

STRENGTHENING COMPLIANCE CULTURE IN THE ARCHITECTURE SECTOR

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ABBREVIATIONS AND DEFINITIONS

ABBREVIATION/ DEFINITION	TERM
ACCC	Australian Competition and Consumer Commission
APE	Architectural Practice Examination
ARBV	Architects Registration Board of Victoria
Act	<i>Architects Act 1991 (Vic)</i>
Code of Professional Conduct	Code of Professional Conduct, which is a schedule to the <i>Architects Regulations 2015</i>
CMS	Compliance Management System
CPD	Continuing Professional Development
CSV	Cladding Safety Victoria
D&C	Design and Construct
Financial Services Royal Commission	Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
NCC	National Construction Code
NSCA	National Standard of Competency for Architects
RAIA	Australian Institute of Architects (or ‘the institute’)
Regulations	<i>Architects Regulations 2015 (Vic)</i>
regulatory framework	Regulatory framework applicable to the architecture profession and the provision of architectural services in Victoria, comprising the <i>Architects Act 1991</i> , the <i>Architects Regulations 2015</i> and the Code of Professional Conduct

EXECUTIVE SUMMARY

Overview

1. This report examines compliance culture in the architecture sector – why it matters, what a strong compliance culture looks like in practice, and how compliance culture can be strengthened.
2. Architects operate in a highly regulated and complex environment. A strong compliance culture is essential not only for upholding professional standards, but also for reinforcing the integrity and reputation of the profession.
3. This report draws on the insights of architects, regulators, insurers, educators and industry leaders to deepen understanding of and enable enhancement of compliance culture across the architecture profession.
4. As context, the report defines compliance culture and describes what a strong compliance culture looks like in practice for sole practitioners and small architectural firms, as well as larger firms.

Why does compliance culture matter?

5. Architects are professionals and, as such, they are held to high standards by their clients, the public and professional peers.
6. In their capacity as professionals, architects are entrusted with responsibilities that affect a wide range of important societal values, including safety, environmental sustainability, cultural heritage, as well as economic efficiency and productivity.
7. Architects have a vested interest in upholding professional standards and complying with their legal and ethical duties and obligations. Doing so helps to build trust and protect their reputation among clients and the public and distinguish architects from other building designers. It also avoids disciplinary action or other regulatory sanction for non-compliance.
8. More generally, a shared commitment within the architecture profession to comply with professional obligations, adhere to ethical standards, and strive for best practice helps to reinforce the credibility, reputation and the legitimacy of the entire profession.
9. As regulator of the architecture profession in Victoria, compliance culture within the profession is also of critical importance to the ARBV.
10. Non-compliance with the regulatory framework applicable to architects and architectural firms may lead to harm, such as poor client-architect relationships, designs that do not meet clients' needs, and building defects that create safety hazards.
11. The ARBV considers that a focus on compliance culture is essential because it enables the underlying attitudes, values, and behaviours that shape how architects and architectural firms

approach compliance with their regulatory obligations to be addressed. This approach assists the ARBV to move beyond dealing with isolated breaches of the regulatory framework on a reactive basis to proactively addressing the underlying drivers of non-compliance. More specifically, it enables the root causes of non-compliance to be targeted so that compliance issues can be pre-empted and prevented.

What does a strong compliance culture look like in practice?

12. Underlying architects' status as professionals is a set of overarching duties that are grounded in law and ethics. These overarching duties have evolved to protect clients, the public and the profession from harm.
13. The overarching duties rise above the detailed compliance obligations that must be discharged to avoid regulatory sanction and transcend firm sizes, types of projects and procurement arrangements. They apply universally to all architects and go to the very heart of what it means to be a professional.
14. Critically, the overarching duties also underpin a strong compliance culture. When architects understand and accept these overarching duties, they are more likely to embed compliance into their everyday actions and decisions.
15. This report includes guidance to assist architects to discharge these overarching duties. The guidance has been tailored for sole practitioners, small firms and larger firms.
16. By understanding and embracing the overarching duties, architects lay the foundation for a strong compliance culture that protects clients, users and communities they serve from harm.
17. Compliance with these overarching duties also reinforces confidence and trust in the profession and contributes to safe, high-quality built outcomes.

How can compliance culture be strengthened?

18. Evidence considered for this report indicates that architects generally demonstrate a strong commitment to compliance. However, this commitment may be undermined by project complexities, unclear roles and responsibilities, and commercial pressures, including but not solely in the context of D&C procurement.
19. In addition, regulatory complexity and change may make it difficult for architects to maintain compliance. Further, while CPD is valued by the profession, compliance with CPD requirements is inconsistent.
20. There is also evidence suggesting that some architects may be more vulnerable to non-compliance when providing partial or limited services, particularly if they are unaware of their contractual obligations and limitations, or lack a clear understanding of their professional duties in this context.

21. Despite these challenges, this report outlines practical ways architects can integrate compliance into their professional practice.
22. A strong compliance culture is built on understanding and valuing the contribution that regulatory compliance makes to important outcomes for clients, the public and the broader profession.
23. Practical compliance tools that are tailored to the nature and scale of architectural practice can be used to embed a compliance-minded approach. Ongoing education about compliance issues and transparency about non-compliance when it occurs are critical, alongside a commitment to continuous improvement.
24. In addition, it is important for architects to consistently turn their mind to compliance, even if they believe that the primary responsibility for doing so rests elsewhere or that their responsibility for compliance is confined (e.g. because they are providing partial services).
25. These mechanisms can help architects to internalise their overarching duties and, thereby, conduct their practices lawfully and with integrity.
26. As regulator, the ARBV also plays an important role to enhance compliance culture within the architecture sector by complementing efforts made by architects themselves.
27. The ARBV will use the key findings in this report to strategically identify the mix of regulatory tools to guide meaningful cultural change and secure positive compliance outcomes in the long-term.

A call to action

28. This report serves as a call to action – not just for architects and architectural firms, but for all participants in the broader construction sector.
29. The construction sector is fragmented, with many different players including clients, developers, designers, engineers, builders, certifiers and product suppliers. Positive cultural change will only take root if all participants in the construction sector collectively and collaboratively commit to compliance across the sector.
30. Even though improving compliance culture is not the responsibility of one profession alone, architects can lead by example. By doing so, they help raise standards across the construction sector and ensure that the buildings they design are not only beautiful and functional, but also safe, high-quality, lawful, and built on a foundation of ethical integrity.



ABOUT THE REPORT

A joint working group comprising the following representatives from the ARBV were involved in the preparation of this report:

Dr Giorgio Marfella	Board Chairperson
Sally Brincat	Board Deputy Chairperson
Mark Curry	Board member
Tim Leslie	Board member
Michael Leeton	Board member
Dr Glenice Fox	CEO and Registrar
Fiona Gjoni	Deputy Registrar
Shane Pearse	Manager, Strategy, Governance and Projects

Preparation of the report was facilitated by Dr Dariel De Sousa, Director of Dart Legal & Consulting.

PREFACE

This report is the outcome of research funded by the Architects Registration Board of Victoria (**ARBV**), with the objective of reinforcing the significance of the overarching duties and culture that define professionalism among architects.

It originates from the proactive regulatory efforts of the ARBV, which, consistent with its 2022-26 Strategic Plan and Ministerial Statement of Expectations, aim to prevent unprofessional conduct through industry-wide intelligence gathering, guidance, and education for architects, clients, and end-users. This research also builds upon prior studies conducted by the ARBV in collaboration with the NSW Architects Registration Board, which culminated in the release of the *Systemic Risks in the Australian Architecture Sector* report in 2022 and its follow-up *Deep Dive into Systemic Risks in the Architecture Sector* report in 2024.

This research was conducted by the ARBV with a dual purpose. Firstly, it provides insights that will guide us in our role as regulator to prevent and mitigate instances of non-compliance among Victorian architects. Secondly, it aims to directly assist architects in fostering a professional mindset that is rooted in a culture of regulatory compliance reflected in their day-to-day practice.

While the study originates in Victoria and primarily focuses on it, its implications extend beyond regional boundaries to national and international contexts. Architects across Australia are regulated under a consistent framework, with Victoria as the jurisdiction with the highest number of registered architects – many of whom deliver services nationwide from Victoria. Moreover, the report’s reflections on professionalism are holistic and grounded in long-standing common law principles that apply not only to architects as globally mobile professionals, but also inform broader notions of professionalism across other fields.

Consistent with prior research conducted by the ARBV, this study is evidence-based, drawing in this case from a desktop review of academic literature, data available to the ARBV through its regulatory activity, and fieldwork comprising a survey of Victorian architects as well as consultation with industry experts, stakeholders and representatives of other Victorian regulatory authorities.

At the heart of this study is the demonstration of how a commitment to compliance with certain “overarching duties” is fundamental to fostering a strong compliance culture within the architecture profession. This commitment, in turn, supports an ethical mindset in the provision of architectural services that is critical for delivering public value and protecting the public interest in a highly complex built environment context.

Among the many interpretations of the term “culture”, this study adopts a view that culture is not an abstract idea, but the convergence of values, attitudes, habits, assumptions, expectations, and aspirations that surface in daily behaviour. In this context, culture forms the foundation of practice, and a culture of compliance is essential for fulfilling the duties of professional conduct in architecture

The report is structured into seven discrete chapters, which examine aspects of professional culture, regulatory obligations and compliance, and compliance tools from various angles of inquiry, ranging from general considerations that define professionalism as a concept underpinned by overarching duties, to

specific applications for architectural practice. These chapters are supplemented by some conclusions about the key themes emerging from the research and their significance for the architecture profession and the broader construction sector.

To reinforce the practical implications of a compliance-oriented culture, a series of case studies illustrates how overarching duties are applicable to architects in everyday situations and at different project scales. While fictional in nature, these case studies are informed by realistic scenarios, grounded in the regulator's first-hand understanding of common non-compliance risks and incidents.

This report is the product of collaborative work facilitated by Dart Legal and Consulting, with contributions from a working group of ARBV staff and Board members. A warm note of gratitude is owed to Dr Dariel De Sousa for leading the effort, including fieldwork, and coordinating inputs over several workshops and drafts. A special note of appreciation is extended to the ARBV CEO and Registrar Dr Glenice Fox, Deputy Registrar Fiona Gjoni and Manager of Strategy, Governance and Projects Shane Pearse for their inputs as well as management of the project, and to Board members Mark Curry, Michael Leeton, Sally Brincat and Tim Leslie for sharing their expertise, knowledge, and input in the shaping of the report and all Board members of the ARBV for their support in establishing and funding the research.

The ARBV is especially grateful to Bronwyn Weir for contributing to this report with a foreword that emphasises the importance of the proactive role that regulators, like the ARBV, and architects play by contributing to broader discussions on raising confidence in the Australian building industry.

Finally, sincere thanks to the participants of the focus group and to the more than 500 Victorian architects who took the time to complete the survey that informed several findings of this study. Their perspectives reflect a professional care that has been invaluable in developing this report and will continue to inform the ARBV's regulatory commitment to protecting the Victorian public and supporting the profession to maintain high standards of professional conduct and practice.

Giorgio Marfella | Chairperson ARBV

FOREWORD

In 2017 I was co-appointed by Australian governments to conduct a review of building compliance frameworks across Australia. At that time, I had been advising the ARBV and many other building regulators for 20 years. This made me acutely aware that the erosion of design quality over many years was a strong factor contributing to the systemic failures in Australia's building regulatory systems.

Concerns about adequacy of design cannot be fully addressed by laying this issue at the feet of architects, engineers or designers. Over a period of 30 years, the introduction of performance based design, the emergence of design and construct procurement methods and the privatisation of the building approvals process has resulted in a diminished contribution from architects and engineers to the design and construction process. This has manifested in less detailed design and limited competency of design professionals in understanding the requirements of the National Construction Code.

The publication of the Building Confidence Report, subsequent reforms in some jurisdictions and the fall-out of the cladding crisis have provided architects with a valuable opportunity to review their role and reset their value proposition.

Now has never been a more important time for architects to reflect on and explore the culture of their profession. This report, "Strengthening the Compliance Culture in the Architecture Sector", considers professional workplace culture with a focus on compliance – exploring what a compliance culture is, why it is important, the extent to which it exists amongst Victorian architects and how to strengthen it.

The existence of a genuine compliance culture is essential to any profession that seeks trust and confidence from its clients and the community. The investment in the development of this very thorough and diligent report by the ARBV is to be commended.

Not only does the report provide an opportunity for self-reflection, it also offers the ARBV thoughtful guidance on its role as the regulator of the profession of architects. The report articulates the dual roles of the regulator - to bring accountability to those who are non-compliant whilst also promoting examples of strong compliance culture to provide a benchmark for what "good" looks like for others to aspire to.

It is essential for regulatory bodies to deeply understand the entities that they regulate. This report informs that understanding and in doing so, offers suggestions to architects on strategies to improve compliance culture using case studies.

This report will stand as a body of work that can inform the ARBV and its counterparts in other jurisdictions. It is also recommended reading for other occupational licensing bodies and professional associations that engage with building industry professionals.



Bronwyn Weir

Director Weir Legal and Consulting & Co-author of the Building Confidence Report

1 BACKGROUND AND OVERVIEW

A. Overview

Objective of chapter:	<ul style="list-style-type: none">› To provide background for this report on strengthening compliance culture within the architecture sector.› To outline relevant prior research and provide an overview of the regulatory context for the report.
Importance:	<ul style="list-style-type: none">› This report will form the foundation for future ARBV initiatives to strengthen compliance culture within the architecture sector.
Key insights:	<ul style="list-style-type: none">› Under the regulatory framework, architects are held to high standards of practice and behaviour to minimise the risk of harm.› Non-compliance by architects with their professional obligations may result in:<ul style="list-style-type: none">› poor client-architect relationships;› designs that do not meet clients' needs or have adverse environmental or social impacts; and› building defects that create safety hazards or cause financial loss due to project delays or remedial work.› Prior research indicates that there are segments of the profession that could benefit from guidance about compliance with the regulatory framework. That research also tends to confirm that the compliance culture across the broader construction sector could be strengthened.› A focus on compliance culture, which goes to the root causes of non-compliance, is necessary to drive lasting change.
Implications for architects and architectural firms	<ul style="list-style-type: none">› Architects need to be aware of, understand, and ensure compliance with their obligations under the regulatory framework.› They should rely on those obligations in advocating a stronger compliance culture in the broader construction sector.

B. Introduction

1. As regulator of the architecture profession in Victoria, the Architects Registration Board of Victoria (**ARBV**) is alert to the state of compliance culture within the architecture sector.
2. Compliance culture relates to the attitudes and behaviour of individuals and firms towards adherence to the law, as well as compliance with professional and ethical standards. A sector that is characterised by a weak compliance culture can lead to widespread breaches of the regulatory framework. Non-compliance can cause harm.
3. For the architecture sector, harm may be experienced by clients and users of architectural services in the form of:
 - › poor client-architect relationships;
 - › designs that do not meet clients' needs or have adverse environmental or social impacts; and
 - › building defects that create safety hazards or financial losses from remedial work or project delays.
4. These harms could undermine trust in architects and erode confidence in the profession.
5. The importance of regulatory oversight of sectoral culture to prevent harm was emphasised by Commissioner Hayne in the context of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (**Financial Services Royal Commission**). Commissioner Hayne noted that, historically, regulators have only given limited overt attention to the link between culture and conduct. Instead, instances of non-compliance are generally dealt with when they come to light without adequate consideration of systemic issues that may underlie them.¹
6. In contrast, by promoting a strong compliance culture, the ARBV hopes to ensure alignment between the important values of professionalism, integrity and ethical conduct that underpin the Victorian Architects Code of Professional Conduct (**Code of Professional Conduct**) with the attitudes and conduct of architects and architectural firms.
7. This report will form the foundation for future ARBV initiatives to strengthen compliance culture within the architecture sector. This chapter provides context for the report.

¹ *Final Report - Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* (2019), at 383.

C. Regulatory context

8. The regulatory context for the provision of architectural services is an important starting point in understanding what compliance means in practice for architects and architectural firms, as well as the ARBV's role to strengthen compliance culture in the architecture sector.

The regulatory framework applicable to architects underpins the achievement of important outcomes

9. In Victoria, architects, architectural firms and the provision of architectural services are regulated under:
- › the *Architects Act 1991 (Vic)* (**Act**);
 - › the *Architects Regulations 2015 (Vic)* (**Regulations**); and
 - › and the Code of Professional Conduct, which is a schedule to the Regulations.
10. Collectively, the Act and Regulations are referred to in this report as the “**regulatory framework**”.
11. The primary objective of the regulatory framework is to protect the public interest by ensuring that buildings are designed by architects who are appropriately qualified and experienced. This protection is achieved through two main types of compliance obligations, which are imposed under the regulatory framework and summarised below:
- › *Professional standards*: Architects are required to achieve the standards of professional conduct set out in the regulatory framework, particularly the Code of Professional Conduct.
 - › *Protection of title*: Only persons who have been registered or firms who have been approved by the ARBV can represent themselves to the public as an architect or approved company or partnership providing architectural services.
12. Non-compliance with these compliance obligations can have serious consequences. Apart from the sanctions that may apply under the regulatory framework, a building design that fails to meet applicable regulatory requirements could lead to building defects. There may also be safety, financial, legal and reputational consequences for clients and users of architectural services, the architecture profession, other participants in the construction sector, as well as the broader community.

Architects are held to high standards regarding their practice and behaviour under the regulatory framework to minimise the risk of harm

13. In order to minimise the potential for harm from sub-standard architectural practice and services, architects and architectural firms are held to high standards under the regulatory framework.
14. This is achieved through extensive educational and professional requirements, such as those contained in the National Standard of Competency for Architects (**NSCA**), which must be satisfied in order to become registered as an architect.

15. Once registered, architects must continue to meet standards of practice by complying with the Code of Professional Conduct and “all applicable laws”, which includes the National Construction Code (NCC).
16. Architects are also required to maintain their skills and knowledge through compliance with Continuing Professional Development (CPD) requirements.²
17. These requirements help to provide clients, users of architectural services and the public with confidence in architects, architectural firms and the provision of architectural services and protect them from harm.

D. Prior research

Prior research indicates that there may be segments of the profession that could benefit from guidance about compliance

18. The catalyst for this report was the emergence of evidence indicating that there is room for improvement regarding the attitude and approach of at least some architects and architectural firms towards their compliance obligations under the regulatory framework.
19. Research undertaken by the ARBV and the NSW ARB about systemic risks in the Australian architecture sector – reflected in [Systemic Risks in the Australian Architecture Sector](#) (2022) and [Deep Dive into Systemic Risks in the Architecture Sector](#) (2024) – indicated that there may be segments of the profession that could benefit from guidance to ensure compliance in the various practical contexts in which architectural services are provided.

Prior research also indicates that compliance culture across the broader construction sector could be strengthened

20. Work undertaken by other bodies shows that compliance culture among architects, but also within the broader construction sector, could be strengthened.
21. The 2018 [Building Confidence Report](#) referred to suggestions that “a large number of practitioners operating across the industry either lack competence, do not properly understand the NCC and/or have never had proper training on its implementation”.³ Of relevance to architects, the report noted evidence of the poor quality of design documentation.⁴
22. A more recent research report issued by Cladding Safety Victoria (CSV) in 2024 about [Compliance in Building Design](#) referred to widespread misapplication of regulatory requirements in relation to

² Section 15B of the Act and [ARBV Guideline on Continuing Professional Development](#) prepared under regulation 7 of the Regulations.

³ P. Shergold and B. Weir, *Building Confidence: Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia* (2018), at 3.

