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Architects
Registration Board
of Victoria



Statement of ARBV's Regulatory Approach

June 2024







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Introduction

About us

Established in 1923 the ARBV is a self-funded Victorian public sector entity. It is subject to:

- the general direction and control of the Responsible Minister (Minister for Planning)
- following key whole of government legislation and related policies and guidelines:
 - *Public Administration Act 2004* (including binding codes of conduct and standards)
 - *Financial Management Act 1994 and associated Standing Directions of the Minister for Finance.*

The *Architects Act 1991 (Vic)* establishes the framework for the regulation of architects in Victoria and has as its purposes:

- to provide for the registration of architects;
- to provide for the approval of partnerships and companies providing architectural services;

- to regulate the professional conduct of architects;
- to provide a procedure for handling complaints against architects;
- to regulate the use of the terms “architect”, “architectural services”, “architectural design services” and “architectural design”;
- to establish the Architects Registration Board of Victoria.

Guided by the values of Victorian Public Sector, the ARBV is committed to establishing transparent policies, processes and procedures that ensure it acts in the public interest and that the profession meets the standards prescribed by the regulatory framework.



Our purpose

Our purpose is to protect the community interest and instill confidence in the regulation, integrity and delivery of architectural services in Victoria.

Our responsibilities



Registering and approving regulated entities



Regulating unprofessional conduct, investigating complaints and responding to non-compliance



Coordinating support for the Architects Tribunal in relation to disciplinary proceedings



Protecting and regulating representations as an architect and taking action against prohibited conduct



Architectural course accreditation



About this Statement of Regulatory Approach

This Statement of Regulatory Approach (Statement of Approach) provides an overview of how the ARBV regulates the architectural profession in Victoria.

The Statement of Approach is also intended to help architects, approved partnerships and companies regulated by the ARBV (regulated entities), develop a strong and effective compliance culture.

Relevant legislation

This Statement of Approach covers regulatory activity undertaken by the ARBV in accordance with:

- *Architects Act 1991 Vic (Act)*
- *Architects Regulations 2015 (Regulations)*
- *Victorian Architects Code of Professional Conduct (Code) (as incorporated in the Regulations)*

Guiding principles

The ARBV uses a set of key principles to guide its activities and work towards achieving its regulatory objectives.

Principle	How it guides us
Focus on outcomes	We will provide confidence and trust in the architectural profession and protect the public from harm.
Effectiveness and efficiency	We will ensure the regulatory framework objectives are achieved whilst maintaining innovative approaches.
Proportionate	We will ensure regulatory responses are proportionate to the issue and based on an assessment of risk.
Impartiality and integrity	We will act with integrity to ensure any real or perceived conflicts of interest are avoided.
Consistency and fairness	We will ensure consistent and fair administration of the regulatory framework.
Transparency	We will implement decision-making processes that are open, clear and understandable.
Responsive	We will be responsive to changes in the regulated environment.

A risk-based approach

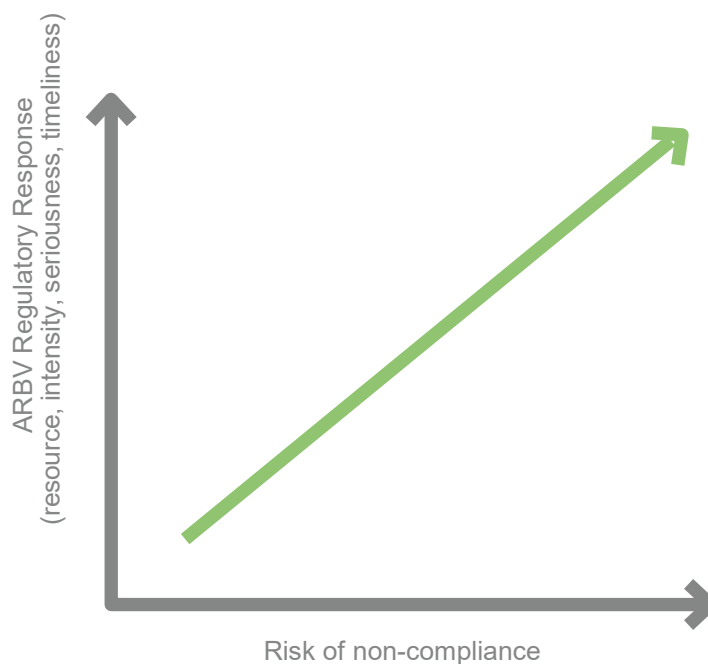
We are committed to taking a risk-based approach to regulation. This means our regulatory activities and resources are focused in areas where the risk of non-compliance – that is, the probability and impact of non-compliance – is greatest.

