



Policy on Referral to Inquiry by Architects Tribunal

Preamble

The Architects Registration Board of Victoria (“the Board”) has approved and published this policy on its approach to referrals of matters for inquiry by Architects Tribunal for the information of the public and architects. This policy does not replace the Act or Regulations, and the Board retains discretion within the legislation to make its decisions. The Board believes that there is benefit in explaining, in general terms, how it arrives at its decisions.

Section 18 (1) of the *Architects Act 1991* (“the Act”) provides that the Board, “on its own initiative or on the complaint of any person, may inquire into an architect’s fitness to practice or professional conduct”.

References to Regulations refer to the *Architects Regulations 2004*, which came into effect in May 2004. Conduct by architects prior to that time was governed by the *Architects Regulations 1993*, and Board decisions guided by a previous version of this *Policy on Referral to Inquiry by Architects Tribunal*.

Referrals to Tribunals

- (1) The Board will not normally refer a complaint to a Tribunal for inquiry where the Board is satisfied that—
 - (a) the complaint is vexatious; or
 - (b) the complaint is trivial; or
 - (c) the public interest would not be served by such a referral; or
 - (d) the evidence before the Board does not establish a sufficient case to answer such that a Notice may be drawn up setting out the particulars against an architect; or
 - (e) a breach of one of regulations 12 or 13 is the only ground alleged.
- (2) The Board will normally refer a matter to a Tribunal where it is satisfied that—
 - (a) sufficient evidence has been presented, and which is not refuted substantially by the architect’s explanation, supporting an allegation of a breach of the Act or regulations such that a Notice can reasonably be drawn up; or

- (b) an architect appears to have failed to comply with any part of Regulation 14; or
 - (c) an architect generally appears to have failed to comply with regulations 6 and 7, or has acted in such a way as to indicate an unresolved conflict of interest under one or more of regulations 7(b), 8, 9, 10 and 11; or
 - (d) an architect, having apparently made an error in documentation, certification or contract administration, and having been given a reasonable opportunity to rectify that error, has apparently failed to do so to the satisfaction of the complainant, and in accordance with contract provisions.
- (3) Where an architect, without good and sufficient reason, fails or declines to respond to any complaint before the Board within the time specified by the Board, the Board will normally draw a Notice and refer the complaint for inquiry by a Tribunal, and will advise the architect that the Tribunal itself is required to observe principles of natural justice as provided for in the Act section 30.

[The Board adopted this Policy on 10 August 2004.]