⁴ Ibid. p. 4.

external wall cladding by a range of professionals involved in the design and certification of buildings, including but not limited to architects.⁵

23. The CSV's 2024 research report on [Non-cladding Defects on Class 2 Buildings](#) noted a significant number of non-cladding related building defects arising from poor architectural design, defective construction due to poor workmanship by trades under the supervision of builders, or maintenance issues.⁶

A focus on compliance culture, which goes to the root causes of non-compliance, is necessary to drive lasting change

24. Clearly, there are limits to the prior research that has already been undertaken. These limits include a narrow evidence base linked to specific contexts in which non-compliance has been assessed and a lack of thorough exploration of the broader circumstances and causes of non-compliance. Importantly, prior research has not yet fully considered nor documented the contribution of other sectoral participants and procurement contexts to non-compliance by architects and architectural firms.
25. Despite these limits, this report is based on the premise that compliance issues do exist within the architecture profession. This premise is supported by the complaints and cases about architects' unprofessional conduct that are routinely investigated by the ARBV. Notably, there may also be other cases that are never brought to the ARBV's attention.
26. In this light, the ARBV considers that a focus on compliance culture is essential. This approach, which addresses the root causes of non-compliance, is necessary to drive lasting change. It involves a greater focus on understanding and addressing the underlying attitudes, values, and behaviours that shape how architects and architectural firms approach compliance with their regulatory obligations, rather than simply enforcing the regulatory framework when non-compliance arises.

E. Purpose of this report

27. As mentioned above, this report will form the foundation for future ARBV initiatives to strengthen compliance culture within the architecture sector.
28. The specific objectives are to:
- › clarify what compliance culture is and why a strong compliance culture is important;
 - › identify overarching duties owed by architects that underpin a strong compliance culture;
 - › improve understanding of the current compliance culture within the Victorian architecture sector;
 - › provide practical guidance for architects to strengthen compliance culture;
 - › identify regulatory tools that can be used to enhance compliance culture; and

⁵ Cladding Safety Victoria, *Research Analysis No. 1: Compliance in building design* (2024), at 2.

⁶ Cladding Safety Victoria, *Research Analysis No. 2: Non-cladding building defects* (2024), at 2.

- › highlight the tangible actions that can be taken by architects, the ARBV and other relevant sectoral participants and regulatory bodies to strengthen compliance culture in the architecture sector and the broader construction sector.

F. Approach

29. This report is based in part on a desktop analysis of relevant reports, academic literature, complaints and non-compliance data, and case law.
30. The desktop analysis has been supplemented with the following fieldwork:
 - › a focus group with key participants from the architecture and broader construction sectors (see **Attachment A** for a list of the focus group participants); and
 - › a survey of architects registered by the ARBV.
31. The questions that were discussed by focus group participants and the survey questions are contained in **Attachment B**.
32. The work reflected in this report has been guided by a Working Group comprising a mix of representatives from the ARBV Board and ARBV staff to ensure consideration of a broad range of perspectives.

G. Structure of this report

33. The subsequent chapters of this report cover the following issues:
 - › *Chapter 2: What is compliance culture and why is it important?* – This chapter defines compliance culture and explains the importance and benefits of a strong compliance culture.
 - › *Chapter 3: Architects' status as professionals* – This chapter outlines architects' legal obligations and ethical responsibilities, with a particular focus on how they intersect with architects' professional status. The chapter explains that this status implies a commitment to compliance.
 - › *Chapter 4: Architects' overarching duties* – This chapter identifies the overarching duties that reflect the core values and responsibilities of members of the architecture profession. The chapter includes case studies to illustrate how the duties could be breached by small and large architectural firms and describes initiatives that could be taken to avoid non-compliance.
 - › *Chapter 5: Evaluation of compliance culture in Victoria* – This chapter outlines a framework to evaluate compliance culture in the architecture sector. It uses that framework and available information to evaluate the current compliance culture within the Victorian architecture sector.

- › *Chapter 6: Strategies for architects to strengthen compliance culture* – This chapter provides guidance about how sole practitioners and small and large architectural firms can establish a strong compliance culture.
- › *Chapter 7: Regulatory toolkit to enhance compliance culture* – This chapter discusses regulatory tools that can be used to enhance compliance culture.
- › *Chapter 8: Conclusion* – This chapter offers conclusions about the high-level findings from this report. It suggests that action is needed by all participants in the architecture sector and in the broader construction sector to strengthen compliance culture in order to improve outcomes in the built environment.

2 WHAT IS COMPLIANCE CULTURE AND WHY IS IT IMPORTANT?

A. Overview

Objective of chapter:	<ul style="list-style-type: none">› To explore what a commitment to compliance means for the architecture profession by delving into the concept of compliance culture.
Importance:	<ul style="list-style-type: none">› By explaining what compliance culture is, how it influences actions, behaviour and decisions, and why it matters across different types of practices, the chapter equips architects with a deeper understanding of the importance and benefits of investing in a strong compliance culture.
Key insights:	<ul style="list-style-type: none">› The foundation for a strong compliance culture is a shared understanding and agreement about why compliance is important.› A strong compliance culture reinforces a compliance mindset› A compliance mindset involves:<ul style="list-style-type: none">› a commitment to learning about compliance requirements;› an acceptance of responsibility for addressing compliance risks;› a vigilant approach in daily tasks to identify and document compliance issues; and› a commitment to choosing a compliant pathway, notwithstanding the incentives and rewards that might exist for doing otherwise.› A compliance mindset depends upon a thorough understanding of the scope of compliance obligations that must be met.
Implications for architects and architectural firms	<ul style="list-style-type: none">› A strong compliance culture does more than simply reduce the risk of non-compliance that architects and architectural firms may face.› It enhances trust, strengthens professional reputation, and can support business growth and staff morale.› It also sets a positive example about the importance of compliance for the broader construction sector.

B. Introduction

34. A commitment to compliance is the cornerstone of responsible, ethical and professional practice for the architecture profession.
35. A range of consequences could occur in the absence of such a commitment, including poor client-architect relationships and designs that do not meet clients' needs or have adverse environmental or social impacts. In some cases, neglect of compliance responsibilities could even result in unsafe buildings and generalised erosion of public trust in the built environment.
36. This chapter explores what a commitment to compliance means in practice for the architecture profession by delving into the concept of "compliance culture".

C. What is "compliance culture"?

37. Understanding what compliance culture means is crucial because it forms the foundation of a commitment to compliance and helps to clarify what this entails in practice.

Culture affects mindset; a strong compliance culture reinforces a compliance mindset

38. **Culture** is the cumulation of values, attitudes, habits, assumptions, expectations, and aspirations that shape everyday actions, decisions, and strategies.⁷ **Compliance culture** relates to how these aspects affect adherence to legal, regulatory, and ethical obligations.⁸
39. Culture affects **mindset**, which influences how individuals interpret and respond to situations.⁹ **Compliance mindset** reflects an individual's internalised commitment to understanding their obligations, making decisions lawfully and with integrity, and generally doing the right thing, even in the absence of oversight.
40. Compliance culture and compliance mindset are intrinsically linked. A strong compliance culture helps to reinforce a compliance mindset in the following ways:
 - › In the case of **sole practitioners and small firms** – when an architect consistently prioritises personal commitment to professional and compliant behaviour through their practices and decisions, this strengthens and embeds a compliance mindset into the fabric of their work.
 - › For **larger firms** – when leaders of an organisation consistently model and reward professional and compliant behaviour, individuals within the organisation are more likely to adopt a compliance mindset.

⁷ D. Jackman, *The Compliance Revolution: How Compliance Needs to Change to Survive* 1st ed. (Wiley, 2015), at p. 69.

⁸ L. Andreisová, 'How Can a Corporate (Compliance) Culture Be Described and Effectively Measured?' (2018) 4(3) *Business and Management Studies*, p. 52.

⁹ E.A. Canning, M.C. Murphy, K.T.U. Emerson, J.A. Chatman, C.S. Dweck, & L.J. Kray, 'Cultures of Genius at Work: Organizational Mindsets Predict Cultural Norms, Trust, and Commitment' (2020) 46(4) *Personality and Social Psychology Bulletin*, pp. 1–17, at 14.

41. Similarly, a professional approach that is shared among an organisation's staff helps to sustain and strengthen a positive compliance culture within the organisation as a whole. Conversely, where professionalism is absent, compliance culture is likely to be weak and commitment to compliance among individuals may be more superficial.

A compliance mindset is more likely to produce compliant behaviour

42. A culture that cultivates a compliance mindset is more likely to produce compliant behaviour.¹⁰ Such a culture exists when adherence to laws, ethical standards, and organisational policies and procedures is ingrained in the values, operations, behaviours and decisions of individuals within the organisation.¹¹
43. Among other things, a compliance mindset involves:
- › a commitment to learning about compliance requirements;
 - › an acceptance of responsibility for addressing compliance risks;
 - › a vigilant approach in daily tasks to identify and document compliance issues; and
 - › a commitment to choosing a compliant pathway, notwithstanding the incentives and rewards that might exist for doing otherwise.
44. Developing a compliance mindset can take time.¹² A constant investment of time, resources and effort is needed to deeply embed and normalise a compliance mindset. Failure to do so may mean that a compliance mindset dissipates quickly.¹³

A compliance mindset depends upon a thorough understanding of the scope of compliance obligations that apply

45. A compliance mindset critically depends upon a clear and thorough understanding of the **compliance obligations** that must be met.
46. The Code of Professional Conduct requires architects to comply with “all applicable laws” in providing architectural services.¹⁴
47. Each law, standard or other instrument that applies may require detailed and technical knowledge and understanding in order to ensure that compliance occurs.¹⁵
48. If compliance obligations are not well understood, this could lead to unintentional non-compliance and can also undermine the compliance culture.

¹⁰ Ibid .p. 69.

¹¹ L. Interligi, ‘Compliance culture: A conceptual framework’ (2010) 16(2) *Journal of Management & Organization*, pp. 235–49, at 235–6.

¹² D. Jackman, n. 7 above, p. 69.

¹³ Ibid. p. 69.

¹⁴ Clause 1(b) of the Code of Professional Conduct.

¹⁵ Le Grand, C. H., ‘Building a Culture of Compliance’ (2005), at 2.

D. Why is compliance culture important?

A strong compliance culture helps to ensure the effectiveness of the regulatory framework to minimise the risk of harm

49. An effective regulatory framework is one that achieves its objectives.¹⁶
50. In the case of the regulatory framework applicable to architects and architectural firms, this means that the framework ensures that those who provide architectural services are registered or approved by the ARBV and comply with professional standards. This, in turn, will help to ensure that clients, the public and the profession are protected from harm.
51. The following important elements need to be in place to achieve these outcomes:
- › the **regulatory framework** must be comprehensive, clear, well designed and robust;
 - › the **regulator** should direct its regulatory activities at compliance issues and regulated entities that pose the greatest risk of harm; and
 - › a **culture of compliance** should exist among regulated entities.¹⁷
52. As explained below, all three elements are the focus of the ARBV's attention. However, this report predominantly concerns the last element – compliance culture.

Regulatory framework

53. In relation to the first element – the regulatory framework – the Code of Professional Conduct is a regulatory instrument that is designed to shape compliance culture among architects and, more specifically, to create a compliance mindset within the profession.
54. It does this by embedding values of professionalism, client-focused service delivery, and ethical integrity. It also helps to cultivate a strong compliance culture by seeking to ensure that transparency and accountability are at the core of architectural practice.
55. The Code of Professional Conduct is due to sunset in the foreseeable future and its reform is underway. Among other things, reform will be directed at making architects' compliance obligations in the Code as clear and unambiguous as possible and as relevant and meaningful across the spectrum of circumstances in which architects and architectural firms provide architectural services. This, in turn, will help to support architects to comply.

¹⁶ F. Blanc, 'Tools for Effective Regulation: Is "More" Always "Better"?' (2018) 9(3) *European Journal of Risk Regulation*, pp. 465–82, at 465.

¹⁷ R.I.C. Bartsch, *International Aviation Law: A Practical Guide* Third edition (Routledge, Taylor & Francis Group, 2018), at p. 51.

Regulator

- 56. As for the second element – the effectiveness of the regulator – the ARBV has developed a comprehensive risk-based proactive regulatory strategy. This strategy is designed to support and assist entities to comply with their obligations under the regulatory framework and to prevent non-compliance and harm from occurring.
- 57. The strategy outlines a range of proactive initiatives, including education of and engagement with architects and architectural firms, as well as research and thought leadership about compliance risks facing the architecture profession.
- 58. The strategy also includes a regulatory reform agenda to enhance the effectiveness of the regulatory framework. This agenda supplements the sunset review of the Code, which the ARBV is actively involved in.
- 59. That strategy will be complemented by future initiatives to strengthen compliance culture, which are based on the findings in this report.

Compliance culture

- 60. This report concerns the third element that is essential to maximise the effectiveness of regulation – namely, the culture of compliance within the architecture sector.
- 61. The primary responsibility for shaping a culture of compliance rests with architects and architectural firms. This starts with an unambiguous embrace of their compliance obligations and broader professional duties.
- 62. While members of the architecture profession are primarily responsible for fostering a strong compliance culture, the ARBV is committed to assisting architects and architectural firms to do so. This commitment is evident from its [Strategic Plan 2022-2026](#), which notes that one of the ARBV's strategic objectives is “to drive positive outcomes for consumers by promoting a professional culture of accountability among architects”.¹⁸
- 63. This strategic objective is supported by the current [ARBV Ministerial Statement of Expectations](#), which requires the ARBV to improve architects' compliance by targeted regulatory activities and education to support behavioural change and encourage voluntary compliance.¹⁹
- 64. The ultimate purpose of the ARBV's initiatives regarding compliance culture is to support compliance with the regulatory framework. These initiatives are designed to minimise the risk of non-compliance by architects and architectural firms. This, in turn, serves to protect clients, users of architectural services and the profession from harm.

¹⁸ ARBV, *Strategic Plan 2022 - 2026*, at p. 9.

¹⁹ *ARBV Ministerial Statement of Expectations* (2023), at p. 3.

E. What are the benefits of a strong compliance culture for architects?

65. There are important benefits for architects and architectural firms that invest in a strong compliance culture. Recognising and valuing these benefits is essential to sustain a lasting commitment to compliance.

A strong compliance culture mitigates compliance risks and may be looked upon favourably by the ARBV if non-compliance occurs

66. A strong compliance culture helps identify and address potential compliance risks before non-compliance occurs. A sound compliance culture may also be taken into account favourably by a regulator in cases where non-compliance does occur.²⁰ Notably, the ACCC has successfully argued that the courts should take into account whether a business has implemented a compliance system, and if so, its quality, in determining penalties in its prosecutions for breaches.²¹
67. In contrast, a failure to manage compliance risks effectively may lead to regulatory consequences under the regulatory framework, financial costs to respond to any regulatory action, and reputational damage.²² In some cases, non-compliance could result in the suspension or revocation of the right to practise as an architect. In addition, a history of non-compliance may attract closer regulatory scrutiny and a more severe regulatory response for any future non-compliance.²³

Trust, reputation and credibility can be enhanced through a commitment to compliance

68. Compliant architects and architectural firms may be perceived as conducting their businesses with integrity. Consequently, a strong compliance culture can help to build trust with clients, regulatory authorities and other stakeholders, such as other participants in the broader construction sector.²⁴
69. A positive compliance reputation can also help differentiate and distinguish architects and architectural firms in what is a competitive market for architectural services. Clients and other participants in the construction sector may be more inclined to engage architects and architectural firms that commit to and demonstrate compliant and ethical practices. In addition, architectural firms that are known for having a strong compliance culture may be better placed to attract the best employees.
70. In comparison, a weak commitment to compliance can cause both immediate and long-term damage to an architect's or firm's professional brand. In the short term, non-compliance may lead to regulatory action, published disciplinary outcomes, and the reputational fallout, which can erode client trust and disrupt business relationships.

²⁰ S.P. Ramakrishna, *Enterprise Compliance Risk Management: An Essential Toolkit for Banks and Financial Services* 1st ed. (Wiley, 2015), at p. 93.

²¹ See ACCC case study in C. Parker & V.L. Nielsen, 'Corporate Compliance Systems: Could They Make Any Difference?' (2009) 41(1) *Administration & Society*, pp. 3–37, at 12.

²² S.P. Ramakrishna, n. 20 above, p. 222.

²³ Ibid. pp. 91–2.

²⁴ Ibid. pp. 229–30.

71. The long-term impact can be even more significant. Given today's digital landscape, once reported, compliance breaches may remain permanently accessible through media coverage or online searches, even after the compliance issue has been fully resolved. This lasting visibility of non-compliance can continue to influence client perceptions, limit future business opportunities, and undermine professional credibility for years, regardless of subsequent improvements in compliance practices.

A commitment to compliance can also promote growth

72. Some within the architecture profession may view compliance as a constraint on creativity or a cost burden. However, in fact, a commitment to compliance may support long-term sustainable growth.
73. More specifically, a commitment to compliance helps to enhance an organisation's value proposition by demonstrating integrity, reliability and professionalism.²⁵ These qualities can generate more business opportunities among clients and business partners that value them.
74. A commitment to compliance can also result in streamlined processes to ensure effective management of compliance obligations. This can improve operational efficiency.²⁶
75. On the other hand, a weak commitment to compliance can threaten long-term growth. Without a clear focus on compliance, individuals and organisations may be exposed to legal, financial, and reputational risks that can destabilise business operations and erode client confidence.

There could be benefits for employee morale and performance

76. The culture within an organisation can have an impact on the morale of employees.²⁷ It can also affect employee performance.²⁸
77. An environment where compliance with the law and ethical standards is consistently upheld may help to foster a transparent and trusting work environment.
78. Employees working in a compliant environment may feel more secure and confident in engaging in behaviour and making decisions that are lawful and ethical, compared to organisations where compliance is not prioritised. In addition, by prioritising compliance, organisations may enhance teamwork and productivity.
79. In comparison, a poor compliance culture could have a significant adverse impact on staff morale and retention. This is particularly the case in professional environments like architecture where ethical standards, integrity, and quality are highly valued.

²⁵ Ibid. p. 89.

²⁶ Ibid. p. 118.

²⁷ C.H. Arunchand & H.N. Ramanathan, 'Organizational Culture and Employee Morale: A Public Sector Enterprise Experience' (2013) 2(1) *Journal of Strategic Human Resource Management*, pp. 1–8, at 1.

²⁸ A.A.A. Fridan & B.E. Maamari, 'Impact of organizational positive and negative culture on employee performance' (2024) 32(9) *International Journal of Organizational Analysis*, pp. 1850–69.

- 80. When compliance is neglected or inconsistently enforced, it could create confusion, stress, and frustration among employees who are trying to meet professional obligations without clear guidance or support.
- 81. Over time, such an environment could lead to disengagement and reduced motivation, particularly among staff who value ethical practice and professional excellence. Talented employees may seek opportunities elsewhere in firms where compliance is taken more seriously.

A strong compliance culture within the architecture profession could enhance the culture within the broader construction sector

- 82. The construction sector includes a wide range of other participants, including clients, developers, builders, engineers, building surveyors, product suppliers, and a variety of other bodies that regulate these participants. Each plays a critical role in shaping outcomes in the sector.
- 83. When these participants prioritise compliance and ethical practices at the individual and project levels, they help to ensure that buildings are safe, durable, and high-quality. The opposite is also true. A poor compliance culture among participants in the broader construction sector can increase the risk of non-compliance, undermine public confidence, and lead to poor built outcomes.
- 84. A strong compliance culture among the architecture profession can have a ripple effect across the broader construction sector by setting a clear standard of professionalism, accountability, and ethical conduct.
- 85. Architects may occupy a central and coordinating role in some construction projects. When they consistently demonstrate a commitment to compliance, this may raise expectations or encourage similar behaviour from other sectoral participants with whom they collaborate. This can, in turn, promote safer, more sustainable, and legally sound outcomes for all project participants.
- 86. However, the absence of a commitment to compliance may damage the architect's credibility, undermine collaboration, and may contribute to a poor compliance culture among all project participants. This can lead to increased risk of legal breaches and exposure to regulatory sanction or civil litigation. Safety standards could also be compromised and the quality of the built outcome could be diminished.

F. Concluding remarks

- 87. A compliance culture goes beyond technical adherence to compliance obligations and involves a proactive ethos of doing what is right.
- 88. An understanding of the concept of compliance culture is critically important for the architecture profession, including sole practitioners, small firms and large firms. Such an understanding can shape how professional obligations are internalised and acted upon in practice.
- 89. Sole practitioners and small firms do not have the support structures of a larger organisation that could facilitate compliance. Nevertheless, a compliance mindset – which is at the core of the

concept of compliance culture – helps to instil a commitment to compliance notwithstanding the absence of such support.