The higher the risk associated with non-compliance, the more serious, resource intensive and timely our regulatory response.

This approach ensures the objectives underlying the regulatory framework are met, while avoiding undue burden on regulated entities.

The risk-based approach in practice

The ARBV uses a structured “risk-based” process to guide regulatory activities and to determine an appropriate regulatory response. This ensures our response is proportionate with the overall risk of actual or possible non-compliance with the regulatory framework.



The risk-based process to determine an appropriate regulatory response applies to each of the main categories of regulatory activity undertaken by the ARBV:



Registration and approval

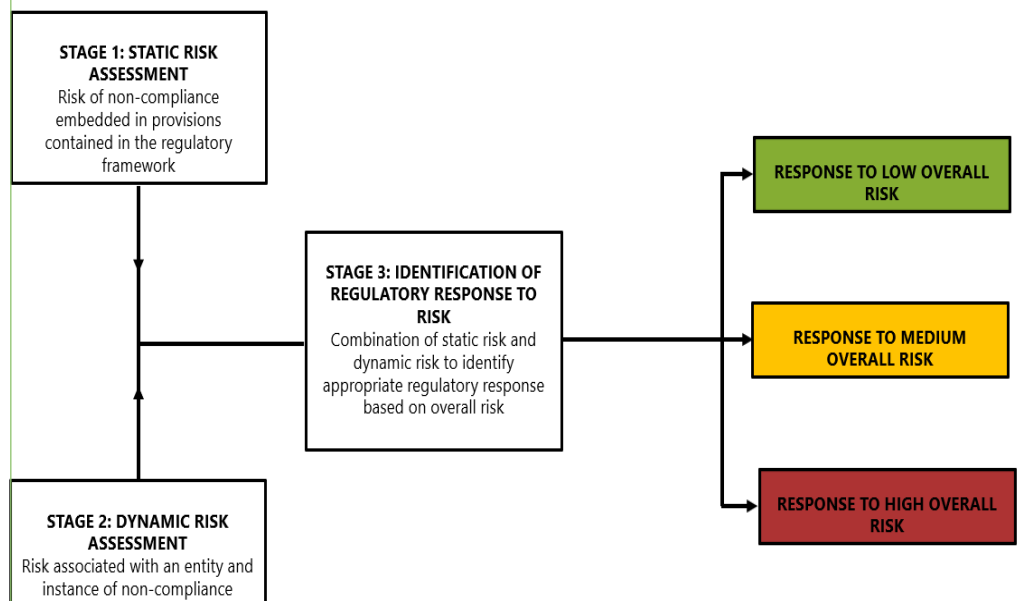


Proactive regulatory activity



Reactive regulatory activity

Regulatory response process



Regulatory activities

The regulatory activities the ARBV undertakes fall into three broad categories.



Registration and approval

Registration of architects and approval of partnerships and companies.

The ARBV receives and assesses applications for registration of architects and approval of partnerships or companies.

The ARBV considers each application, including all information provided or available, and uses its risk-based approach to guide determination of whether to:

- Grant the registration or approval
- Request further information
- Take other regulatory action to mitigate risk, such as issuing directions or suspending or cancelling registration or approval.



Proactive regulatory activity

Regulatory activity taken on the ARBV's own initiative to encourage compliance and detect and/or deter non-compliance.

The ARBV establishes a proactive strategic plan, which helps with early identification of emerging compliance issues and challenges that regulated entities may face in complying with the regulatory framework and outlines how these issues will be addressed.

Proactive activities include:

- Educating regulated entities
- Engaging with regulated entities
- Thought leadership
- Intelligence gathering
- Proactive investigations to investigate possible instances of non-compliance on a proactive basis.

The decision to undertake proactive regulatory activity is informed by the ARBV's risk-based approach. This includes consideration of the relative risk of non-compliance associated with particular categories of compliance obligations and categories of regulated entities.

If proactive regulatory activity leads to the identification of an actual or possible non-compliance, the ARBV may undertake reactive regulatory activity.



Reactive regulatory activity

The ARBV's response to an actual or possible instance of non-compliance with the regulatory framework.

The ARBV undertakes reactive regulatory activity to respond to instances of non-compliance. It can result from:

- Complaints made to the ARBV by another regulator, client or user of architectural services, or other member of the public
- Detection of non-compliance through other activities undertaken by the ARBV, including proactive regulatory activity.

The ARBV's risk-based approach is used to guide determination of the appropriate regulatory response to instances of non-compliance.

