv. Board members have already been sent examples of codes from other regulators and professional bodies. ARB's current code does not appear to be out of line with these other codes, either in content or style, and it generally aligns to those of the other statutory bodies.
- xv. Changing the Code has logistical and financial implications. In terms of discipline and regulation, the conduct and competence of architects is generally judged against the standards of the Code that was in place at the relevant time. Issuing a new code increases complication in this area. While this in itself is no reason never to introduce a new code, it is a factor to be considered when deciding whether there is enough of a reason to issue new standards.
- xvi. The cost of drafting and printing a new Code is relatively modest; however there will be a substantial cost if it is considered necessary to publicise the new version and provide it to all architects on the Register. This sum is likely to be in the region of £45,000.
- xvii. While numerous amendments have been proposed, there is no consensus among the consultees' responses as to how the Code should change, or indeed whether a new Code is required at all. While modest improvements have been suggested - not least by members of the Professional Conduct Committees and Investigations Pools - no consultee has identified a serious shortcoming within the current version that demands amendment. There may well be areas in which modest drafting changes

would tighten the wording of the Code; however drafting can be a subjective exercise and from the consultation responses the suggested amendments appear to be disparate, and may be considered by the Board to be minor in nature.

- xviii. The principles of better regulation include an expectation that regulations will be predictable, proportionate and only introduced when necessary. To introduce an amended code would place a burden on the profession not only in relation to cost, but in terms of new regulations having to be understood. There is no compelling argument as to why the current Code is no longer fit for purpose, when the Board decided that it was so only five years ago.

7. Risk Implications

The potential advantages and disadvantages of issuing a new Code are discussed within the body of the paper. The main risk of maintaining the status quo is having a Code which is no longer fit for purpose: however there is little evidence to suggest it is so. On the other hand, the risk of changing an effective Code is a potential increase in the regulatory burden for the profession.

8. Resource Implications

It is estimated that reviewing, publishing and distributing the Code would be in the region of £45,000. Given that the recommendation is that this work should not be undertaken, this has figure not been accounted for in the proposed 2016 budget.

9. Communication

An ongoing area of interest within the profession and the public, the Code provides a public statement of the standards expected of architects. Regular reviews of the Code ensure that it reflects current issues and concerns.

10. Growth Duty Considerations

The Growth Duty provides that any regulatory actions must be proportionate and only taken when needed. The considerations on whether indeed a new Code is required are discussed within the body of the paper.

11. Equality and Diversity Implications

Should the Board decide to issue a new Code of Conduct, an impact assessment would need to be undertaken to ensure that any new provisions would not directly or indirectly discriminate.

No Equality and Diversity implications have been identified from keeping the 2010 Code of Conduct, other than those raised by one of the consultees.