90. In the case of larger firms, a strong compliance culture can ensure that a commitment to compliance is embedded across the organisation. It can align the approach to compliance among diverse teams and for different types of projects.
91. In both contexts, understanding compliance culture means recognising that compliance is not just about avoiding regulatory sanction for non-compliance. Rather, it is about fostering lawful and ethical decision-making, upholding the public interest, and reinforcing trust and confidence in the profession.
92. The next chapter examines architects' professional status, which carries with it a responsibility and expectation to comply with legal and ethical obligations.

3 ARCHITECTS' STATUS AS PROFESSIONALS

A. Overview

Objective of chapter:	<ul style="list-style-type: none">› To explain the implications for architects of their status as a professional.
Importance:	<ul style="list-style-type: none">› An architect's appreciation and acceptance of their role as a professional necessarily implies a commitment to a strong compliance culture.
Key insights:	<ul style="list-style-type: none">› Professionals attain a position of responsibility in society due to the trust and confidence that members of the public have in them by virtue of their specialised knowledge and skills that most people don't have.› Architects are professionals and, as such, they are held to high standards by their clients, the public and professional peers.› In line with their professional status, architects bear important responsibilities under statute, at common law, and as part of the social contract with the public.› A professional mindset naturally aligns with a proactive and committed approach to compliance. Compliance with the regulatory framework is integral to being a professional. Professionalism reinforces the importance of embedding compliance into every aspect of an architect's practice.› A strong compliance culture can serve as a signal that architects and architectural firms take their professional obligations seriously.
Implications for architects and architectural firms	<ul style="list-style-type: none">› It is important for architects to be cognisant of the key attributes of and implications of having professional status.› An understanding of these attributes lays the foundation for a clear and shared understanding of what it means to be part of the architecture profession, including the implicit commitment to compliance.

B. Introduction

- 93. Architects' compliance obligations stem from their status as professionals. Like medical practitioners, lawyers and other types of professionals, architects are skilled individuals who use their knowledge and expertise to provide specialised services.
- 94. In their capacity as professionals, architects are entrusted with responsibilities that affect a wide range of important societal values. These values include safety, aesthetic appeal, environmental sustainability, cultural heritage and identity, social equity and inclusion, economic efficiency and productivity, and contribution to communities and public life.
- 95. Architects' professional status means that they are held to high standards by their clients, the public and professional peers. Society expects professionals to be competent and diligent when providing services, to act ethically at all times, to be accountable for their decisions and actions, and to use their skills and expertise to serve the public good.
- 96. This chapter explains the implications for architects of their status as professionals. It frames compliance not as a set of external rules that must be followed to avoid regulatory sanction, but as a core professional obligation that is integral to maintaining public trust and upholding the standards expected of members of the architecture profession.

C. The defining attributes of a “professional”

- 97. It is important for architects to be cognisant of the key attributes of a professional, which are shared among a variety of different types of professionals. An understanding of these attributes lays the foundation for a clear and shared understanding of what it means to be part of the architecture profession, including the implicit commitment to compliance.

Professionals possess specialised knowledge and expertise, which are used to provide important services

- 98. Professionals are distinguished from other service providers by their special expertise and provision of an important service for the benefit of others.²⁹ They apply their expertise in the service of others by addressing the needs and problems of clients, communities, or society at large.
- 99. Professionals' expertise can be characterised as a combination of specialised knowledge and practical skills, which have been acquired through extensive education, training, and experience. This expertise goes beyond general knowledge and enables professionals to engage in complex problem-solving and critical decision-making, at times in challenging situations with significant consequences.
- 100. The combination of expertise and commitment to the service of others engenders public trust and confidence. Lay people rely upon professionals' expertise because they are not in a position to

²⁹ Goldman, A. H., 'Professional values and the problem of regulation' 5(2) *Business & Professional Ethics Journal*, p. 47.

evaluate the services provided by professionals, or to undertake comparable services for themselves. This elevates the status of professionals in society.³⁰

101. Architects are regarded as professionals because they possess specialised knowledge and expertise acquired through extensive education and training. This knowledge and expertise is applied to the design of safe, functional, and aesthetically and culturally meaningful spaces that meet their clients' and the public's needs and interests.³¹
102. Architects' professional role often involves collaboration and the complex exercise of discretion and judgment.³² Decisions made by architects can have long-term social, safety and economic implications. In making these choices, architects are trusted to balance creativity with technical accuracy, regulatory compliance and social responsibility.
103. These features distinguish architectural services from other purely technical or transactional services that could be provided in the context of a construction project, such as services provided by tradespeople.

As part of their social contract with the public, professionals are expected to maintain high standards and comply with their legal and ethical obligations

104. Professionals attain a position of responsibility in society as a result of the trust and confidence that members of the public have in them by virtue of their specialised knowledge and skills that most people don't have.
105. Their responsibility is reinforced through the process of providing services. They may be provided access to information that can be personally or commercially sensitive. In addition, they may be empowered to make important decisions that can have significant consequences.
106. This position of responsibility could be exploited by professionals to advance their own interests at the expense of those they serve.³³ However, public expectations help to counter-balance this risk. These expectations are rooted in the social contract that underpins a professional's social status.
107. In exchange for their respected position in society, professionals are expected to act in the public interest by maintaining high standards and complying with their legal and ethical obligations. In practice, this means that professionals are expected to do their work carefully and competently, follow the law, and to act honestly and with integrity. The public expects professionals to exercise sound judgment, avoid conflicts of interest, and prioritise clients' interests and the public good over personal gain.

³⁰ M.T. Law & S. Kim, 'Specialization and Regulation: The Rise of Professionals and the Emergence of Occupational Licensing Regulation' (2005) 65(03) *The Journal of Economic History*, at 3.

³¹ S. Lupton, *Cornes and Lupton's Design Liability in the Construction Industry* Fifth edition (Wiley Blackwell, 2013), at p. 10.

³² C. M. Sapers, "Professionalism and the Public Interest" in A. Pressman, *Professional Practice 101: Business strategies and case studies in architecture* 2nd ed (Wiley, 2006). p. 5.

³³ Frankel, M., 'Professional Codes: Why, How, And With What Impact?' (1989) 8(2/3) *Journal of Business Ethics*, pp. 109–15, at 110.

108. These expectations are held not just by members of the public, but are also shared by the profession as a whole. Members of a profession are bound together by common education and training, as well as aspirations and values.³⁴ When all members act responsibly and ethically, it reinforces the profession's reputation and strengthens its social value. Conversely, a failure to uphold professional standards weakens the credibility and standing of the profession as a whole.

Legislation reinforces the social contract between professionals and the public by restricting entry to qualified professionals in exchange for a commitment to uphold professional standards

109. Legislation is used to give effect to the social contract between professionals and the public.
110. Statutory requirements that must be satisfied to enter into a profession are used to ensure that only individuals with the necessary qualifications, skills, and ethical standards are allowed to enter and remain in the profession. These entry requirements signal to prospective clients and the general public that professionals are competent and trustworthy. They can also help to align members of the profession through exclusive protection of the use of professional titles for those who are duly qualified and trained.³⁵
111. In the case of architects, the ARBV may register a person as an architect under the Act if satisfied that the applicant is eligible to be registered.³⁶ The eligibility criteria include the requirement that the person holds prescribed qualifications, or has passed a prescribed course of study, and has completed two years undertaking practical architectural work to the satisfaction of the ARBV.³⁷ The ARBV also has power to approve a partnership or a company to provide architectural services if, among other things, at least one of the partners or directors is an architect registered by the ARBV.³⁸
112. In exchange for restricted access to the profession and market protection, legislation typically requires professionals to adhere to professional standards. These standards help to ensure that professionals are competent, honest, trustworthy, dedicated, accountable and committed to high quality work. In turn, this improves the quality of services and protects consumers from harm.³⁹
113. As with other types of professionals, architects must comply with the professional standards contained in the Code of Professional Conduct as a condition of their registration by the ARBV. These standards cover a range of matters to maintain public trust and uphold the integrity of the profession. In practice, the Code of Professional Conduct provides guidance for architects regarding their operations, behaviour and decisions.⁴⁰

³⁴ Ibid. p. 110.

³⁵ Christmas, S. & Cribb, A., 'How does professional regulation affect the identity of health and care professionals: Exploring the views of professionals' (2017), at 5–6.

³⁶ Section 11(a) of the Act.

³⁷ Section 10(b) of the Act. Regulations 14, 15 and 16 contain details regarding prescribed qualifications and courses.

³⁸ Sections 13(1) and 14(1) of the Act.

³⁹ M.T. Law & S. Kim, n. 30 above, p. 4.

⁴⁰ Frankel, M., n. 33 above, p. 111.

114. The ARBV has the power to take various actions if the Code has been breached. For example, the ARBV may refer an architect to the Architects Tribunal for an inquiry into an architect's fitness to practise or professional conduct.⁴¹ In certain circumstances, the ARBV also has the power to suspend or revoke the registration of an architect⁴² or approval of a partnership or company.⁴³

The common law, which is made by judges rather than under statute, elaborates duties owed by professionals to their clients and other third parties

115. The common law – based on judicial decisions and precedents – supplements statutory requirements that apply to professionals.
116. At common law, professionals owe a duty of care and skill to those to whom they provide services. This duty arises because professionals impliedly warrant that they are reasonably competent to perform the relevant services and that they will exercise a reasonable degree of care in doing so.⁴⁴ The duty may arise even in the absence of a contractual relationship between a professional and a third party.⁴⁵ Failure to discharge this common law duty can lead to a claim of negligence, which is the failure to exercise the degree of care that the circumstances demand.⁴⁶
117. This duty means that architects must perform their work with the skill, care, and diligence reasonably expected of a competent professional. The duty of care owed to clients may extend to third parties, such as subsequent owners of a building designed by an architect, and the general public.
118. Professionals may also owe fiduciary duties to their clients, requiring loyalty, confidentiality, and avoidance of conflicts of interest. These duties may arise in cases where the relationship between the professional and client transcends the ordinary arm's length business relationship between a service provider and a client, such as where professionals have the opportunity to exercise a power or discretion and make decisions that could be to the detriment of their clients, who may be vulnerable to abuse.⁴⁷
119. Architects are not automatically regarded as fiduciaries at common law – that is, a person or entity in a position of trust and confidence, obligated to act solely in the best interests of another person. However, they may owe fiduciary duties to act with loyalty, honesty, and in the client's best interests when they are entrusted with significant decision-making power or discretion and clients are in a position of particular dependence or vulnerability.

⁴¹ Section 18 of the Act.

⁴² Sections 15, 36 and 36A of the Act.

⁴³ Section 37 of the Act.

⁴⁴ S. Lupton, n. 31 above, p. 97.

⁴⁵ Ibid. p. 38.

⁴⁶ E.A. Noy & J.E.H. Douglas, *Building surveys and reports* 4th ed (Wiley-Blackwell, 2011), at p. 319.

⁴⁷ *John Alexander's Clubs Pty Limited v White City Tennis Club Limited* (2010) 241 CLR 1.

120. Practical scenarios where this may occur include the following:

- › *Key strategic decisions*: Architects have power to influence or make key strategic decisions in relation to a project.
- › *Agency*: Architects are authorised to deal with third parties and make decisions on the behalf of their clients.
- › *Management of project funds*: Architects have control over financial matters, including project funds for payment to third parties.

121. In these scenarios, architects may be regarded as fiduciaries. As a consequence, they must avoid conflicts of interest and not profit at the expense of their clients.

Industry guidance for members may supplement requirements imposed on architects under statute and under common law

122. In addition to their obligations under statute and common law, architects that are members of a professional body may also have agreed to adhere to guidance issued by that body.

123. For example, the Australian Institute of Architects (**RAIA or ‘the institute’**) has published a code of professional conduct that is distinct and separate from the Code of Professional Conduct made under the Act and enforceable by the ARBV. That code explains that it establishes principles to address obligations to the public, the client, profession, and colleagues with which members of the RAIA are required to conform and defines ethical standards to ensure the principles are upheld.

D. Compliance implications of architects’ status as professionals

124. Architects’ status as professionals has important compliance implications.

125. At the heart of professionalism is a commitment to core values, such as competence, integrity and accountability. In order to uphold these core values, a professional must engage meaningfully with the regulatory framework that governs them because the regulatory framework gives effect to those values.

126. In fact, a professional mindset naturally aligns with a proactive and committed approach to compliance. Compliance with the regulatory framework is integral to being a professional. Professionalism reinforces the importance of embedding compliance into every aspect of an architect’s practice.

127. It is important for architects to recognise that compliance is implicit in professional identity, rather than view compliance as a burden. A strong professional identity, which is focused on using skills and expertise to serve others, enhances the quality of services, improves outcomes, and helps to ensure compliance with professional obligations.⁴⁸

128. At an individual level, architects have a vested interest in upholding professional standards and complying with their legal and ethical duties and obligations. Doing so helps to build trust and

⁴⁸ Christmas, S. & Cribb, A., n. 35 above, p. 5.

protect their reputation among clients and the public and distinguish architects from other building designers. Such an approach also avoids disciplinary action or other regulatory sanction for non-compliance.

- 129. More generally, a shared commitment across the architecture profession to comply with professional obligations, adhere to ethical standards, and strive for best practice helps to reinforce the credibility, reputation and the legitimacy of the entire profession.
- 130. A strong compliance culture can serve as a signal that architects and architectural firms take their professional obligations seriously.

E. Concluding remarks

- 131. Professionalism requires not only technical competence, but also entails a proactive and committed approach to upholding standards that protect clients, communities, and the public interest from harm.
- 132. In practice, this means that, as professionals, architects should understand the regulatory framework that governs them and accept and embrace the duties it imposes.
- 133. The next chapter outlines overarching duties owed by architects to their clients, the public and to the profession that derive from their professional status.

4 ARCHITECTS' OVERARCHING DUTIES

A. Overview

Objective of chapter:	<ul style="list-style-type: none"> › To explore architects' "overarching duties", which derive from their professional status.
Importance:	<ul style="list-style-type: none"> › Understanding and acceptance of the overarching duties owed by architects to their clients, the public, and the profession underpins the development of a strong compliance culture.
Key insights:	<ul style="list-style-type: none"> › This chapter outlines and discusses the following simplified suite of overarching duties that architects and architectural firms owe to their clients, the public and the profession: <ul style="list-style-type: none"> › <i>Duty of care</i>: Architects must exercise reasonable care and diligence in the performance of their duties. › <i>Duty of competence</i>: Architects are required to maintain adequate knowledge, skill, and training to perform their work to the relevant standard of care. › <i>Duty of honesty and integrity</i>: Architects must act truthfully, transparently, and ethically in all professional dealings. › <i>Duty to comply with all applicable laws</i>: Architects must adhere to all legal and regulatory requirements relevant to their work, including the NCC, planning laws, health and safety regulations, and environmental laws. › <i>Duty of confidentiality</i>: Architects must protect confidential information received from clients and other parties. Disclosure is only permissible with consent, or when required by law or necessary to prevent harm. › <i>Duty to act impartially and avoid conflicts of interest</i>: Architects must provide objective advice and avoid situations where personal or financial interests could compromise their professional judgement. › <i>Duty to keep records and communicate effectively</i>: Architects must maintain accurate and complete records of decisions, communications, and project developments. Clear, timely, and effective communication with clients, consultants, contractors, and authorities is essential to manage risk and maintain trust. › These overarching duties reflect the core values and responsibilities of members of the architecture profession.
Implications for architects and architectural firms	<ul style="list-style-type: none"> › The overarching duties owed by architects to their clients, the public, and the profession help architects navigate their complex responsibilities while serving clients, the public, and the broader profession with integrity and professionalism. › By understanding and embracing the overarching duties, architects lay the foundation for a strong compliance culture that protects clients, users and the communities they serve from harm. › Compliance with these overarching duties also reinforces confidence and trust in the profession and contributes to safe, high-quality built outcomes.

B. Introduction

134. Architects' overarching duties – which are based on the common law and are embedded in the Code of Professional Conduct – derive from their professional status.
135. While these overarching duties may, in practice, be overshadowed by the detailed compliance obligations in the regulatory framework, they represent the core values and responsibilities of the profession. Understanding, accepting and upholding these duties is essential to maintain architects' professional status.
136. This chapter outlines each of the overarching duties owed by architects and explains what they mean in practical, accessible terms using realistic case studies involving individuals, firms, and projects of varying scale that draw from actual instances of non-compliance dealt with by the ARBV. The case studies highlight both the risks of breaching the duties and the proactive steps architects and architectural firms can take to prevent breaches from occurring.

C. Summary of overarching duties

137. To help navigate the exploration of architects' overarching duties in this chapter, a summary of them is set out below:
- › *Duty of care:* Architects must exercise reasonable care and diligence in the performance of their duties.
 - › *Duty of competence:* Architects are required to maintain adequate knowledge, skill, and training to perform their work to the relevant standard of care.
 - › *Duty of honesty and integrity:* Architects must act truthfully, transparently, and ethically in all professional dealings.
 - › *Duty to comply with all applicable laws:* Architects must adhere to all legal and regulatory requirements relevant to their work, including the NCC, planning laws, health and safety regulations, and environmental laws.
 - › *Duty of confidentiality:* Architects must protect confidential information received from clients and other parties. Disclosure is only permissible with consent, or when required by law or necessary to prevent harm.
 - › *Duty to act impartially and avoid conflicts of interest:* Architects must provide objective advice and avoid situations where personal or financial interests could compromise their professional judgement.
 - › *Duty to keep records and communicate effectively:* Architects must maintain accurate and complete records of decisions, communications, and project developments. Clear, timely, and effective communication with clients, consultants, contractors, and authorities is essential to manage risk and maintain trust.

138. Each of these duties is elaborated in the next section, together with relevant case studies. The case studies are designed to highlight issues that could give rise to a breach of each duty. While the case studies also identify initiatives that can be taken to avoid a breach, these are not exhaustive but simply serve to illustrate how a strong compliance culture could be built around each duty.
139. It is also acknowledged that some case studies may indicate non-compliance beyond breach of the particular duty under consideration, but the focus of these case studies is squarely on the relevant duty and they do not deal with these other compliance issues.

D. Duty of care

140. Under the duty of care, architects must carry out their work to the standard of a reasonably competent architect.
141. This duty of care applies to the spectrum of architectural services that architects may provide, including writing specifications, design work, documentation, preparation of building contracts and contract administration.
142. In practice, the duty means that work must be fit for purpose and meet the applicable technical standards. It should also be delivered on time and be appropriately documented.
143. In addition, architects should only undertake tasks for which they are qualified. Staff involved in undertaking work for or on behalf of an architect should also be properly supervised.
144. This duty helps to ensure that architects perform their services to the appropriate standard, which protects clients and users of architectural services from harm.

Small practice case study: Extension of a residential home

Scenario:

A small architectural firm comprising an architect director, another junior architect and a recent architectural graduate who was not yet registered was commissioned to design and oversee a rear extension to a suburban family home.

The junior architect was tasked with taking the lead for the project, but lacked experience in coordinating the development of the architectural design with structural design services provided by an engineer.

Once the junior architect had developed the design, the graduate was asked to draft technical drawings. These drawings were not thoroughly reviewed by the junior architect and were not reviewed at all by the architect director.

The builder for the project used the technical drawings prepared by the graduate. During construction, the builder identified a major design co-ordination error in the technical drawings that could have compromised the extension had it been built as drawn.

The error may have caused significant cost and time issues and meant that the design and technical drawings needed to be revised, which led to significant delays to the project deadlines.

Main aspects that could give rise to a breach of the duty of care:

- The design work, including the technical drawings, failed to meet the technical standards expected of a reasonably competent architect.
- The junior architect and graduate undertook design work beyond their competence.
- The junior architect and graduate were inadequately supervised.

Key initiatives to avoid a breach of the duty of care in this scenario:

- **Skills assessment:** Regularly assess staff skills and assign work accordingly.
- **Scope assessment:** Carefully review the scope of work before work commences and identify when coordination with other consultants may be needed.
- **Training:** Encourage staff to undertake CPD that is focused on building their technical competencies.
- **Supervision protocols:** Establish a protocol to ensure that appropriately experienced architects oversee the work of recent graduates and other junior architects, as well as other junior staff.
- **Review procedures:** Introduce a checklist and, where possible, a process for the review of all work before finalisation and issuance to the client.