The ARBV's reactive regulatory activity may include:

- Education and engagement
- Advice or warning
- Referral to the Architects Tribunal for an inquiry where it has concerns about an architect's fitness to practise and/or professional conduct
- Other regulatory action to mitigate risk, such as suspending or cancelling registration or approval
- Institution of prosecution proceedings.

If an architect does not meet the required professional standard of conduct, they may be subject to disciplinary action and a summary of architects found guilty of unprofessional conduct by the Architects Tribunal is published on the ARBV website. Architect Tribunal decisions and reports of prosecutions are also published on the ARBV website.

Complaints

Complaints can be made to the ARBV about an architect's professional conduct and people or bodies that are not registered or approved by the ARBV but represent as architects.

Information about how to make a complaint is available on the ARBV website and can also be obtained by telephone enquiry. The information published on the website includes information about what types of complaints can be made and guidance to complainants about providing information in support of their complaint. The ARBV's procedures for handling complaints and investigations are also outlined.

Regulatory powers

The ARBV is granted a range of powers under the regulatory framework.

These include the authority to grant registration (for individuals) and approval (for companies or partnerships) and to undertake proactive and reactive regulatory activities. Our powers for each type of regulatory activity are outlined on the following pages.



Registration and approval

a. Grant registration and approval

The ARBV may register an applicant as an architect if it is satisfied that the applicant is eligible to be so registered.¹ A person is eligible to be registered as an architect if the person:

- is a fit and proper person having regard to a range of probity matters;²
- has been engaged for not less than two years on practical architectural work and has attained a “standard of professional practice” satisfactory to the ARBV;³ and
- holds a “prescribed qualification” or has passed a “prescribed course of study” and completed a period of five years in gaining professional knowledge in architecture to the satisfaction of the ARBV.⁴

The ARBV may approve a partnership if at least one of the partners is an architect who is covered by insurance required under the Act.⁵

The ARBV may approve a company if it is satisfied that:⁶

- the company’s constitution provides that one of the purposes of the company is the practice of architecture; and
- at least one director is an architect who is covered by insurance required under the Act.

b. Refusal of application for registration or approval

The ARBV may refuse to grant an architect registration or approve a partnership or company if it is not satisfied that the eligibility criteria have been met.⁷

c. Request information

The ARBV may request further information or material in relation to applications for registration or approval.⁸

d. Issue directions

The ARBV may issue directions necessary to ensure that:

- A partnership complies with the requirement that at least one of the partners is an architect who is covered by insurance required under the Act⁹
- A company complies with the requirements that the company's constitution provides that one of the purposes of the company is the practice of architecture and/or at least one director is an architect who is covered by insurance required under the Act.¹⁰

e. Suspend registration or approval

The ARBV may suspend registration of an architect in a range of circumstances, including:

- Failure to pay annual fees for registration without reasonable excuse¹¹
- An architect has ceased to be a fit and proper person¹²
- An architect has been convicted of certain indictable offences or has been the subject of adverse disciplinary actions by the ARBV or Tribunal¹³
- Failure to comply with insurance requirements.¹⁴
- Failure to comply with obligations concerning continuing professional development.¹⁵

The ARBV may suspend approval of a partnership or company in the following circumstances:

- Failure to pay annual fees for approval¹⁶
- Failure to meet criteria for approval of a partnership or company¹⁷
- Failure to comply with directions issued by the ARBV.¹⁸

f. Cancel registration or approval

The ARBV may cancel registration of an architect without a disciplinary inquiry being held by the Architects Tribunal if the qualification which made an architect eligible to be registered has been withdrawn.¹⁹

The ARBV may cancel approval of a partnership or company for failure to meet the criteria for approval of a partnership or company.²⁰



Proactive regulatory activity

a. Educate and assist

The ARBV has power to educate and assist regulated entities to comply with the regulatory framework. More specifically, the ARBV has the power to:

- Publish information relating to the operation of the Act²¹
- Prepare guidelines on professional conduct and practice.²²

b. Investigate

The ARBV has power to proactively investigate offences under the Act²³, even in the absence of a complaint or clear evidence of non-compliant conduct.

c. Information-gathering powers

ARBV has the power to give a person a notice requiring the person to provide information of documents to, among other things, identify and assess actual or possible non-compliance.²⁴

d. Powers and functions necessary to implement the Act

The ARBV has a general power that can be exercised where “necessary to implement the Act,”²⁵ which authorises a range of proactive regulatory activities like intelligence-gathering.

The ARBV has developed a risk-based proactive strategic plan which focuses on addressing categories of compliance issues and regulated entities that pose the greatest risk.



