



Subject	Code of Conduct Review		
Status	Open		
Purpose	For Decision		
From	Simon Howard, Professional Standards Manager		
History	Parent Committee	First Submitted	Revision Number
	IOC	11/02/2015	1

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### 1. Purpose

To provisionally agree changes to the Architects Code of Conduct and Practice, and issue for consultation.

### 2. Recommendations

It is recommended that the Board:

- i. Provisionally agrees the proposed changes to the Code of Conduct highlighted in [Annex A](#); and
- ii. Undertakes a six week consultation on those changes.

### 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. 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.
- ii. Paragraph 5 of The Regulators Code<sup>1</sup> provides that Regulators should ensure that clear information, guidance and advice are available to help those they regulate meet their responsibilities. It further says that the advice or guidance should not impose unnecessary burdens.
- iii. The Code was last reviewed in 2009, with a new version being published in 2010.
- iv. In May 2015 a consultation was launched, seeking interested parties' views on whether a new Code of Conduct was required. While there was a healthy response to the consultation, there was no real consensus as to how the Code should be revised.
- v. At its meeting in September 2015 the Board decided that there was merit in a detailed review of the Code being undertaken, with a view to a new version being published if necessary revisions were identified.

### The Review

- vi. A detailed review of the 2010 Code has been undertaken by staff and the Investigations Oversight Committee. That review included a detailed assessment of all the consultation responses, and a forensic consideration of the content, language and style of the Code.
- vii. While the review found the 2010 Code to be largely fit for purpose, it does recommend that a number of changes would improve the document. Some of these changes were suggested by the consultees.
- viii. An update is also required as a result of changes in laws and regulations (for example the Consumer Contract Regulations and the Alternative Dispute Resolution Directive).
- ix. The proposed amendments are aimed at clarifying the language used in the Code, leaving less scope for misunderstandings.

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

### The Proposed Changes

- x. The proposed changes are highlighted as tracked changes within the proposed Code at [Annex A](#). The most significant changes have explanatory comment. There is a 'clean' version at [Annex B](#).
- xi. Standard 4.4 of the Code is arguably the most important provision of the Code. The importance of providing adequate terms of agreement before undertaking work cannot be underestimated – it is the root of most disputes and complaints that ARB deals with. The revised Standard 4.4 strengthens the expectation of architects in this area, and reflects the new legal obligations to provide clients with certain information.
- xii. Standard 12 has been expanded to reflect the protected characteristics of the 2010 Equality Act.
- xiii. The proposed stylistic changes are modest. The aim of any changes is to make clear to any architect what the expectation of the Code is, and how it might be achieved. Repetitive and superfluous words have been removed. Where the expectation reflects a legal duty, the word 'should' has been replaced with 'must'.

### Consultation

- xiv. It is proposed that a six week consultation is undertaken on the proposed amendments. This will give sufficient time for any additional information to be considered by the Board in May 2016 before it makes a final decision on publication. The consultation will be publicised via the website, the eBulletin and through social media.

### Distribution

- xv. ARB has previously provided all registrants with a hard copy of any new code published, but this approach may need to be modified with the greater emergence of digital communication.
- 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. Most comparable regulators no longer provide a hard copy of their code of conduct, but instead make it available online. They do however make considerable effort to ensure that registrants are aware of any changes. If the Board does decide that hard copies of any new Code are not required, then steps will need to be taken to make sure that they are properly informed of its existence. Hard copies will need to be available to those who specifically request one.

**7. Risk Implications**

The potential advantages and disadvantages of issuing a new code were discussed by the Board at its September 2015 meeting. The main risk of maintaining the status quo is having a code which is no longer fit for purpose; however the risk of changing an effective code is a potential increase in the regulatory burden for the profession.

**8. Resource Implications**

This work has not been budgeted for. Should the Board agree to change the Code after further consultation, the cost of printing, publishing and distributing a new Code will range between £6,000 and £45,000.

There is a base cost for designing and publishing a Code, with a limited print run. There would be a substantial cost involved in printing in excess of 35,000 copies of the Code and posting them to all architects on the Register.

**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. The additional regulatory burden is considered to the minimum possible in the circumstances.

**11. Equality and Diversity Implications**

The Code sets out the standards and behaviours expected of architects, and so will naturally have Equality and Diversity implications. It is proposed that Standard 12 of the Code is kept, despite it being a legal obligation (which the Code would not normally cover). The review group considers that ARB's duty to promote equality provides a sound reason for this legal obligation to be an exception.

Hard copies of any new Code will be available on request, and consideration will need to be given as to whether different print or language versions should be prepared.