Large practice case study: Multi-storey commercial development

Scenario:

A large architectural firm was engaged to design a 25-storey commercial office tower in a metropolitan CBD. The firm was initially appointed by the developer client under a full design contract. However, the appointment was later novated to the head contractor under a Design and Construct (D&C) procurement model.

Following novation, the head contractor directed the architectural firm to make certain modifications to the designs, including reducing ceiling heights and modifying the space available for mechanical plant.

The architectural firm was concerned about the implications of these modifications but did not escalate or document their concerns out of fear that this would strain their relationship with the contractor and risk future work. Instead, the architectural firm complied with these instructions by adjusting the design and issuing technical drawings without sufficient coordination with other relevant consultants, including structural, mechanical and fire engineers.

Some time after completion of the project, tenants reported significant HVAC performance issues. The building regulator eventually determined the issues were due to restricted plant space and insufficient duct clearances and required remedial works, resulting in major costs to the contractor and significant disruption for tenants.

Main aspects that could give rise to a breach of the duty of care:

- Failure to meet the standard of a reasonably competent architect by compromising spatial requirements for the mechanical plant.
- Inadequate coordination with other consultants.
- Lack of proper documentation and communication about risks arising from changes required by the head contractor.

Key initiatives to avoid a breach of the duty of care in this scenario:

- **Leadership:** Encourage project leaders to prioritise compliance and quality as project imperatives.
- **Risk register:** Establish a register that records all design risks, including mechanisms to control those risks (if any), and implications if the risks are not effectively managed.
- **Roles and responsibilities:** Implement a process to ensure that roles and responsibilities for project delivery are clear among all relevant project participants.
- **Design coordination protocols:** Establish a protocol to ensure that all relevant consultants are consulted about interfaces with design services.
- **Training:** Train staff to identify, raise and record concerns that could compromise compliance with professional standards obligations.
- **Assurance:** Establish mechanisms to assess and assure quality and compliance at key stages during a project.

E. Duty of competence

145. The duty of competence requires architects to possess and apply the necessary knowledge, skills, and judgment to perform their roles professionally.
146. This duty involves staying up-to-date with technical and regulatory developments, engaging in CPD, and recognising the limits of personal expertise when providing services.
147. The duty seeks to ensure that architects are capable of delivering services that meet accepted standards.

Small practice case study: Renovation of a residential heritage home

Scenario:

A small architectural firm was engaged by a private client to renovate a Victorian-era heritage-listed terrace house. The brief was to modernise the interior, improve thermal performance, and add a rear extension and attic-level studio. The client was keen to preserve the historical facade while maximising usable space.

The lead architect, although experienced in residential work, had limited prior experience with regulatory requirements applicable to heritage-listed buildings. Relying on general residential design knowledge, the architect proceeded to prepare the design without engaging a heritage

consultant or seeking early guidance from the local council about applicable planning requirements.

After some consideration, the local council rejected the application for planning approval submitted by the architectural firm. Among other things, the council found that the planning application failed to comply with applicable heritage requirements.

This delayed the project by over one year. During this time, costly amendments to the design and planning application were made to ensure compliance with the heritage requirements.

Main aspects that could give rise to a breach of the duty of competence:

- Lack of expertise in a specialist area and failure to recognise limits of own competence.
- Failure to research applicable laws and standards, including local planning controls and heritage overlays.
- Neglecting to seek specialist input or consult relevant authorities, resulting in non-compliant design work.

Key initiatives to avoid a breach of the duty of competence in this scenario:

- **Skills assessment:** Require architects to assess their familiarity with the regulatory and technical aspects of each new project type and identify knowledge gaps.
- **Training:** Encourage staff to undertake CPD in specialist areas in which work may be undertaken and, where appropriate, staff should obtain relevant training for the provision of specialist services.
- **Client communication:** Establish mechanisms to clearly communicate project risks and regulatory constraints to clients from the outset.
- **Technical checklists:** Establish checklists for specialist areas to ensure that the complexity associated with these areas is adequately accounted for in the design process.

Large practice case study: Design of childcare facilities

Scenario:

A large, well-established architectural firm with over 100 staff across multiple offices won a competitive bid to design 5 new childcare facilities in the outer suburbs for a private sector client.

The design of each facility had to be tailored to local demographic and physical conditions, as well as the National Quality Framework for the provision of childcare services and applicable land-use planning requirements. The client wanted all facilities to be completed within 24 months to meet urgent enrolment demands.

The architectural firm assigned a senior associate architect as project lead, who was supported by a design team. However, the design team did not include a specialist in childcare facilities or someone with knowledge of the National Quality Framework.

The design failed to fully account for requirements in the National Quality Framework regarding space and safety requirements, as well as accessibility for students with disabilities. These

oversights were not detected until late in the design development phase, causing a costly redesign which damaged the firm's relationship with the client.

Main aspects that could give rise to a breach of the duty of competence:

- Lack of relevant sector-specific knowledge.
- Failure to recognise and address the limits of expertise.
- Inadequate stakeholder engagement to ensure that the client's requirements were understood and adequately addressed.
- Failure to identify and comply with applicable law.

Key initiatives to avoid a breach of the duty of competence in this scenario:

- **Skills assessment:** Establish project teams based on relevant skills and experience, not just availability.
- **Knowledge sharing:** Develop mechanisms to encourage the internal sharing of knowledge and expertise, particularly in relation to specialist areas.
- **Roles and responsibilities:** Implement a process to ensure that roles and responsibilities for project delivery are clear among all relevant project participants.
- **Training:** Encourage sector-specific CPD training for staff working in relevant sectors and, where appropriate, staff should obtain training for the provision of relevant specialist services.
- **Stakeholder engagement:** Establish a framework to ensure effective engagement and collaboration with relevant stakeholders throughout the design process – particularly, the client and, where necessary and appropriate, regulatory bodies.

F. Duty of honesty and integrity

148. The duty of honesty and integrity requires architects to act honestly, transparently, and ethically in all aspects of their work.
149. This includes being truthful in all communications, avoiding deception or misrepresentation, proactively addressing errors, and making decisions based on ethical principles, even when it may be inconvenient or contrary to personal or commercial interests.
150. Exaggeration of qualifications or plagiarism of the work of others would constitute a breach of this duty.
151. This duty is important because it helps to maintain a trusting relationship between architects and their clients, the public and the broader profession.

Small practice case study: Design for home extension

Scenario:

A small architectural firm was engaged to design a rear extension to a residential property.

The client, who was the home owner, had a clear vision of their requirements for the extension, but was unfamiliar with the applicable land-use planning requirements. The architect was intent on delivering this vision for the client.

To increase the likelihood of planning approval by the local council, the architect deliberately understated the extension's actual height in the drawings submitted with the planning application and omitted key site details that would have shown its potential impact on a neighbour's daylight.

The deception was discovered after the neighbour raised concerns, leading to the refusal of the planning application by the local council.

Main aspects that could give rise to a breach of the duty of honesty and integrity:

- Deceptive conduct by submitting misleading documentation.
- Misrepresentation of material facts to gain an advantage.

Key initiatives to avoid a breach of the duty of honesty and integrity in this scenario:

- **Client communication:** Set realistic expectations with clients and provide honest assessments of options and outcomes.
- **Training:** Encourage ethics training as part of ongoing CPD.
- **Review procedures:** Implement a pre-submission integrity check for applications for regulatory approvals.

Large practice case study: Design of public library

Scenario:

A large architectural firm (Firm A) tendered for a high-profile public library project, which was part of the re-development of a busy urban precinct.

In order to strengthen their tender, Firm A included images of past completed work and listed key personnel with experience in public buildings.

One of the featured projects in Firm A's tender had been designed by a different firm (Firm B). The staff member who was listed as lead for that project in Firm A's tender had recently left Firm B to join Firm A. That staff member had not led the project while at Firm B and had only been indirectly involved in development of the design.

Firm B also submitted a tender for design of the public library and included the same featured project in their tender as well.

Through the tender process, both firms were questioned about the featured project by the client, leading to the disqualification of Firm A from the tender process.

Main aspects that could give rise to a breach of the duty of honesty and integrity:

- Misrepresentation by exaggerating project experience.

Key initiatives to avoid a breach of the duty of honesty and integrity in this scenario:

- **Training:** Ensure senior management lead by example and are trained in ethical decision-making.
- **Tender protocols:** Establish formal procedures to verify all claims made in tenders, including staff CVs and project credits.
- **Credit policies:** Develop clear internal guidelines for how past projects are credited and communicated to prospective clients.
- **Transparency:** Encourage open discussions within the firm about ethical dilemmas and reinforce the importance of professional integrity.

G. Duty to comply with all applicable laws

152. Architects have a duty to comply with all applicable laws. In guidance published on the ARBV's website about this duty,⁴⁹ the ARBV notes the importance for all architects and architectural firms to be aware of their legal obligations. The guidance states that these obligations arise not only under the Act and Regulations, but also under other relevant regulatory instruments, such as the NCC.
153. The ARBV's guidance additionally refers inclusively to competition laws, occupation health and safety laws, equal opportunity laws, laws regarding taxation and payment of superannuation, and other employment entitlements and laws preventing companies from trading whilst insolvent.
154. The guidance further notes that the Code of Professional Conduct includes specific requirements regarding architectural practice, but also contains more broad-ranging obligations, including a duty to engender confidence in and respect for the profession of architecture. The guidance states that, where an architect's transgression outside the workplace is of a nature that the conduct could have the effect of diminishing confidence in and respect for the profession of architecture, then ARBV has the power to investigate that conduct and take appropriate action.
155. The guidance concludes by encouraging architects and architectural firms to take all available steps to ensure compliance with all applicable laws and to foster a culture of compliance.
156. Where relevant, architects must also provide clients guidance about necessary regulatory approvals and consents that are required for a project.
157. Compliance with this duty is crucial to ensure that architects act within the boundaries of the law so that they protect clients from harm and architects themselves are protected from exposure to liability.

⁴⁹ <https://www.arbv.vic.gov.au/compliance-all-relevant-laws>

Small practice case study: Addition of second dwelling

Scenario:

A small architectural firm specialising in residential projects was engaged to design a second dwelling at the rear of a lot of land for the owner of the existing dwelling.

In preparing the design, the firm overlooked a recent amendment to the NCC regarding energy efficiency standards for residential buildings. As a consequence, the design for the second dwelling did not comply with these standards.

On this basis, the local council rejected the building permit application, causing delays and additional costs for the client.

Main aspects that could give rise to a breach of the duty to comply with all applicable laws:

- Failure to comply with the NCC.
- Failure to advise client about regulatory requirements.

Key compliance culture initiatives to avoid a breach of the duty to comply with all applicable laws in this scenario:

- **Knowledge:** Implement a structured process for monitoring or receiving updates about relevant regulatory changes.
- **Training:** Ensure staff receive timely training on NCC amendments.
- **Review procedures:** Establish a checklist for regulatory compliance in project workflows to ensure that all designs meet applicable technical requirements before submission for regulatory approval.
- **Stakeholder engagement:** Foster a culture of proactive engagement with regulatory bodies and industry forums to keep abreast of regulatory developments.

Large practice case study: Design of a new private hospital

Scenario:

A large architectural firm was engaged to design a new private hospital.

In an effort to meet extremely tight deadlines set by the client, the design team issued high-level design documentation for tender by builders before a full review of NCC compliance requirements had been completed.

During the subsequent review process by the firm, it was discovered that the design did not meet minimum standards in the NCC regarding fire egress. The errors were only discovered after the building tenders had closed.

Major re-design work was required to address the NCC non-compliance. In addition, the builders had to be asked to modify their tenders in light of the revised design. This increased costs for the client and eventually delayed the hospital's opening by more than 6 months.

Main aspects that could give rise to a breach of the duty to comply with all applicable laws:

- Failure to comply with the NCC.
- Failure to advise client and other relevant stakeholders about applicable regulatory requirements.

Key compliance culture initiatives to avoid a breach of the duty to comply with all applicable laws in this scenario:

- **Compliance reviews:** Establish a team comprising trained compliance specialists responsible for verifying adherence to all applicable laws before finalising designs. If the expertise is not available in-house, a process to engage external consultants should be established.
- **Transparency:** Promote a culture of accountability where architects are encouraged to identify and disclose potential compliance risks early in the design process.
- **Accountability:** Implement a system to record roles and responsibilities for projects, including compliance responsibility.

H. Duty of confidentiality

158. Architects owe clients a duty to keep their information and communications private unless they are authorised or legally required to disclose it.
159. Among other things, this means that client information and communications should be stored securely.
160. This duty is important to maintain a relationship of trust between architects and clients. Without it, clients could be deterred from providing important information, which could undermine the professional delivery of architectural services.

Small practice case study: New home design for high-profile client

Scenario:

A sole practitioner was engaged to prepare the design of a new home for a high-profile client.

The sole practitioner had recently taken on an architectural graduate who was assisting with the project. The graduate had seen the client on television and was very excited to be working on a project involving such a famous person.

Without informing the owner of the firm, the graduate posted images of the concept design on social media and mentioned the client's name without consent.

Shortly afterwards, the owner of the firm discovered what had happened. He immediately apologised to the client about the disclosure and told the client that steps had been taken to ensure that it would not happen again. However, the client, who valued privacy, was alarmed by the news and immediately terminated the design contract.

Main aspects that could give rise to a breach of the duty of confidentiality:

- Unauthorised disclosure of client information.

Key compliance culture initiatives to avoid a breach of the duty of confidentiality in this scenario:

- **Policies:** Implement clear policies about confidentiality, ensuring all staff understand the importance of safeguarding client information.
- **Training:** Regular attendance at CPD sessions on professional ethics and confidentiality obligations and ensure that all staff (including non-architects) are aware of confidentiality obligations.

Large practice case study: Design of a multi-storey commercial building

Scenario:

A large architectural firm was engaged to design a multi-storey commercial building for a corporate client.

A junior architect stored project files on a personal cloud storage account for convenience to enable work to be done over the weekend.

The personal account was later compromised in a data breach, exposing sensitive client information and proprietary design concepts and work. The junior architect was notified by email about the data breach from the cloud service provider but did not tell anyone at the firm.

Main aspects that could give rise to a breach of the duty of confidentiality:

- Inadequate security measures for storing confidential client data.
- Failure to enforce data protection protocols.

Key compliance culture initiatives to avoid a breach of the duty of confidentiality in this scenario:

- **Policies:** Establish confidentiality policy and conduct audits to ensure compliance.
- **Security systems:** Implement firm-wide secure storage solutions with restricted access to and use of client information and data.
- **Training:** Require confidentiality and cybersecurity CPD training for all employees.
- **Incident reporting protocol:** Introduce a protocol to report any disclosures of confidential information.

I. Duty to act impartially and avoid conflict of Interest

161. Architects must act impartially and avoid situations where their personal or commercial interests could compromise their professional judgement.
162. In practice, this duty means that architects should pursue the best solution for clients, even if this is at the expense of personal gain.
163. Personal, practical or financial connections to any person or party involved in a project should be disclosed to the client and other relevant parties to determine how any potential conflicts of interest should be managed.
164. Architects should refuse gifts or favours that could influence or be perceived as influencing their actions and decisions.
165. This duty seeks to ensure that architects make choices and decisions that are fair, unbiased and in the best interest of their clients.

Small practice case study: Design of residential home

Scenario:

A small architectural firm was engaged to design a custom home for a client. The firm's architect director was the lead for the project.

The architect had a close, personal connection with a builder (the "preferred builder"). The architect often recommended the preferred builder to clients and the preferred builder did the same for the architect.

The client wanted the project done quickly and asked the architect to recommend a builder who was able to get the work done within the required time-frame. The architect knew that the preferred builder was between projects so recommended the preferred builder to the client, stating that the builder would be best placed to meet the client's timeframe. The architect did not consider or put forward any other builders and did not disclose the relationship with the preferred builder to the client.

The preferred builder was awarded the project. Even though the preferred builder completed the project within the client's timeframe, there were some defects in the home that required repairs. The client was dismayed when they later discovered the architect's personal connection to the builder.

Main aspects that could give rise to a breach of the duty to act impartially and avoid conflict of interest:

- Failure to disclose a personal connection with the builder.
- Impartiality and professional judgment compromised due to conflicted interests.

Key compliance culture initiatives to avoid a breach of the duty to act impartially and avoid conflict of interest in this scenario:

- **Policies:** Establish a policy requiring disclosure to clients and other relevant stakeholders of any personal or financial interest in proposed contractors or consultants.
- **Procurement process:** Implement a transparent process for selection of contractors or consultants, ensuring recommendations are based on objective criteria rather than personal relationships.
- **Training:** Encourage ongoing CPD training focused on ethical decision-making and transparency.

Large practice case study: Design for a mixed-use development

Scenario:

A large architectural firm was engaged to design a major mixed-use development which combined retail, housing, and public spaces.

The lead architect played a central role in the project, including advising the client on the procurement process to engage the builder.

Unbeknownst to the client, the lead architect was also a director and shareholder of a building company that submitted a tender for the project and was eventually awarded the building contract. However, the lead architect failed to disclose this financial interest to the client.

During the project, design changes were made by the architect at the request of the builder to cut costs at the expense of long-term building quality.

The conflict of interest was eventually exposed. The architectural firm was sacked from the project.

Main aspects that could give rise to a breach of the duty to act impartially and avoid conflict of interest:

- Failure to disclose a financial interest in a party involved in the project.
- Failure to act impartially by agreeing to design changes that were not clearly in the client's best interest.

Key compliance culture initiatives to avoid a breach of the duty to act impartially and avoid conflict of interest in this scenario:

- **Policy:** Establish a clear policy on accepting directorships, shares, gifts or benefits from project stakeholders.
- **Conflict of interest register:** Require all senior staff to complete a conflict declaration at project inception, which should be independently reviewed.
- **Governance:** Develop a governance framework for projects to ensure ethical decision-making.
- **Transparency:** Promote a culture where disclosure of conflicts of interest is standard practice.

J. Duty to keep records and communicate effectively

166. The duty to keep records and communicate effectively is crucial for ensuring clarity, accountability, and legal protection.
167. Agreements regarding all key aspects of the provision of architectural services between architects and clients must be documented.
168. Architects must also maintain proper records of all their work. Good record-keeping practices support informed decision-making, demonstrate due diligence and professionalism, and can provide legal protection in the event of a dispute.
169. In addition, architects must keep clients reasonably informed about project progress, decisions and problems. They should notify clients of any issue or decision that materially affects cost, quality or schedule.
170. Effective communication helps clients feel more confident and secure, which is vital for strong relationships and successful project outcomes.

Small practice case study: Home renovation

Scenario:

A small architectural firm undertook the design of a substantial renovation and extension to a residential property.

During the course of the project, the architect and client verbally agreed to several design changes that added cost and time to the project. These changes were not formally documented. No updated drawings, cost estimates, or schedule adjustments were issued by the architect to the client to reflect the changes.

When a dispute later arose between the architect and the client about the final invoice and project delays, the client claimed they were never informed about the full implications of the design changes by the architect.

Main aspects that could give rise to a breach of the duty to keep records and communicate effectively:

- Failure to document agreements.
- Lack of clear communication regarding project changes.

Key compliance culture initiatives to avoid a breach of the duty to keep records and communicate effectively:

- **Contracts:** Use a standardised client-architect agreement to ensure that all key aspects of the arrangements between architect and client are documented.
- **Records:** Maintain detailed project records, including meeting minutes, design approvals and changes to project schedules and cost estimates.

- **Client communication:** Ensure regular client updates through structured reports, ensuring transparency in project progress and decisions.

Large practice case study: Design of a major transport hub

Scenario:

A large architectural firm was engaged for the design of a major public transport hub involving multiple government bodies and other stakeholder groups.

Throughout the design process, the lead architect failed to keep consistent records of stakeholder meetings and approvals.

Key decisions and changes were communicated informally, and several email threads with critical client directions about the design were lost due to poor record-keeping and version control.

Mid-way through construction, a dispute emerged between the architect and contractor about whether a specific design element had been approved. The lead architect could not establish a clear paper trail to clarify whether approval had occurred.

Main aspects that could give rise to a breach of a duty to keep records and communicate effectively:

- Poor documentation of decisions, approvals, and meeting outcomes.
- Inadequate communication protocols for a complex, multi-party project.
- Lack of a traceable records and inadequate version control.