Reactive regulatory activity

a. Written advice on compliance

The ARBV has power to provide written advice to an architect on compliance when it has determined that an inquiry by the Architects Tribunal should not be held into the architect's fitness to practise or professional conduct.²⁶

The advice may relate to a practice or conduct that the ARBV reasonably believes:²⁷

- Does not comply with guidelines it has issued on professional conduct and practice
- Does not comply with the Act or the Regulations
- Affects an architect's fitness to practise
- Amounts to unprofessional conduct.

b. Investigation and prosecution

The ARBV has power to investigate and institute prosecution proceedings for breaches of offence provisions.²⁸

c. Referral to the Architects Tribunal for disciplinary proceedings

The ARBV may, on its own initiative (or on the complaint of any person), determine that an inquiry should be held into an architect's fitness to practise or professional conduct.²⁹ Each inquiry is conducted by an Architects Tribunal constituted under the Act.³⁰

Following an inquiry, the Architects Tribunal may take action if it finds that:³¹

- The architect is careless or incompetent in his or her practice

- The professional standards of the architect are demonstrably lower than the standards which a competent architect should meet
- The architect is guilty of unprofessional conduct
- The architect has breached or failed to comply with any provision of the Act or relevant provisions of building legislation
- The architect has been convicted of an indictable offence
- The registration of the architect has been obtained by fraud or misrepresentation or concealment of facts.

The Architects Tribunal may make one or more of the following determinations if it has made one or more findings against an architect:³²

- Caution the architect
- Reprimand the architect
- Require the architect to undertake further education and complete it within a specified period
- Impose a condition or limitation on the architect's registration relating to the architect's practice
- Impose a penalty
- Suspend the architect's registration for a specified period
- Cancel the architect's registration.

d. Refer for mediation

In cases where a complaint has been made about an architect's fitness to practise or professional conduct, the ARBV can refer the matter to mediation if it considers it appropriate to do so³³ and if the person making the complaint and the architect concerned consent.³⁴

The importance of voluntary compliance

The ARBV is prepared and eager to work with architects, approved companies and partnerships to support their efforts to comply with the regulatory framework and, thereby help ensure that regulatory standards and requirements are achieved. In fact, a core aspect of the ARBV's approach to proactive regulation is to provide regulated entities with education and assistance to enhance compliance with the regulatory framework.

Nevertheless, architects, approved partnerships and approved companies are ultimately responsible for complying with their obligations under the regulatory framework.

Proactive steps by the profession to identify and address any potential or actual non-compliance avoid the need for the ARBV to take regulatory action.

Each entity covered by the framework is encouraged to consider and review their regulatory compliance through regular review of their policies, systems and processes.

Appendix: References

1. Section 11(a) Act.
2. Sections 10 and 10A Act.
3. Regulation 13 provides that, for the purposes of determining whether the standard of professional practice has been attained, the ARBV must have regard to the successful completion of the Architectural Practice Examination.
4. Regulations 14, 15 and 16 contain details regarding prescribed qualifications and prescribed courses of study.
5. Section 13(1) Act.
6. Section 14(1) Act.
7. The eligibility criteria are set out in sections 10 for registration of architects, 13(1) for approval of partnerships and 14(1) for approval of companies.
8. Section 9(3) Act in relation to application for registration of an architect and section 12(4) of Act in relation to application for approval of a partnership or company.
9. Section 13(3) Act.
10. Section 14(4) Act.
11. Section 15(2) Act. Annual fees are prescribed in Regulation 20.
12. Section 36A(1)(c) Act.
13. Section 36A(1)(d) and (e) Act.
14. Section 36A(1)(f) Act.
15. Section 36A(1)(g) Act.
16. Section 15(3) Act. Annual fees are prescribed in Regulation 20.
17. Section 37(2) Act for approved partnership and section 37(3) Act for approved company.
18. Section 37(1) Act.
19. Section 36 Act.
20. Section 37(2) Act for approved partnership and section 37(3) Act for approved company.
21. Section 46(1)(j) Act.
22. Regulation 7.
23. Section 46(1)(k) Act.
24. Section 17B Act.
25. Section 46(1)(l) Act.
26. Regulation 8(1).
27. Regulation 8(2).
28. Sections 46(1)(k) and 63 Act.
29. Section 18 Act.
30. Section 19 Act.
31. Section 32 Act. In some circumstances, action may also be taken if an architect has failed to ensure a building permit has been issued and is in force under the *Building Act 1993*.
32. Section 32 Act.
33. Section 18A(1) Act.
34. Section 18A(2) Act.



Contact us

For more information about the ARBV, or support on regulatory matters, please contact us:

03 9417 4444
registrar@arbv.vic.gov.au

Level 10, 555 Little Lonsdale Street
Melbourne VIC 3000

www.arbv.vic.gov.au