Key compliance culture initiatives to avoid a breach of the duty to keep records and communicate effectively:

- **Systems:** Establish a project-wide record-keeping system to ensure that all project decisions are documented and accessible.
- **Roles and responsibilities:** Implement a process to ensure that roles and responsibilities for project delivery are clear among all relevant project participants.
- **Meeting protocols:** Require all stakeholder meetings to be minuted, circulated, and approved within set timeframes.
- **Stakeholder communication:** Foster a culture of proactive communication, ensuring all stakeholders receive timely updates on project developments.

K. Entities to whom the overarching duties are owed

While the duties are overarching, there is some difference in their practical implications when applied to clients, the public and the profession respectively

171. While the duties described above are overarching, in the sense that they are broad and fundamental obligations that apply across firm sizes, types of projects and procurement arrangements, there may be some difference in the way they apply to clients, the public and the profession respectively.
- › To their **clients**, architects owe a duty to act in clients' best interests, ensuring that their needs are met through competent, professional service while adhering to agreed terms and conditions.
 - › To the **public**, architects have a duty to prioritise safety, health, and welfare, ensuring that their designs and projects do not pose harm and are compliant with applicable regulations and standards.
 - › To the **profession**, architects are responsible for maintaining ethical standards, promoting the values of fairness, transparency, and accountability, and contributing to the advancement of the profession's reputation and credibility.
172. In summary, architects must discharge their overarching duties with contextual awareness. This involves recognising that there may be variations in the way the duties apply to clients, the public, and the profession respectively.

L. Levels at which the overarching duties are owed

The overarching duties apply at the individual, firm and sectoral levels but with different practical implications at each level

173. The overarching duties apply at multiple levels of practice, each with distinct responsibilities and implications.
174. At the **individual level**, the overarching duties are personal obligations that guide daily behaviour and decisions. Specifically, an architect must:
- › maintain their own competence through continuing education;
 - › comply with all applicable laws;
 - › act with honesty and integrity in their dealings with clients and third parties;
 - › make decisions that prioritise the client's and public's best interests;
 - › safeguard client confidentiality;
 - › avoid conflicts of interest;
 - › keep good records and communicate regularly and effectively.
175. At the **firm level**:
- › The overarching duties need to be translated into organisational culture, policies, and systems that support the discharge of the duties.

- › Firms must create an environment where compliance is valued and supported by investing in training, adequate project resourcing, ensuring quality control, implementing clear confidentiality protocols, and promoting transparency.

176. At the **sectoral level**:

- › Sectoral bodies also have a role to play in ensuring that the overarching duties are discharged.
- › Initiatives at this level could include the delivery of relevant CPD, advocacy for the maintenance of professional standards in different contexts, and establishment of voluntary industry codes that explain and elaborate the duties.

177. In summary, while the overarching duties are core to all aspects of architects' work, their application scales from personal behaviour to firm-wide practices and ultimately to governance mechanisms for the entire profession. This helps to reinforce the duties at each level, which amplifies the impact on public trust and professional reputation.

M. Concluding remarks

178. The exploration of overarching duties in this chapter is not a substitute for the detailed requirements applicable to architects under the regulatory framework.
179. Nevertheless, an understanding and acceptance of the overarching duties owed by architects to their clients, the public, and the profession helps architects navigate their complex responsibilities while serving clients, the public, and the broader profession with integrity and professionalism. It also underpins a strong compliance culture.
180. The case studies covered in this chapter demonstrate how embedding the overarching duties into everyday practice, actions and decision-making can elevate compliance from a box-ticking exercise to a valued cultural norm.
181. The next chapter evaluates the compliance culture that currently exists within the architecture sector in Victoria.

5 EVALUATION OF COMPLIANCE CULTURE IN VICTORIA

A. Overview

Objective of chapter:	<ul style="list-style-type: none"> › To gain an understanding of the compliance culture that currently exists within the architecture sector in Victoria.
Importance:	<ul style="list-style-type: none"> › An understanding of the compliance culture across the profession enables the ARBV and other regulators of architects across Australia to identify systemic compliance issues that may exist. › It also enables regulators to develop targeted strategies to unpack and address compliance issues in collaboration with architects and architectural firms, as well as other participants in the broader construction sector.
Key insights:	<ul style="list-style-type: none"> › Architects generally demonstrate a strong commitment to compliance, which reflects an appreciation of their professional responsibility to uphold high standards. However, this commitment may be undermined by project realities and complexities, including but not solely in the context of D&C procurement. › Tight timelines, unclear roles and responsibilities, and builder control of project decisions may undermine architects' capacity to comply. › In addition, even though architects have a duty to act with honesty and integrity, fear of conflict and lack of contractual power may prevent architects from reporting or resisting non-compliance in certain project contexts. › Despite this challenging and complex environment, architects need to turn their mind to compliance, even if they believe that the primary responsibility rests elsewhere or that their responsibility for compliance is confined (e.g. because they are providing partial services). › Regulatory complexity and change may also make it difficult for architects to maintain compliance and competence. › CPD is broadly valued by the profession, but compliance with CPD requirements is inconsistent, which signals a gap between intent and practice. › Notwithstanding the challenges to comply, architects are widely seen as ethical and trustworthy, reflecting a strong professional identity. › However, ongoing systemic issues within the broader construction sector may expose architects to disproportionate blame for non-compliance and could erode public confidence in the profession as well as in the broader construction sector.
Implications for architects and architectural firms	<ul style="list-style-type: none"> › Architects need to ensure awareness of compliance and maintain an ongoing commitment to professional development, especially in the face of a complex and dynamic commercial and regulatory environment.

B. Introduction

182. As regulator of the architecture profession in Victoria, the ARBV views the evaluation of compliance culture as essential to fulfilling its role under the regulatory framework – namely to protect clients, the public and the profession from harm.
183. Evaluating compliance culture is important because it provides insights into how well legal obligations, ethical standards and professional responsibilities are understood, prioritised, and embedded in practice by members of the profession. It is difficult for the ARBV to effectively support the profession to meet their professional responsibilities without such an evaluation.
184. The purpose of this chapter is to evaluate the current state of compliance culture within the architecture sector in Victoria using the best available evidence.
185. The chapter introduces a structured framework to evaluate compliance culture in a transparent and objective way. This framework seeks to ensure that any efforts by the ARBV to strengthen compliance culture within the profession are grounded in evidence, rather than ad hoc data, anecdotal information, and assumptions that have not been fully explored and tested.
186. In this chapter, the evaluation framework has also been applied to gain a clearer understanding of how compliance with professional responsibilities is currently viewed and practised across the architecture profession in Victoria.
187. The data used to inform this evaluation includes survey responses from more than 500 members of the Victorian profession, as well as important insights from a focus group comprising key representatives from the architecture sector and the broader construction sector.

C. Framework to evaluate compliance culture

188. This section sets out the elements of a framework to evaluate compliance culture in the architecture sector.

Despite the regulatory benefits of understanding compliance culture, the evaluation of compliance culture across the profession presents significant challenges

189. Despite the benefits, evaluating compliance culture presents significant challenges, including the following:
 - › *Scope of compliance:* Determining the scope of compliance to consider when evaluating compliance culture presents a key challenge. A broad, generic approach which focuses on overall attitudes toward compliance can provide useful insights into general approaches and cultural norms, but may overlook specific risks or behaviours relevant to particular obligations. Conversely, a more targeted approach that focuses on specific types of non-compliance (such as cladding or weatherproofing under the NCC) can reveal specific vulnerabilities, but may miss the bigger picture of whether compliance is valued across an organisation or sector.
 - › *Diversity of regulated entities:* Within the architecture sector, architectural practices vary from sole practitioners and small firms to large, multinational firms. The type, location and scale of

projects undertaken by these practices also vary. Some firms may have visible and formal compliance management systems, whereas sole practitioners and small firms may approach compliance in a more informal and less structured way. This diversity complicates an assessment of compliance culture across the profession.

- › *Variety of procurement methods:* There is a variety of procurement methods that may be used for construction projects, each of which involves different contractual structures, roles, responsibilities and allocation of risk. This variability means that compliance expectations and behaviour can differ significantly from one project to another, making it difficult to assess culture consistently.
- › *Scope of services:* The scope of consultancy services often differs between projects. This can create challenges for architects, particularly when they are expected to coordinate the input of other consultants. If those other consultants have entered into separate agreements with the project proponent which the architect is not privy to, the architect may not have full visibility over their roles, responsibilities or deliverables. This lack of transparency can affect how well coordination is achieved and may limit the architect's ability to ensure that compliance obligations are consistently met. This also makes it difficult to assess whether compliance responsibilities are clearly defined, understood, and effectively coordinated.
- › *Market conditions:* The market for the provision of architectural services is necessarily dynamic, which means that a static assessment that assumes that compliance culture is fixed is not appropriate. Demand for architectural services may fluctuate depending upon the state of the broader economy. Financial instability among construction firms can disrupt projects. Rising construction costs can limit revenue and affect profitability of architectural practices. In addition, the level of competition faced by architectural firms may change over time depending upon the number of and types of participants providing architectural and design services. Collectively, these factors can affect the sector's approach to compliance at a particular point in time.
- › *Qualitative evaluation:* Evaluating compliance culture is primarily a qualitative exercise because it involves assessing intangible elements like values, attitudes, expectations and aspirations of sectoral participants. These elements can be difficult to detect through the use of traditional regulatory tools and may be difficult to measure through objective, quantitative metrics.
- › *Data limitations:* There is no single source of data that can be used to assess compliance culture across a sector. Instead, consideration of a mix of various types of data will be needed to form a holistic view of culture. Each source of information may, on its own, be incomplete or biased, which adds complexity to the way in which it should be assessed individually as well as collectively. Reconciling inconsistent data also creates challenges.

190. In light of the above challenges, the evaluation in this report is subject to the following main qualifications:
- › *Scope*: The evaluation adopts a broad approach which focuses on overall attitudes toward compliance, while recognising that a more granular evaluation surrounding particular compliance issues could also be a useful exercise in the future.
 - › *Diversity of regulated entities*: The evaluation is not focused on any particular segment of the profession (such as sole practitioners, small firms and large firms or on particular project typologies), but there could be value in such segmentation in the future.
 - › *Market conditions*: The evaluation accounts for available data about current market conditions, noting that these conditions could change and affect the results of a subsequent evaluation.
 - › *Qualitative evaluation*: The evaluation uses objective data where possible (e.g. complaints and compliance history), but has been supplemented with qualitative information to ensure a more nuanced assessment.
 - › *Data limitations*: Despite the limited data that has been available for the evaluation, the approach that has been adopted is to use available information to form a practical, high-level view of compliance culture, while acknowledging that the analysis can be deepened with more data in time to gain a more detailed understanding.

A structured framework to evaluate compliance culture has been used to overcome challenges

191. The framework used by the ARBV to evaluate compliance culture in the architecture sector comprises four main components, which are discussed below.

Profile of the sector

192. The first component involves gaining an understanding of the sector's characteristics.
193. It includes consideration of the number and type of entities that participate in the sector, as well as the type and scale of the projects that they undertake, market dynamics, and risk landscape. This information provides essential context for evaluating compliance culture within the sector.

Compliance culture indicators

194. The second component involves identification of key indicators that reflect compliance culture.
195. These indicators are qualitative and quantitative measures that can be used to assess the compliance culture – that is, indicators that provide insights into the values, attitudes, and behaviour of sectoral participants that influence their approach to compliance with applicable regulatory obligations.
196. These indicators are intended to capture objective evidence of compliance culture (such as attendance at CPD seminars), as well as underlying drivers of compliance behaviour (such as particular types of construction procurement models or project types that affect compliance disposition and the incidence of non-compliance).

Data collection

197. The third component involves using the compliance culture indicators to gather relevant qualitative and quantitative data and other information so that assessment of compliance culture against the indicators can be undertaken.
198. Relevant data includes complaints and non-compliance statistics, insights and intelligence about non-compliant conduct from other regulators, and industry reports about market trends, pressures and vulnerabilities.
199. The data should ideally be obtained from multiple sources to minimise the risk of a biased evaluation of compliance culture and also to lay the foundation for a holistic assessment of the state of compliance culture across the sector.

Analysis and evaluation

200. The final component of the framework involves analysing the available data against the compliance culture indicators and interpreting the results in the context of the profile of the architecture sector.
201. More specifically, this involves identifying compliance weaknesses, while also considering external influences such as procurement practices, economic conditions and competitive pressures.

The evaluation framework enables the ARBV to form an evidence-based and nuanced view of compliance culture across the architecture sector

202. The evaluation framework outlined above is intended to enable the ARBV to develop an evidence-based and nuanced understanding of compliance culture, which will, in turn, allow regulatory activity to be strategically targeted so that the compliance culture within the architecture sector can be strengthened as a whole.
203. The following sections of this chapter apply the evaluation framework to the Victorian architecture sector.

D. Profile of the Australian architecture sector

204. Understanding the profile of a sector is essential when evaluating compliance culture because different sectors have unique operational structures, market dynamics, risks and compliance issues.
205. The particular features and characteristics of the Australian architecture sector reveal important insights about compliance culture and they may also affect the way in which compliance culture is evaluated.

In Victoria, the architecture sector consists mostly of sole practitioners and small firms

206. Local market structures and relative ease of entry have resulted in the proliferation of mostly small architectural firms with limited economies of scale.⁵⁰ The latest IBIS World report on Architectural Services in Australia (2024) suggests that the sector is heavily populated by smaller firms and individual practitioners owing to design work's bespoke nature. The report states that each project requires significant customisation and personal attention, which is difficult to scale.⁵¹
207. At present in Victoria, there are currently, 5,675 registered practising architects, 1,525 approved companies and 27 approved partnerships.
208. In the 2024 annual survey undertaken by the ARBV of registered architects and approved companies and partnerships in Victoria, 1141 respondents answered as follows regarding the size of their practices:
- › Sole practitioners: 341 (30%)
 - › 0-5 staff: 555 (49%)
 - › 5-10 staff: 115 (10%)
 - › 10-25 staff: 71 (6%)
 - › 25 – 50 staff: 39 (3%)
 - › 50-100 staff: 14 (1%)
 - › 100+ staff: 6 (1%)
209. Across Australia, approximately 98% of architectural firms employ less than 20 people or do not employ anyone.⁵² The largest four operators account for less than 10% of industry revenue.⁵³

⁵⁰ McKinsey & Company, *The next normal in construction: How disruption is reshaping the world's largest ecosystem* (2020), at p. 5.

⁵¹ IBIS World, *Architectural Services in Australia M6921* (2024), at p.19.

⁵² Ibid. at p.16.

⁵³ Ibid.

Sole practitioners and small firms may face unique challenges complying with their regulatory obligations

- 210. As the architecture sector is dominated by sole practitioners and small firms, the majority of sectoral participants may have limited resources to implement formal compliance frameworks.
- 211. Compliance risks can arise when a project is undertaken at a different scale than the architectural firm is accustomed to. Risks can also exist when a practice is involved in design for a different building typology from their usual type, or a different procurement method is used.
- 212. The predominance of sole practitioners and small firms in the architecture sector also affects how compliance culture can be evaluated. In particular, there may be fewer externally observable indicia of how compliance is managed by sole practitioners and small firms. In this setting, self-assessments and surveys may be the fairest and most accurate way to assess compliance culture, although these methods may also introduce some inherent bias into the evaluation that is difficult to account for.

Architects are likely to face significant competition in the current market context, which may also affect compliance culture

- 213. In Victoria, the barriers to entry to the market for provision of architectural services are relatively low. To practice as an architect, individuals must be registered with the ARBV, which requires completing an accredited architectural degree, gaining practical experience, and – for most practitioners – passing the Architectural Practice Examination (**APE**). Once registered, architects face minimal restrictions on setting up their practice, with no regulated limits on firm ownership or operational structure.
- 214. However, architects face competitive pressure from other building designers. These types of practitioners do not have the same educational background and qualifications as architects, are not regulated in the same way as architects, and are not held to the same professional standards. Nevertheless, building designers can perform similar services to architects (particularly architectural drafting) and typically charge lower fees because they are less regulated and may have lower insurance costs.
- 215. Architects also face increasing competition from vertically integrated firms, including large construction and engineering consulting firms. These large firms can offer clients integrated services at a lower price thanks to economies of scale.⁵⁴ Smaller architecture firms may not have the scale or brand recognition to compete for large projects.⁵⁵

⁵⁴ Ibid. at p. 4.

⁵⁵ Ibid.

Competitive pressure may either serve to strengthen or undermine compliance culture, so an evidence-based and nuanced approach is needed when evaluating compliance culture

- 216. While the level of competition in the architecture sector is clearly relevant to the compliance culture within the sector, competitive pressure may either strengthen or undermine culture. This makes it difficult to know how to account for this factor in the evaluation of compliance culture.
- 217. On the one hand, strong competition can drive firms to maintain high compliance standards to differentiate themselves from other competitors, to build trust with clients, and avoid reputational damage if non-compliance were to occur. However, on the other hand, intense competition can also create pressure to cut costs, including costs that might otherwise be used to invest in compliance.
- 218. In light of this, an evidence-based and nuanced approach is needed when evaluating the impact of competitive pressure on compliance culture.

The culture, dynamics and practices within the broader construction sector may affect the compliance disposition and behaviour of architects

- 219. The broader construction sector's culture, dynamics, and practices are also likely to influence architects' behaviour, shaping their decision-making, collaboration styles, and professional priorities.
- 220. In Australia, the Design and Construct (**D&C**) procurement model is currently prevalent in the construction industry. Under this approach, a client engages a single contractor responsible for both the design and construction phases of a project. The centralisation of responsibility for design and construction is intended to streamline project delivery and foster early collaboration between designers and builders, potentially leading to cost savings and reduced timelines.
- 221. However, while D&C procurement can enhance efficiency in some areas, it may also prioritise cost and time considerations over quality and can result in compliance issues. When a client pushes for a very lean and fast design phase with early novation to the contractor, the project may reach the point of contractual agreement on time and cost before the design is appropriately developed for the stage. Once novated, the contractor may prioritise meeting their contractual obligations, often accelerating the documentation phase. This can put significant pressure on consultants, potentially compromising the quality and thoroughness of design development and coordination.
- 222. Understanding procurement practices, particularly the dominance of D&C in the Australian construction sector, is critical context for the evaluation of compliance culture in the architecture sector. It reveals how industry practices and contractual arrangements can undermine architects' ability to uphold their professional duties. It also highlights the need for system-level solutions – not just individual accountability – when seeking to strengthen compliance.

E. Indicators of compliance culture

223. In order to evaluate compliance culture within the architecture sector, a range of qualitative and quantitative indicators are relevant at the individual, firm and sectoral levels.
224. This section sets out a suite of possible indicators that could be used to undertake the evaluation, while noting that there may be other indicators that could also provide helpful insights.
225. Even though the indicators are intended to facilitate evaluation of compliance culture by the ARBV, they could also be useful for architects, architectural firms, industry bodies and other participants in the broader construction sector for the same purpose.

The indicators of compliance culture are different at the individual, firm and sectoral levels

226. The indicators of compliance culture differ at the individual, firm, and sectoral levels because each level reflects different responsibilities, influences, and systemic factors that affect compliance behaviour.

Indicators of compliance culture at the individual/small firm level

227. The indicators set out below are intended to assess whether and how well individuals and small firms ensure that they comply with their obligations when undertaking their work:
- › *Awareness of compliance obligations* – to gauge whether individuals understand their responsibilities under the regulatory framework, particularly the Code of Professional Conduct.
 - › *Understanding and support for the rationale(s) underpinning compliance obligations* – to gauge the level of alignment of individual values with the regulatory framework.
 - › *Participation in CPD* – to measure engagement in ongoing education and efforts to stay up-to-date with requirements to comply with professional obligations.
 - › *Maintenance of clear and accurate records, particularly in relation to matters that are covered under the regulatory framework* – to assess professionalism, discipline and transparency in professional practice.
 - › *Complaints and compliance history* – to understand patterns of past issues with clients and non-compliance that may indicate cultural issues.
 - › *Willingness to report instances of non-compliance* – to evaluate transparency and ethical courage and the prioritisation of professional integrity over the risk of regulatory action.
 - › *Willingness to co-operate with the regulator and proactively address non-compliance when it occurs* – to assess accountability and willingness to improve.
 - › *Responsiveness to regulatory change* – to identify proactive behaviour in staying informed about changes in the regulatory landscape.

Indicators of compliance culture at the larger firm level

228. The focus of the following indicators at the larger firm level is on how well a commitment to compliance is embedded in day-to-day operations and decisions across the firm's operations:
- › *Existence and enforcement of formal compliance policies and procedures* – to determine whether structured compliance management frameworks are in place and whether they are actively enforced when non-compliance occurs.
 - › *Understanding and support for the rationale(s) underpinning compliance obligations* – to gauge the level of alignment of the values of organisational leaders with the regulatory framework.
 - › *Integration of compliance into strategic documents and decision-making records* – to assess how deeply compliance is embedded in leadership thinking, firm direction and decision-making practices.
 - › *Resources allocated to compliance, such as for compliance officers, compliance training and compliance guidance documents* – to evaluate the priority given to compliance through resourcing and capacity-building.
 - › *Complaints and compliance history* – to identify recurring compliance problems and evaluate responsiveness and learning from past incidents.
 - › *Willingness to report instances of non-compliance* – to understand the internal culture of transparency and ethical responsibility.
 - › *Willingness to co-operate with the regulator and proactively address non-compliance when it occurs* – to gauge the firm's approach to accountability and relationship with regulatory bodies.
 - › *Employee perception surveys on compliance culture* – to capture lived experience of compliance culture from those operating within the firm day-to-day.

Sectoral level

229. As for the sectoral level, the indicators relate to factors that may affect the collective behaviour of firms within the architecture profession, which can be influenced by the nature and intensity of competition across the architecture sector as well as procurement practices and industry norms within the broader construction sector:
- › *Economic conditions and market pressures that may affect compliance attitudes* – to understand how external financial or commercial pressures may incentivise or discourage compliant behaviour, including procurement practices.
 - › *Engagement and collaboration with industry bodies about compliance* – to assess the strength and effectiveness of sector-wide dialogue and shared responsibility for compliance.
 - › *Sector-wide compliance reviews, audits and benchmarking studies* – to provide macro-level insights into how the sector is performing overall and where systemic weaknesses may exist.
 - › *Industry-wide adoption of best practices and ethical standards* – to measure the proactive adoption of frameworks and practices that support a strong compliance culture beyond minimum requirements.
 - › *Public trust and reputation of the sector in relation to compliance* – to understand the external perception of the sector's professionalism, integrity, and regulatory accountability.

A collective analysis of indicators at the individual, firm and sectoral levels can provide a holistic picture of compliance culture

- 230. A consideration of indicators at the individual, firm, and sectoral levels provides a nuanced picture of compliance culture across the architecture sector, which highlights both micro-level behaviour and macro-level dynamics.
- 231. Individual-level indicators, such as employee attitudes and ethical behaviour, reveal how compliance values are understood and practised on the ground. Firm-level indicators, including governance structures, internal controls, and leadership commitment, show how these values are institutionalised and enforced within organisations. Sector-level indicators, such as industry practices and norms, reveal broader compliance attitudes and external influences shaping compliance behaviour.
- 232. Assessment of compliance culture at these three levels using distinct but interconnected indicators can enhance understanding of where strengths and weaknesses exist within the sector. This, in turn, enables any necessary regulatory interventions to be tailored accordingly.

F. Data to evaluate compliance culture

- 233. It is impossible to assemble data across all the key indicators identified above to comprehensively evaluate compliance culture within the Victorian architecture sector, as the cost and effort required to collect and analyse exhaustive information may outweigh the benefits.
- 234. Instead, this section of the report presents a snapshot of current compliance culture based on the best available information, while noting the limitations of the data and acknowledging that the analysis could be deepened in the future to gain a more detailed and nuanced understanding.
- 235. The following main sources of information have been used to establish a high-level view impression of compliance culture in the Victorian architecture sector:
 - › *Survey of regulated entities:* A survey of entities that are regulated in Victoria by ARBV has been used to gather insights directly from a wide cross-section of members of the architecture profession. The survey questions are contained in **Appendix B**. They were designed to minimise burden on survey participants and to maximise the response rate. Five hundred and twenty three (523) entities responded to the survey. The survey was open for 1 week.
 - › *Focus group with key sectoral representatives:* A focus group involving key sectoral representatives from Victoria has been used to obtain a deeper, qualitative understanding of compliance issues. The focus group enabled the ARBV to explore underlying drivers of compliance behaviour and provide context that may not be evident through the survey data alone. The focus group participants are listed in **Appendix A** and the questions discussed by the focus group are contained in **Appendix B**.
 - › *Complaints and compliance data:* The insights from the survey and focus group have been complemented with available data about complaints made to the ARBV, including those that have led to regulatory action to address established non-compliance.
- 236. Together, these sources of information support a pragmatic yet balanced and credible assessment of compliance culture.

G. Evaluation of compliance culture in the Victorian architecture sector

237. The table below contains a summary of the evaluation of compliance culture in the Victorian architecture sector, based on the available data. Data was not available for all the indicators listed earlier in this chapter. Therefore, the table only covers indicators for which data was available.

INDICATOR	SURVEY RESPONSES	FOCUS GROUP COMMENTS	EVALUATION
INDIVIDUAL LEVEL			
Awareness of compliance obligations	<ul style="list-style-type: none"> › The survey results suggest good awareness among respondents regarding their professional responsibilities, particularly compliance with the regulatory framework. › 95% of respondents said they were very confident or somewhat confident that they understood their professional obligations. › In addition, 94% associate professionalism with understanding and complying with the Code of Professional Conduct and all relevant laws. › This tends to suggest that most practitioners are well-informed about the existence and content of their compliance obligations. 	<ul style="list-style-type: none"> › Focus group participants indicated that architects treat compliance as a core value, but suggested that there are limits in awareness and understanding of compliance obligations as illustrated by the following key points that were made. › Recent graduates and students often see regulation as external to design, reflecting a gap in university education. › Architects sometimes lack confidence in their regulatory knowledge, especially when dealing with contractors. › Knowledge gaps exist, particularly around the NCC. › Uncertainty was expressed about the profession's knowledge and understanding of compliance obligations beyond the regulatory framework administered by the ARBV. 	<ul style="list-style-type: none"> › Awareness of compliance obligations is generally high, with most architects reporting confidence in their understanding of professional and legal responsibilities. › However, this awareness may be uneven across the profession and in relation to certain aspects of compliance, including NCC compliance and legal obligations beyond the regulatory framework administered by the ARBV. › This suggests a gap between perceived and actual understanding of compliance obligations within the profession, indicating the need for more targeted education, practical training, and ongoing professional development.
Understanding and support for the rationale(s) underpinning	<ul style="list-style-type: none"> › The survey results indicate strong alignment between architect's identification as a professional and the values that underpin compliance 	<ul style="list-style-type: none"> › According to focus group participants, architects are generally committed to ethical, compliant solutions, even under pressure from cost or time 	<ul style="list-style-type: none"> › Strong understanding and support for the rationale behind compliance is evident, with most architects linking professionalism to ethics, public interest, and ensuring safety and

INDICATOR	SURVEY RESPONSES	FOCUS GROUP COMMENTS	EVALUATION
compliance obligations	<p>obligations in the regulatory framework.</p> <ul style="list-style-type: none"> › In responding to a question about what being a professional means in the context of architectural practice, 84% referred to maintaining clear ethical boundaries, 88% referred to ensuring quality and safety in building design, and 59% referred to acting in the public interest. › These responses indicate that many practitioners understand and support the rationales underpinning the regulatory framework. 	<p>limitations or builder-led substitutions.</p> <ul style="list-style-type: none"> › However, compliance can be undermined by contractual limitations, site exclusion during construction, and lack of authority to make decisions or influence outcomes in the context of D&C procurement. 	<p>quality – these are core values that underpin compliance obligations in the regulatory framework.</p> <ul style="list-style-type: none"> › However, in practice, commitment to compliance may be challenged including but not solely in the context of D&C procurement, which can weaken architects’ ability to uphold these values, despite their strong professional commitment.
Participation in CPD	<ul style="list-style-type: none"> › Audits of CPD compliance undertaken by ARBV indicate that there is room for improvement. › In 2023, around 40% of those audited had not satisfactorily completed their CPD requirements. In 2024, this rose to 50%. › Nevertheless, the survey results indicated that 89% of respondents are committed to maintaining skills and knowledge, which implies that professional development is widely valued, at least amongst those who responded to the survey. 	<ul style="list-style-type: none"> › Focus group participants did not comment on the rate of participation of architects in CPD. However, they expressed strong support for enhancing CPD, particularly in relation to the NCC. The following key points were made. › CPD needs to be more targeted and competency-based, not just time-based. › CPD should include case studies about real-world application of compliance requirements. › CPD on NCC compliance should be mandatory. 	<ul style="list-style-type: none"> › While most architects value professional development, with 89% expressing commitment to maintaining skills and knowledge, actual CPD compliance is inconsistent, with non-compliance increasing from 40% (2023) to 50% (2024) in ARBV audits. › Focus group participants support strengthening CPD, especially around the NCC, and advocate for more targeted, practical, and competency-based approaches.
Complaints and compliance history	<ul style="list-style-type: none"> › This issue was not covered in the survey. However, the ARBV’s complaints and compliance data illustrates that there are ongoing compliance issues within the sector, 	<ul style="list-style-type: none"> › Based on comments made by focus group participants, there are pockets of very compliant-minded architects within the profession. › However, reference was made to instances of non-compliance that had 	<ul style="list-style-type: none"> › Unprofessional conduct remains a persistent concern, consistently making up a significant portion of complaints made to the ARBV each year, with an upward trend in recent years.

INDICATOR	SURVEY RESPONSES	FOCUS GROUP COMMENTS	EVALUATION
	<p>particularly in relation to unprofessional conduct.</p> <ul style="list-style-type: none"> › In some of these cases, architects fail to turn their mind to compliance because they think compliance is the responsibility of another party. › The ARBV has also encountered cases where architects assume that because the scope of their services is confined (e.g. providing partial or limited services) they are limiting risk and exposure to liability, when this is not necessarily as straightforward as they may think. › Complaints about unprofessional conduct are consistent, making up around one-third to one-half of all complaints made to the ARBV each year. › The number of complaints about unprofessional conduct has increased over the past 3 years: <ul style="list-style-type: none"> › 2024-25: 59 complaints › 2023-24: 49 complaints › 2022-23: 26 complaints › Based on these numbers, unprofessional conduct evidently remains a persistent issue. 	<p>been detected, particularly in relation to design documentation.</p> <ul style="list-style-type: none"> › It was suggested that compliance culture among architects for the design of Class 2 buildings is weak. 	<ul style="list-style-type: none"> › Some focus group participants pointed to ongoing issues in design documentation for Class 2 buildings, which needs to be considered particularly in light of other complaints and compliance history data. › There is evidence that, in certain circumstances, architects may fail to turn their mind to compliance as proactively as they should.
Willingness to report instances of non-compliance	<ul style="list-style-type: none"> › This issue was not directly addressed in the survey. 	<ul style="list-style-type: none"> › Concern was expressed among focus group participants that architects may lack confidence or contractual authority to report non-compliance and resist directions from other construction sector participants that may lead to non-compliance. 	<ul style="list-style-type: none"> › Architects may be reluctant or feel disempowered to report non-compliance, particularly when they lack contractual authority or confidence to challenge decisions made by more dominant parties in

INDICATOR	SURVEY RESPONSES	FOCUS GROUP COMMENTS	EVALUATION
		<ul style="list-style-type: none"> › The point was also made that architects may feel disempowered to insist on compliance, especially when developers or builders have decision-making power under relevant contractual arrangements. 	<ul style="list-style-type: none"> some project settings, like developers or builders. › Contractual structures and power imbalances in the construction sector can limit architects' ability to insist on compliance or resist directions that could lead to non-compliance.
Responsiveness to regulatory change	<ul style="list-style-type: none"> › The issue of responsiveness to regulatory change was not directly tested in the survey. › However, survey respondents expressed a strong desire for simplified/clarified regulatory requirements (72%) and more practical training on compliance and risk management (48%). › These responses suggest awareness of the complexity of regulatory requirements and a recognition of the need to keep up-to-date with them. 	<ul style="list-style-type: none"> › While architects were described as “ethical” and “trying hard to comply” by focus group participants, a number of participants indicated that regulatory complexity and the pace of change may make it challenging for architects to comply. › However, the point was also made that there have been recent improvements in compliance within the profession following issuance of the Shergold-Weir report and the Lacrosse decision. 	<ul style="list-style-type: none"> › Architects are aware of the need to keep up-to-date with regulatory changes and have expressed a desire for clearer, more practical guidance and training. This indicates a willingness to respond to regulatory changes, but also suggests ongoing challenges to understand regulatory obligations. › Regulatory complexity and the pace of change may be barriers to responsiveness to regulatory change, although recent developments (e.g. Shergold-Weir, Lacrosse) appear to have improved compliance awareness and responsiveness.
FIRM LEVEL			
Existence and enforcement of formal compliance policies and procedures	<ul style="list-style-type: none"> › Most survey respondents reported moderate to strong support from their firms regarding compliance with professional obligations, with over 70% rating support as Good, Very Good, or Excellent. › However, 23% of respondents rated support as Fair or Poor, suggesting 	<ul style="list-style-type: none"> › This issue was not directly addressed in the focus group. 	<ul style="list-style-type: none"> › Most architects report strong support from their firms to comply with professional obligations. This suggests that formal compliance policies and procedures exist in many practices. › However, the fact that nearly a quarter of survey respondents rated firm support as Fair or Poor indicates that a

INDICATOR	SURVEY RESPONSES	FOCUS GROUP COMMENTS	EVALUATION
	that in a notable minority of firms, formal compliance policies and procedures may be weak, underdeveloped, or inconsistently enforced.		<p>significant minority of firms may lack robust or consistently enforced compliance management systems.</p> <ul style="list-style-type: none"> › This points to inconsistencies across the profession, where firm support for compliance may depend heavily on individual firm culture and available resources.
Employee perception surveys on compliance culture	<ul style="list-style-type: none"> › The relatively low percentage of survey respondents seeking more internal support from their firm regarding compliance (13%) suggests that most employees perceive their firm's compliance culture as generally supportive or, at least, not the principal barrier to professional conduct. › However, the strong demand for external support – such as clearer regulation (72%) and practical training (48%) – indicates that employees do need more support to comply. 	<ul style="list-style-type: none"> › This issue was not directly addressed in the focus group. 	<ul style="list-style-type: none"> › Most employees view their firm's compliance culture as generally supportive, with only a small proportion of survey respondents (13%) identifying more internal firm support as a major need to support compliance with professional obligations. › The significant demand for external support, including clearer regulation and practical training, suggests that employees perceive systemic or regulatory complexity, rather than firm culture, as the main challenge to compliance.
SECTORAL LEVEL			
Economic conditions and market pressures that may affect compliance attitudes	<ul style="list-style-type: none"> › The survey responses reveal that commercial pressures from the broader construction sector are a major threat to compliance culture within the architecture profession. › 78% strongly indicated that current practices in the construction sector can undermine architect's ability to 	<ul style="list-style-type: none"> › Focus group participants also suggested that practices within the broader construction sector may undermine compliance by architects. › Contractual pressures can shift responsibility downward, with architects often expected to carry disproportionate compliance risk due 	<ul style="list-style-type: none"> › Commercial and contractual pressures from clients and builders are a significant factor undermining compliance culture within the architecture profession, with many architects reporting weakened capacity to meet compliance obligations due to unrealistic

INDICATOR	SURVEY RESPONSES	FOCUS GROUP COMMENTS	EVALUATION
	<p>comply with their compliance obligations.</p> <ul style="list-style-type: none"> › In terms of the specific issues that can compromise architects' ability to act professionally and comply with professional obligations, 71% referred to commercial pressures from clients or builders, 58% pointed to unrealistic project timelines, 47% referred to unclear roles and responsibilities, and 47% noted limited time or capacity to meet all obligations. 	<p>to weak contractual standing and builder-driven project decisions.</p> <ul style="list-style-type: none"> › Time and resource constraints, such as last-minute review of shop drawings, may impair architects' ability to meet compliance requirements. › Consultant siloing can weaken coordination and undermine consistent compliance practices across teams. › A lack of compliance oversight by building surveyors prior to certification, can lead to reactive rather than proactive compliance practices, increasing the risk of non-compliance in later stages of a project. 	<p>timelines, shifting responsibilities, and builder-led decisions.</p> <ul style="list-style-type: none"> › Structural issues in the construction sector including weak authority for architects under contractual arrangements, poor coordination among consultants, and late-stage compliance checks create an environment where economic and market pressures consistently undermine compliance.
Public trust and reputation of the sector in relation to compliance matters	<ul style="list-style-type: none"> › This issue was not addressed in the survey. 	<ul style="list-style-type: none"> › Focus group participants noted that architects are viewed as ethical and professional, but their reputation is at risk because they may be targeted in litigation to access their professional indemnity insurance. 	<ul style="list-style-type: none"> › Architects are generally regarded as ethical professionals with strong compliance values, supported by robust regulation, professional accountability, and higher standards than many others in the construction sector. This underpins a relatively high level of public trust in the profession. › However, gaps in regulatory understanding, limited on-site authority, and systemic issues in the broader construction sector can undermine the effectiveness of architects' compliance efforts and expose them to disproportionate blame, posing risks to public confidence in the sector.

Overall evaluation of compliance culture at the individual level

- 238. Based on the available data, architects demonstrate a clear commitment to compliance, reflecting an understanding of their professional responsibility to uphold high standards. However, this commitment may be challenged by project realities and complexities, such as D&C procurement and the lack of power to influence compliance decisions that could arise in this context.
- 239. While CPD is broadly valued within the architecture profession, inconsistent compliance with CPD requirements signals a gap between intent and practice. Given their professional status, architects must take personal responsibility for maintaining their competence. The data indicates a need for more practical training, especially on compliance with the NCC.
- 240. A strong compliance culture requires architects to act with honesty, integrity and courage. Yet, the data indicates that fear of conflict or lack of authority can prevent architects from reporting or resisting non-compliance in certain procurement contexts.
- 241. Despite the challenging and complex environment in which some architects operate, there is evidence that architects may fail to turn their mind to compliance, particularly if they believe that the primary responsibility for doing so rests elsewhere or that their responsibility for compliance is confined (e.g. because they are providing partial services).
- 242. The available evidence indicates that members of the profession are willing to learn and improve, consistent with a professional mindset. However, the complexity of regulatory requirements and the pace of change may make it difficult for architects to maintain individual compliance and competence.

Overall evaluation of compliance culture at the firm level

- 243. The data indicates that most firms are seen as supportive of compliance. However, a significant minority are viewed as not providing enough support to ensure that architects comply with their obligations. As architects are held to high standards and expected to proactively engage with compliance, it is essential that firms create environments that enable and reinforce this professional responsibility.
- 244. Nevertheless, the available evidence indicates that internal firm support is not seen as a major barrier to compliance. The greater challenge to compliance with professional obligations appears to come from outside firms, particularly regulatory complexity and commercial pressure from clients and builders. Architects may need more support from their firms to equip them to navigate these challenges, while maintaining a proactive, and committed approach to compliance at the individual level.

Overall evaluation of compliance culture at the sectoral level

- 245. While architects are held to high professional standards and expected to take a proactive approach to compliance, sectoral dynamics can create structural barriers that make this difficult to sustain in practice. In particular, evidence from various sources indicates that commercial and contractual

pressures in the broader construction sector may undermine architects' ability to comply with their obligations, particularly due to tight timelines, shifting responsibilities, and builder-led decisions.

- 246. Despite these challenges, architects are widely regarded as ethical and professionally accountable, reflecting a strong professional identity.
- 247. However, practices within the broader construction sector may expose them to disproportionate blame, posing risks to public confidence in the broader sector. This not only undermines the standing of individual professionals that are affected by these practices, but also risks eroding public confidence in the construction sector as a whole.

H. Concluding remarks

- 248. The evaluation of compliance culture in the architecture sector highlights the complex and challenging circumstances in which architects are expected to uphold their professional obligations.
- 249. There is clear evidence of individual commitment to compliance within the profession, consistent with a professional mindset. However, this commitment may be tested by systemic pressures – particularly, those arising from procurement models, contractual arrangements, and regulatory complexity.
- 250. Practices within the broader construction sector – including the erosion of architects' authority, unrealistic commercial expectations, and poor coordination among consultants – may undermine architect's capacity to uphold their professional standards and maintain compliance in practice. Individual architects and architectural firms may have limited influence in changing these practices.
- 251. Despite this, architects continue to be perceived as ethical professionals committed to public safety, quality, and accountability, which are core aspects of their professional identity. However, maintaining public trust depends on strengthening sector-wide practices and conditions that are needed to support compliance, including improving regulatory clarity and addressing power imbalances that could challenge professional conduct within the broader construction sector.
- 252. Noting these challenges, the next chapter identifies the strategies for architects to strengthen compliance culture.

6 STRATEGIES FOR ARCHITECTS TO STRENGTHEN COMPLIANCE CULTURE

A. Overview

Objective of chapter:	<ul style="list-style-type: none">› To identify specific strategies that architects and architectural firms can employ to strengthen compliance culture.
Importance:	<ul style="list-style-type: none">› This chapter seeks to empower architects and architectural firms to take practical, tailored and targeted action to strengthen compliance culture.
Key insights:	<ul style="list-style-type: none">› The development of a strong compliance culture is shaped by both internal and external factors, and will necessarily differ between practices.› While sole practitioners and small firms may rely heavily on personal commitment to compliance and external networks for compliance support, larger firms must lead through governance, training, and systems to manage compliance risk across many staff.› Ultimately, establishing and maintaining a strong compliance culture critically depends on shared values, visible leadership, practical tools, ongoing education, and a willingness to be transparent and continuously improve.› It involves a collective effort that can elevate the standing not only of individual architects and architectural firms, but also the standing of the profession as a whole.
Implications for architects and architectural firms	<ul style="list-style-type: none">› The guidance provided in this chapter will assist architects and architectural firms to proactively embed compliance into their practices.› Adopting the strategies in this chapter will also help architects and architectural firms to align their practices with their professional responsibilities and the associated public expectations.

B. Introduction

- 253. This chapter explores strategies for architects and architectural firms to strengthen compliance culture.
- 254. The primary purpose of this chapter is to empower architects and architectural firms to take practical, tailored and targeted action to strengthen compliance culture.
- 255. Adopting the strategies in this chapter will help architects and architectural firms to align their practices with their professional responsibilities and the associated public expectations.

C. Factors affecting the development of a strong compliance culture

- 256. This section outlines factors that can affect the development of a strong compliance culture and highlights those that may support or undermine the establishment of a strong compliance culture. Understanding these factors is essential to designing effective strategies to embed compliance into everyday practice.

Compliance culture is the product of a mix of internal and external factors and, therefore, will be unique to each architectural practice

- 257. There is no such thing as a single type of compliance culture within an organisation.⁵⁶ Culture is typically the product of a complex interplay of a range of internal and external factors affecting an organisation. This means that compliance culture will be unique to each architectural practice.
- 258. Understanding the unique culture that exists within a practice – including the internal and external factors that shape the culture – is an important step in determining whether the culture needs to change to enhance compliance outcomes and, if so, how.
- 259. Notably, culture is not static, but may dynamically change over time.⁵⁷ For example, loss of business revenue may mean that compliance is de-prioritised. In contrast, a change in personal values or the management team could help ensure that compliance and ethical behaviour is prioritised in practice.

Sole practitioners and small firms will need to rely on personal commitment to build and maintain a strong compliance culture, while leadership, governance and training will be important for larger firms

- 260. The key difference between **internal factors** affecting compliance culture for sole practitioners and small firms compared to larger firms lies in the way responsibility for compliance is assigned and organised.

⁵⁶ L. Interligi, n. 11 above, p. 237.

⁵⁷ Ibid. p. 237.

261. For **sole practitioners and small firms**:

- › Compliance culture is primarily shaped by the personal values, knowledge, and decisions of one or a few individuals.
- › There is often limited formal infrastructure, so compliance depends heavily on self-discipline, awareness, and the ability to balance competing demands without oversight or the ability to delegate.

262. In contrast, for **large firms**:

- › Organisational structures, leadership systems, and collective behaviour will be important in shaping compliance culture.
- › In the case of these architectural practices, compliance is influenced by how well the firm integrates clear policies, communicates expectations, provides training, and ensures accountability across departments or teams.

Large firms may face external scrutiny regarding their compliance culture, while sole practitioners and small practices are likely to be dependent on external networks to support them to comply

263. Regarding **external factors** for **sole practitioners and small firms**:

- › They may be particularly vulnerable to market pressures, including intense competition, which can impact compliance decisions, especially when profit margins are tight.
- › In addition, clients can prioritise speed or cost over compliance and quality, which can challenge an architect's commitment to compliance.
- › They may need to rely on external networks such as CPD programs run by regulatory and industry bodies for guidance, support and updates about relevant regulatory developments.

264. As for **large firms**:

- › They face greater visibility among regulators, clients, and the public, which may affect the commitment to compliance. Compliance failures may result in significant reputational damage that is widely publicised.
- › They may also be subject to more demanding clients and other stakeholders, who may impose compliance and reporting obligations.
- › Competitive pressures may further encourage large firms to meet or exceed best practice standards in areas such as sustainability, governance, and ethical conduct.
- › Additionally, the contractual arrangements entered into by large firms may be complex, requiring robust and comprehensive systems to manage external expectations effectively and mitigate risk, including compliance risk.

Culture also exists at the project and sectoral levels, but will likely be influenced by culture at the individual or organisational levels

265. Culture can exist at various levels⁵⁸, including the organisational, project and sectoral levels. At each level, compliance culture will be shaped by a mix of internal and external factors, although the types of factors and their impact are likely to differ at each level.
266. **Culture at the project level** will likely emerge from the interaction between the following main factors:
- › factors that are specific to each project participant (e.g. the culture within each participant as well as the working relationship between the participants);
 - › project-specific factors (e.g. project goals and priorities, procurement processes, contractual requirements, and on-site conditions); and
 - › external factors that may be different from external factors affecting culture at the organisational level (e.g. public perception of the particular project).
267. Project culture will influence a range of matters, including participants' approach to communicating, problem-solving, and decision-making and may have a significant impact on the approach to compliance.⁵⁹
268. Tensions can arise between project participants in relation to the way compliance and ethical issues are managed and be affected by the particular procurement method used for the project.⁶⁰ In fact, conflict between project participants has been identified as one of the principal causes of poor performance in the context of construction projects.⁶¹
269. **Sector-wide culture** refers to the collective values, behaviours, and practices that shape how an entire industry operates.
270. At this level, industry wide standards, approaches and conditions will likely play a significant role in the emergent culture. The broader economic and political climate will also have an impact.
271. As noted in the ARBV and NSW ARB's report on Systemic Risks in the Australian Architecture Sector, the current state of the construction sector in Australia, in which architects and architectural firms participate, will have impacts for all sectoral participants.⁶² While work has been done to understand and improve some aspects of culture in the Australian construction sector – such as workplace safety, wellbeing, and diversity and inclusion⁶³ – an analysis of the sector's general attitude towards compliance has not yet been undertaken.

⁵⁸ D. Jackman, n. 7 above p. 69.

⁵⁹ J. Zuo, G. Zillante, Z.-Y. Zhao, & B. Xia, 'Does project culture matter? A comparative study of two major hospital projects' (2014) 32(13/14) *Facilities*, pp. 801–24.

⁶⁰ P.S. Scoleze Ferrer, G.D.A. Galvão, & M.M. De Carvalho, 'Tensions between compliance, internal controls and ethics in the domain of project governance' (2020) 13(4) *International Journal of Managing Projects in Business*, pp. 845–65.

⁶¹ N.A. Ankrah & D.A. Langford, 'Architects and contractors: A comparative study of organizational cultures' (2005) 23(6) *Construction Management and Economics*, pp. 595–607.

⁶² ARBV, *Systemic Risks in the Australian Architecture Sector* (2022), at p. 22.

⁶³ See, for example, work being undertaken by the Construction Industry Culture Taskforce at: <https://www.constructionindustryculturetaskforce.com.au/>.

272. The key takeaway from the above discussion is that even though an architect or architectural firm may have a strong compliance culture at a personal or organisational level, non-compliance could still occur at the project level given the different cultural factors at play at that level as well as in the broader sector.
273. The above observation does not excuse architects from committing to compliance but, rather, seeks to contextualise cases where non-compliance occurs in a project, notwithstanding a strong commitment to compliance that may exist on the part of the relevant architect or architectural firm involved in the project.

D. How can a strong compliance culture be established?

274. Previously, in Chapter 4 dealing with architects' overarching duties, the case studies identified specific initiatives that could be undertaken to avoid breach of those duties in the context of particular scenarios that could arise. This section complements that discussion with a consideration of the foundational elements that are needed to establish a strong compliance culture.

The foundation for a strong compliance culture is a shared understanding and agreement about why compliance is important

275. In order to drive a strong compliance culture, it is important to engage both the heart (in terms of values) as well as the head (in terms of rational action).
276. For the architecture profession, this implies a **collective commitment** to upholding the values and responsibilities that define the profession. It relies on architects and architecture firms genuinely caring about the quality, safety and social impact of their work. There must be a shared desire among members of the profession to foster and protect the brand and reputation of architecture as a profession that contributes actively to the creation of public value.
277. There must also be a recognition among members of the profession that the regulatory framework does not exist to restrict creativity or business operations. Rather, it is designed to protect clients and the public from harm, to ensure the quality of architectural services and built outcomes, and to support ethical practice.
278. When architects share a sense of pride in the profession and understand that the rationale for the regulatory framework is designed to support the maintenance of professional standards, they are more likely to internalise compliance as a professional duty, rather than a box-ticking exercise that focuses on avoiding regulatory sanction. This mindset fosters a culture where compliance is seen as integral to professional practice.

Owners and senior managers set the tone about the commitment to compliance, but everyone is involved in implementation

279. A commitment to compliance is **led from the top**. Practice owners, architect directors, and/or senior management must set the tone about compliance as this will inevitably affect the behaviour of their staff. For simplicity, leadership positions are simply referred to collectively as “**senior**

management” in this section, even if the role is undertaken by an individual, such as a sole practitioner.

280. A tokenistic, checkbox approach to compliance which focuses on staying out of trouble, rather than doing the right thing, is unlikely to be effective.⁶⁴ Rather, an approach that focuses on compliance with the “letter and spirit” of compliance requirements is more likely to result in a strong and sustainable compliance culture.⁶⁵
281. Clear, consistent, and periodic **communication** by senior management to staff about the importance of compliance will also help to embed compliance.⁶⁶
282. In addition, senior managers should lead by example by consistently and **effectively managing instances of non-compliance**. Among other things, this should involve identifying and addressing the root cause of non-compliance in each case so that non-compliance is not repeated.⁶⁷
283. Notwithstanding the important role of senior management in driving a strong compliance culture, the **responsibility for compliance rests with everyone** in an organisation. Staff throughout the organisation must be aware of compliance risks and be equipped to monitor and manage them.⁶⁸

A compliance management system can be used to support a strong compliance culture, but is likely to be most relevant for larger firms

284. For some architectural firms, a compliance management system (**CMS**) will be an important mechanism to support a strong compliance culture.
285. A CMS is a structured framework to manage compliance risk – that is, the risk that an organisation could face consequences for failing to comply with applicable laws, regulations, industry standards as well as internal policies and procedures.
286. A CMS typically includes:
- › a **compliance policy** to express an organisation’s expectations in relation to compliance;
 - › a **compliance register** to summarise compliance risks and the controls to manage them;
 - › a **program to educate** and train staff about compliance risk;
 - › a **procedure to escalate** significant compliance risks; and
 - › a mechanism to ensure **continuous improvement** of the CMS.
287. In larger firms, a CMS may also include the establishment of a compliance committee or officers to oversee implementation of the compliance policy;⁶⁹ IT systems and software to track compliance with obligations and to record compliance issues; and a whistleblower mechanism to encourage reporting of compliance issues.

⁶⁴ S.P. Ramakrishna, n. 20 above, p. 117.

⁶⁵ Ibid. p. 118.

⁶⁶ Ibid. p. 115.

⁶⁷ Le Grand, C. H., n. 15 above, p. 5.

⁶⁸ S.P. Ramakrishna, n. 20 above, p. 118.

⁶⁹ Ibid. p. 67.

288. In this context, formal policies, documented procedures, and established systems may be necessary to maintain oversight and consistency towards compliance across the organisation.
289. Nevertheless, there will still be diversity among larger firms, so the CMS should be **tailored to the particular internal and external factors affecting each organisation**. The key to a CMS' impact on compliance will be the impact it has on everyday operations and the unwritten rules of how things are done in practice.⁷⁰

Smaller practices are likely to be best supported through the use of simple tools to manage compliance risk

290. Notably, a formal CMS may not be relevant or appropriate for sole practitioners or small firms due to the scale, simplicity, and resource constraints of their operations.
291. The approach to managing compliance risk by these practices should be practical and proportionate. It should be effective in integrating compliance into routine workflows, such as through the use of **checklists of key compliance obligations or compliance issues** that could arise in typical types of projects.
292. The use of these tools should be guided by strong professional values, sound judgement and good business practices. This means proactively **keeping informed about regulatory obligations through CPD**, maintaining **clear documentation** to demonstrate compliance and accountability, and **seeking external advice** and help to address compliance issues when necessary.
293. Ultimately, the approach adopted by sole practitioners and small firms should reflect a **strong personal commitment to ethical and professional standards**. Compliance should be clearly embedded into everyday practices and decision-making.

Staff are supported to comply through regular education and training

294. Comprehensive **education and training programs**, which are tailored to an organisation's specific needs and risks, are crucial to ensure that employees understand compliance expectations and are able to identify and manage compliance risk in practice.⁷¹ Ideally, the programs would illustrate how compliance issues are addressed using **real-world contexts and scenarios**.
295. Compliance management objectives and outcomes could be reflected in **performance metrics** to further incentivise staff to comply and would serve as an accountability mechanism when non-compliance occurs.⁷²

⁷⁰ C. Parker & V.L. Nielsen, n. 21 above, p. 29.

⁷¹ Steinberg, R. M., 'Insights on the SEC's View of Effective Compliance' (2012) *Www.Complianceweek.Com*, pp. 40–1, at 41.

⁷² Ibid. p. 41.

Staff are encouraged to be open and transparent about compliance issues

296. A **mechanism to escalate non-compliance** is essential. In larger firms, this mechanism may be documented in a written procedure, whereas in small firms the mechanism may be reflected in a simple compliance checklist.
297. The compliance culture should promote **openness and transparency about compliance issues**. Staff should be encouraged to discuss compliance issues in a supportive environment that focuses on understanding the root cause of non-compliance so that it can be addressed.⁷³
298. **Regular, clear reporting on compliance** should also be standard practice, as this will provide a mechanism to obtain insights about the organisation's compliance culture and to identify aspects that require improvement. A **whistleblower mechanism** that enables employees to raise compliance concerns confidentially and anonymously could also be helpful.⁷⁴
299. Other mechanisms to **recognise and reward employees** who consistently demonstrate compliant behaviour could also be considered. Equally, breaches of compliance obligations should be addressed promptly and fairly to reinforce the importance of compliance.

There is a commitment to continuous improvement of the approach to compliance management

300. Organisations should regularly **monitor and evaluate** their various compliance management initiatives so that their CMS remains fit for purpose and effective.
301. **Continuous improvement** could be achieved through periodic compliance risk assessments to ensure that they are up-to-date.
302. Ongoing education and training programs will provide an opportunity to convey information about changes to the compliance environment and changes that may be needed to the way compliance risks are managed.
303. An **analysis of historical compliance issues** could be used to **detect patterns and causes of non-compliance** so that practices and decision-making can be improved.
304. **Policies and procedures** to implement an organisation's compliance management system **should be periodically reviewed and amended** as necessary so that they reflect any learnings from the various continuous improvement initiatives.

E. Concluding remarks

305. In conclusion, a strong compliance culture is a vital foundation for lawful, ethical and professional practice by architects and architectural firms.
306. Importantly, the development of a strong compliance culture is shaped by both internal and external factors, and will necessarily differ between practices.

⁷³ Le Grand, C. H., n. 15 above, p. 4.

⁷⁴ Steinberg, R. M., n. 71 above, p. 41.

- 307. While sole practitioners and small firms may rely heavily on personal commitment to compliance and external networks for compliance support, larger firms must lead through governance, training, and systems to manage compliance risk across many staff.
- 308. Ultimately, establishing and maintaining a strong compliance culture depends on shared values, visible leadership, practical tools, ongoing education, and a willingness to be transparent and continuously improve. It is a collective effort that can elevate the standing not only of individual architects and architectural firms, but also the standing of the profession as a whole.

7 REGULATORY TOOLKIT TO ENHANCE COMPLIANCE CULTURE

A. Overview

Objective of chapter:	<ul style="list-style-type: none"> › To explore regulatory tools available to the ARBV to implement its commitment to strengthen compliance culture among architects and architectural firms.
Importance:	<ul style="list-style-type: none"> › Regulatory tools can be used to deter or prevent non-compliance from occurring. They can also be used foster collaboration and shared accountability among sectoral participants, which contributes to the resilience and success of the sector as a whole.
Key insights:	<ul style="list-style-type: none"> › Education and guidance are critically important for strengthening compliance culture because they help bridge the gap between regulatory expectations and day-to-day practice. › Regulatory incentives can be used to strengthen compliance culture among regulated entities by encouraging and rewarding proactive, compliant and ethical behaviour. › Targeted enforcement against entities that repeatedly fail to comply with regulatory requirements can send a clear, sector-wide signal about the seriousness of compliance expectations. › Public censure of entities that have a poor compliance culture can also be effective to incentivise other sectoral participants to improve their compliance practices. › A mix of regulatory tools may be needed to drive meaningful cultural change and secure positive compliance outcomes in the long-term. › A coordinated and collaborative approach is needed to establish a strong compliance culture across the broader construction sector.
Implications for architects and architectural firms	<ul style="list-style-type: none"> › Efforts by the ARBV to strengthen compliance culture is in the interests of architects and architectural firms because they reduce the risk of non-compliance occurring. › Architects and architectural firms should avail themselves of opportunities to strengthen compliance culture, including through support provided by the ARBV, because this can enhance their success.

B. Introduction

- 309. As regulator of architects and architectural firms, the ARBV is uniquely positioned to enhance compliance culture within the architecture sector.
- 310. Equipped with insights about compliance culture within the sector, the ARBV can proactively and constructively deter or prevent non-compliance from occurring. More specifically, these insights can enable the ARBV to better target and tailor its regulatory activity to maximise its effectiveness and avoid harm.
- 311. The purpose of this chapter is to explore regulatory tools available to the ARBV that could be used to implement its commitment to ensuring a strong culture of compliance among architects and architectural firms.

C. Stocktake of regulatory tools

- 312. This section contains a stocktake of some commonly used regulatory tools to enhance compliance culture. The purpose of this discussion is to illustrate how these tools could be used in the architecture sector by the ARBV, as well as by other regulators in the broader construction sector.

Education and guidance to enhance practical understanding of compliance requirements and the need for them are critically important

- 313. Education and guidance by a regulator are critically important for strengthening compliance culture because they help bridge the gap between regulatory expectations and day-to-day practice. Clear, accessible guidance and targeted education equip practitioners with the practical knowledge needed to apply compliance obligations confidently and consistently.⁷⁵
- 314. This proactive support can reduce the incidence of non-compliance particularly for small firms,⁷⁶ but can also foster a shared understanding of professional and ethical standards, reinforcing a culture where compliance is viewed as an integral part of professional practice rather than a regulatory burden.
- 315. Education and guidance is particularly important in the following circumstances:
 - › *Regulatory requirements are ambiguous and/or complex:* The risk of misunderstanding and misinterpretation can increase when regulatory requirements are ambiguous or complex (e.g. some technical requirements under the NCC). In such cases, clear, accessible guidance that helps translate compliance obligations into practical steps that are relevant to day-to-day professional practice can be helpful.

⁷⁵ T. Mohammad, 'Creating a Culture of Compliance', 20 October 2024, accessible at: <https://www.theregreview.org/2024/10/20/mohammad-creating-a-culture-of-compliance/>.

⁷⁶ C.D.H. Wilson, I.D. Williams, & S. Kemp, 'An Evaluation of the Impact and Effectiveness of Environmental Legislation in Small and Medium-Sized Enterprises: Experiences from the UK' (2012) 21(3) *Business Strategy and the Environment*, pp. 141–56.

- › *Regulatory requirements change:* Guidance can also help entities interpret and apply changes to regulatory requirements, reducing confusion and non-compliance during transitional periods (e.g. when the revised Code of Professional Conduct is introduced).
- › *Newly regulated entities:* Education for newly regulated entities (e.g. architects when they are first registered by the ARBV) can help establish an important foundation of compliant behaviour from the outset of professional practice.
- › *Common compliance issues:* Targeted guidance can address recurrent compliance issues (such as, failure to ensure that a written and compliant client-architect agreement is in place when providing architectural services), which can avoid further non-compliance and address vulnerabilities that may be leading to non-compliance.
- › *Situations where the risk of non-compliance is high:* Support in the form of education, training and guidance can be particularly useful to explain how compliance can be achieved during challenging scenarios faced by regulated entities (e.g. in the context of large building projects and/or particular procurement models) or when the practical context for the provision of architectural services changes, which may make it unclear as to how the regulatory requirements apply.

Regulatory incentives can be effective to encourage a good compliance culture

316. Some regulators use incentives to strengthen compliance culture among regulated entities by encouraging and rewarding proactive, compliant and ethical behaviour. Incentives can be used to demonstrate the importance and value of embedding compliance as a core part of professional identity and organisational culture.
317. These incentives include:
- › *Recognition:* Some regulators publicly recognise firms that have demonstrated a strong commitment to compliance, which sends a signal to the rest of the sector about the value of doing the same.⁷⁷
 - › *Easier regulatory processes or lighter regulatory burden:* Firms with a proven track record of good compliance may be the subject of fewer audits or simplified reporting requirements as an incentive to maintain a strong compliance culture.⁷⁸
 - › *More lenient response to non-compliance:* In cases where non-compliance occurs, some regulators may opt to impose a more lenient regulatory response for entities that do not have

⁷⁷ For example, the WorkSafe Victoria Awards recognise excellence in workplace health and safety. See: <https://www.worksafe.vic.gov.au/awards>.

⁷⁸ See, for example, the Victorian Building Authority (VBA) Compliance & Enforcement Policy Framework (accessible at: <https://www.vba.vic.gov.au/about/compliance-and-enforcement>) which states that, in monitoring compliance with the regulatory framework overseen by the VBA, there is less focus on practitioners who demonstrate the capability and capacity to comply, actively engage in CPD and demonstrate knowledge of obligations and standards, and demonstrate a history of strong performance, including involvement in industry associations or peak bodies that offer support and guidance.

a history of non-compliance, proactively report non-compliance and/or can demonstrate that they are committed to compliance.⁷⁹

Enforcement that is targeted at entities that repeatedly fail to comply can send a strong signal to the sector about regulatory expectations about compliance

- 318. Targeted enforcement against entities that repeatedly fail to comply with regulatory requirements can send a clear, sector-wide signal about the seriousness of compliance expectations.⁸⁰
- 319. The use of enforcement action for persistent non-compliers demonstrates the regulator's commitment to protecting public interest and maintaining professional standards and can also deter similar non-compliance by other regulated entities. The combined effect can strengthen compliance culture across the sector.

Public censure of entities that have a poor compliance culture can also be effective to incentivise other sectoral participants to improve their compliance practices

- 320. Public censure by regulators can be a powerful tool for driving improvements in compliance culture across a sector.⁸¹ When regulators publicly name and hold to account entities with poor compliance practices, it sends a strong and visible message about conduct that is unacceptable and will not be tolerated.⁸²
- 321. In sectors where professional reputation, client trust, and peer perception are important, the fear of public censure can be a more effective motivator than warnings or regulatory penalties alone. Public censure not only holds the individual entity accountable, but also acts as a deterrent to others, encouraging firms to proactively review and improve their own practices to avoid reputational damage.
- 322. Over time, consistent and proportionate use of public censure can help to lift professional standards overall and may contribute to a culture where compliance is seen as integral to professional reputation and credibility within the sector.

D. Ways to maximise the effectiveness of regulatory tools

- 323. Regulators can maximise the effectiveness of regulatory tools to assess and strengthen compliance culture by adopting a holistic, risk-based, and adaptive approach that is responsive to the context. This involves tailoring the regulatory response by using the insights derived from the evaluation of compliance culture.

⁷⁹ For example, the Australian Taxation Office (ATO) states that it will treat taxpayers with a good compliance history more leniently than those who aren't compliant. See <https://www.ato.gov.au/individuals-and-families/your-tax-return/if-you-disagree-with-an-ato-decision/dispute-interest-or-penalties/remission-of-penalties>.

⁸⁰ Friesen, L., 'Targeting Enforcement to Improve Compliance with Environmental Regulations' (2001).

⁸¹ Oniwinde, B., 'Is "Name and Shame" an effective regulatory tool?' (2024).

⁸² The ARBV (<https://www.arbv.vic.gov.au/architects-disciplinary-register>) and the VBA (<https://www.vba.vic.gov.au/tools/prosecution-and-disciplinary-register>) have public registers of entities that have been prosecuted or subject to disciplinary proceedings.

A mix of regulatory tools may be needed to drive meaningful cultural change and secure positive compliance outcomes in the long-term

- 324. An effective use of regulatory tools can drive meaningful cultural change and enhance long-term positive compliance outcomes. However, the optimum mix of regulatory tools may change over time as the context in which they are applied evolves.⁸³
- 325. A well-calibrated approach uses education and support to build understanding, incentives to reward good practice, and targeted enforcement to deter non-compliance. In this way, each tool reinforces the others.
- 326. Regular evaluation of sectoral data and emerging trends allows regulators to adjust the mix over time, making the regulatory approach both responsive and effective in embedding a strong, sector-wide culture of compliance. Optimisation of the mix of regulatory tools will come down to the skill of the regulator in devising a regulatory strategy that is finely tuned to the current context.⁸⁴

An emphasis on education and guidance may be needed for sectors with many sole practitioners and small firms, like the architecture sector

- 327. It is important to acknowledge the limited resources that may be available to regulated entities to dedicate to compliance in a sector with many sole practitioners and small firms⁸⁵ – like the architecture sector. In this context, regulatory activities may need to emphasise education and guidance to promote compliance awareness and encourage adoption of best practices.
- 328. Personal accountability is also heightened in this context because each professional is directly responsible for their own actions, decisions, and compliance with the applicable regulatory requirements. This is in contrast to larger firms, where responsibility may be shared across teams.
- 329. Regulators can address heightened personal accountability by focusing on education and guidance that helps individuals understand their own responsibilities. Additionally, creating a system of incentives, such as public recognition for compliance excellence, can motivate individuals to uphold high standards.

⁸³ Llewellyn, D. T., 'A regulatory regime and the new Basel Capital Accord' 9(4) *Journal of Financial Regulation*, pp. 327–37, at 327.

⁸⁴ Ibid. p. 337.

⁸⁵ B. Kamleitner, C. Korunka, & E. Kirchler, 'Tax compliance of small business owners: A review' (2012) 18(3) *International Journal of Entrepreneurial Behavior & Research*, pp. 330–51.

Different regulatory tools could be employed at the individual, firm, project and sectoral levels to establish a holistic approach to strengthening compliance culture

330. Discrete regulatory tools could be used by a regulator at the individual, firm, project, and sectoral levels to strengthen compliance culture.
- › *Individual level:* At the individual level, the focus is on empowering individuals to comply, but also holding individuals accountable for their compliance behaviour. Targeted and tailored CPD can help individuals to understand their regulatory obligations and how to apply them in practice.
 - › *Firm level:* In comparison, firms should be held accountable for ensuring a strong compliance culture within their organisation. Recognition of firms with effective compliance management systems can encourage other firms to adopt best practices.
 - › *Project level:* For projects, it is important for compliance to be maintained throughout a project's lifecycle. Education and guidance could be directed at specific compliance issues that could arise in the context of particular types of projects and/or where particular types of procurement methods are used.
 - › *Sectoral level:* At the sectoral level, the emphasis is on establishing a strong compliance culture across the entire sector. Sector-wide reviews can be used to highlight sectoral compliance issues. Engagement with industry bodies can also be employed to encourage sector-wide initiatives.
331. Application of regulatory tools at all of these levels can help to embed a strong compliance culture at each level, ultimately leading to a more effective regulatory framework that helps to avoid harm.

A coordinated and collaborative approach is needed to establish a strong compliance culture across the broader construction sector

332. Architects operate within the broader construction sector, which comprises many different types of sectoral participants each with their own incentives and attitudes towards compliance. The approach of these other sectoral participants towards compliance will inevitably influence compliance culture within the architecture sector.⁸⁶
333. In this context, co-regulators need to work together to establish clear and consistent compliance expectations. Sector-wide resources, awareness campaigns, and training can be used to educate all sectoral participants about their respective compliance obligations (where they exist), best practices and emerging issues. Industry bodies also play an important role in showing leadership and setting the tone about compliance expectations within the sector.

⁸⁶ Ankrah, N. A., 'An Investigation into the Impact of Culture on Construction Project Performance' (2007).

E. Context for application of regulatory tools

334. Having taken stock of the regulatory tools that could be used to enhance compliance culture in the architecture sector, the results of the survey undertaken by the ARBV provide important context for their application in practice.
335. As summarised below, the survey results reveal that, while Victorian architects are committed to acting professionally and maintaining a strong compliance culture, many feel that doing so is challenging without greater support:
- › *Education and training for architects:* When asked to identify the changes that would most help architects to act professionally and maintain a strong compliance culture, over 50% referred to the need for more support to handle legal and commercial pressures and practical training on compliance and risk management.
 - › *Regulatory simplicity, clarity and support:* In response to the same question, around 70% called for simplified and clarified regulatory requirements, and more than 50% called for more guidance from ARBV and other regulatory bodies. These responses confirm that regulatory complexity and ambiguity are barriers to confident, consistent compliance by members of the architecture profession.
 - › *Education of construction sector participants:* Notably, 75% of survey respondents identified the need for better education for clients and builders about architects' professional roles and obligations. This result implies that architects consider that other construction sector participants do not understand or disregard architects' professional role, which could, in turn, undermine their capacity to discharge their compliance obligations.
 - › *Industry-wide guidance and sectoral support:* Notably, over 50% called for industry-wide standards for professional behaviour and close to 30% considered that stronger peer networks and mentoring could help.
336. These results indicate that strengthening compliance culture in the architecture profession will require a multifaceted response, combining clearer expectations, targeted education and broader sectoral engagement.

F. Concluding remarks

337. The regulatory tools that are available to the ARBV to strengthen compliance culture are not new. In fact, they are tools that are already employed by the ARBV in the context of its proactive strategic plan, which is designed to detect, deter and prevent non-compliance with the regulatory framework from occurring.
338. However, the insights available from the evaluation of compliance culture in the architecture sector will enable the ARBV to optimise the mix of those tools to strengthen compliance culture. More work will be done to determine how this can be accomplished.
339. The survey results also highlight that education and training bodies, industry bodies and regulators across the broader construction sector each have a role to play in strengthening compliance culture more generally.

8 CONCLUSION

340. This report highlights that a strong compliance culture is not optional in architectural practice. It is central to what it means to be a professional. It helps architects navigate their complex regulatory obligations and the challenging commercial and practical pressures they may face. Most importantly, a strong compliance culture safeguards the safety, quality and integrity of built outcomes. This report makes an important and timely contribution to how outcomes in the built environment can be improved.
341. The report has examined the state of compliance culture within the Victorian architecture sector and proposed strategies for strengthening it. The findings reaffirm the strong foundation of professionalism and ethical awareness among Victorian architects. However, they also expose residual risks of non-compliance that cannot be overlooked.
342. The research indicates that some practitioners may lack a complete understanding and appreciation of their professional responsibilities and compliance obligations. Others may fail to turn their mind to compliance because they believe that the primary responsibility for ensuring compliance rests elsewhere or that their responsibility for compliance is confined due to contractual arrangements that limit the scope of services.
343. Embedding a commitment to compliance in daily practice can take time and significant effort and can deteriorate rapidly if neglected. A strong compliance culture must be continuously cultivated through leadership, accountability, education and an ongoing commitment to upholding high standards and to compliance.
344. The seven overarching duties owed by architects set out in this report provide a powerful foundation for this effort. These duties are not narrow and context-specific rules. Rather, they are relevant and universally applicable across the profession and transcend firm size, project types, and procurement practices.
345. Further, as the case studies in this report show, the overarching duties are not abstract ideals. They translate into daily behaviours, actions and decisions that can enhance professionalism, ensure compliance, and consequently also positively influence built outcomes. By consciously embracing these overarching duties, architects not only discharge their compliance obligations, but also elevate their practice to the highest standards of professionalism.
346. In the current climate within the construction sector, architects may face diminished authority and responsibility due to commercial pressures and contractual arrangements, particularly in the context of large projects involving D&C procurement. Embracing these overarching duties offers a clear way forward. Architects can lean into these duties and thereby demonstrate the value they bring through care, competence, ethical leadership, and a deep commitment to the public interest.
347. Of course, this approach has its limits because architects do not operate in isolation and are not solely responsible for the compliance of built outcomes. The broader construction sector includes a wide range of other participants, each of whom plays a critical role in shaping outcomes in the sector.

348. When these participants prioritise compliance and ethical practices at the individual and project levels, they help to ensure that buildings are safe, durable, and high-quality. The opposite is also true. A poor compliance culture among participants in the broader construction sector can increase the risk of non-compliance, undermine public confidence, and lead to poor built outcomes.
349. The ARBV, like other regulators in the broader construction sector, has tools to support the strengthening of compliance culture in the architecture sector.
350. The ARBV is committed to assisting architects and architectural firms to establish a strong compliance culture and will use this report to inform its future initiatives. The ARBV invites education and training providers, industry bodies and other regulators to collaboratively participate in this journey to improve compliance culture across the broader construction sector.
351. However, the heavy lifting will need to be done by sectoral participants themselves. In the case of architecture sector, the primary responsibility for shaping a culture of compliance rests with architects and architectural firms. This starts with an unambiguous embrace of their duties and a proactive commitment to upholding the values that define the profession.



GLOSSARY

TERM	MEANING IN THIS REPORT
architect	a person registered by the ARBV to provide architectural services
architectural firm	a company or partnership approved by the ARBV to provide architectural services
architectural practice	the business of providing architectural services
architecture profession	the collection of architects and architectural firms that provide architectural services
architecture sector	the architects and architectural firms that provide architectural services and the broader context in which those services are provided
architectural services	services provided by architects and architectural firms
compliance culture	the values, attitudes, habits, assumptions, expectations, and aspirations that affect adherence to legal, regulatory, and ethical obligations
compliance management system	a structured framework to manage compliance risk – that is, the risk that an organisation could face consequences for failing to comply with applicable laws, regulations, industry standards as well as internal policies and procedures
compliance mindset	an individual's internalised commitment to understanding their obligations, making decisions lawfully and with integrity, and generally doing the right thing, even in the absence of oversight
compliance obligations	legal, ethical, and professional requirements that individuals or organisations must adhere to in the course of their work
construction sector	the participants involved in the design, building, and maintenance of residential, commercial, industrial, and infrastructure projects and the broader context in which those activities are undertaken

APPENDIX A: FOCUS GROUP PARTICIPANTS

	PARTICIPANT CATEGORY	NAME	POSITION & ORGANISATION
1.	Regulators	Dan O'Brien	CEO, Cladding Safety Victoria
2.		Luke Exell	Director (Legal), Cladding Safety Victoria
3.		Matthew Waters	Senior Manager (Technical & Regulation), Victorian Building Authority
4.		Alyssa Duncan	Manager, Building Regulator Reform, Department of Transport and Planning
5.		Lloyd Abou-Khater	Senior Policy Officer, Building Policy and Reform Division, Department of Transport and Planning
6.	Peak bodies	David Wagner	President (Vic Chapter), Australian Institute of Architects
7.		Paul Viney	President (National), Association of Consulting Architects
8.		John Liu	Chair, ArchiTeam
9.	Architects	Kirsten Day	Principal, Norman Day + Associates, Senior Lecturer (Technology & Practice), University of Melbourne & APE Examiner
10.		Rebecca Naughtin	Director, Rebecca Naughtin Architect & Tribunal Member
11.	Insurers	Wendy Poulton	Manager (Risk Services), Planned Cover
12.		Greg Hansen	Southern Region Manager, Pacific Indemnity Underwriting

APPENDIX B: FOCUS GROUP AND SURVEY QUESTIONS

A. Focus group questions

Focus group participants were asked the following questions to establish their respective views about compliance culture within the architecture and/or construction sectors and to identify how they think culture could be strengthened:

- › What is your perception of how well architects understand the regulatory framework that governs their practice? Are there significant gaps, grey areas or misunderstandings that exist across the profession?
- › Do you feel that compliance with professional standards is treated as a core value within the architecture sector and the broader construction sector? Why or why not?
- › Do you feel that an architects' status as a professional imposes a greater level of responsibility and accountability for compliance compared to other participants in the construction sector that do not have the same status? Why or why not?
- › How would you describe the overall compliance culture within the architecture and/or construction sectors and what are the main factors leading to your assessment?
- › What factors, if any, do you think undermine a strong compliance culture?
- › Have you noticed any shifts in compliance culture in recent times? If so, what has changed and why?
- › How do you think compliance culture could be improved?

B. Survey questions

Architects registered by the ARBV and architectural firms approved by the ARBV were sent a survey containing the following questions:

Question 1: What does being a “professional” mean to you in the context of architectural practice?

(Select all that apply)

- ☐ Understanding and complying with the Code of Professional Conduct and all relevant laws
- ☐ Commitment to maintain skills and knowledge
- ☐ Exercising independent professional judgment
- ☐ Prioritising the interests of the client above all else
- ☐ Acting in the public interest
- ☐ Ensuring quality and safety in building design

- ☐ Maintaining clear ethical boundaries

Question 2: How confident are you that you understand your professional obligations as an architect?

- ☐ Very confident
- ☐ Somewhat confident
- ☐ Neutral
- ☐ Not very confident
- ☐ Not confident at all

Question 3: To what extent do you agree with the following statement: “Current practices in the construction sector can undermine architects’ ability to comply with their professional obligations.”

- ☐ Strongly agree
- ☐ Agree
- ☐ Neutral
- ☐ Disagree
- ☐ Strongly disagree

Question 4: In your experience, what practical issues can compromise your ability to act professionally and comply with professional obligations?

(Select all that apply)

- ☐ Complex regulatory obligations
- ☐ Inadequate education and guidance
- ☐ Inadequate practical experience
- ☐ Inadequate resources
- ☐ Commercial pressures from clients or builders
- ☐ Unclear roles and responsibilities on projects
- ☐ Unrealistic project timelines
- ☐ Limited time or capacity to meet all obligations
- ☐ Restricted or costly access to Australian standards or material certification

Question 5: If you work in a firm, how would you rate the support provided to you to comply with your professional obligations by the firm?

- ☐ Poor
- ☐ Fair
- ☐ Good
- ☐ Very good
- ☐ Excellent

Question 6: What changes would most help you to act professionally in all contexts and maintain a strong compliance culture?

(Select all that apply)

- ☐ More guidance from ARBV and other regulatory bodies about professional expectations
- ☐ More support and guidance from my firm about how to ensure compliance
- ☐ Better education for clients and builders about architects' professional roles and responsibilities
- ☐ More support for handling commercial or legal pressures
- ☐ Industry-wide standards for professional behaviour
- ☐ Stronger peer networks and mentoring
- ☐ Simplified and/or clarified regulatory requirements
- ☐ More practical training on compliance and risk management

Question 7: What type of support or guidance from the ARBV would be most helpful to you in meeting your professional obligations?

(Select all that apply)

- ☐ Webinars
- ☐ Practice notes or case studies
- ☐ Online checklists
- ☐ None of the above

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