



# **STRENGTHENING COMPLIANCE CULTURE IN THE ARCHITECTURE SECTOR**

**Practical guidance for architects and architectural firms\***

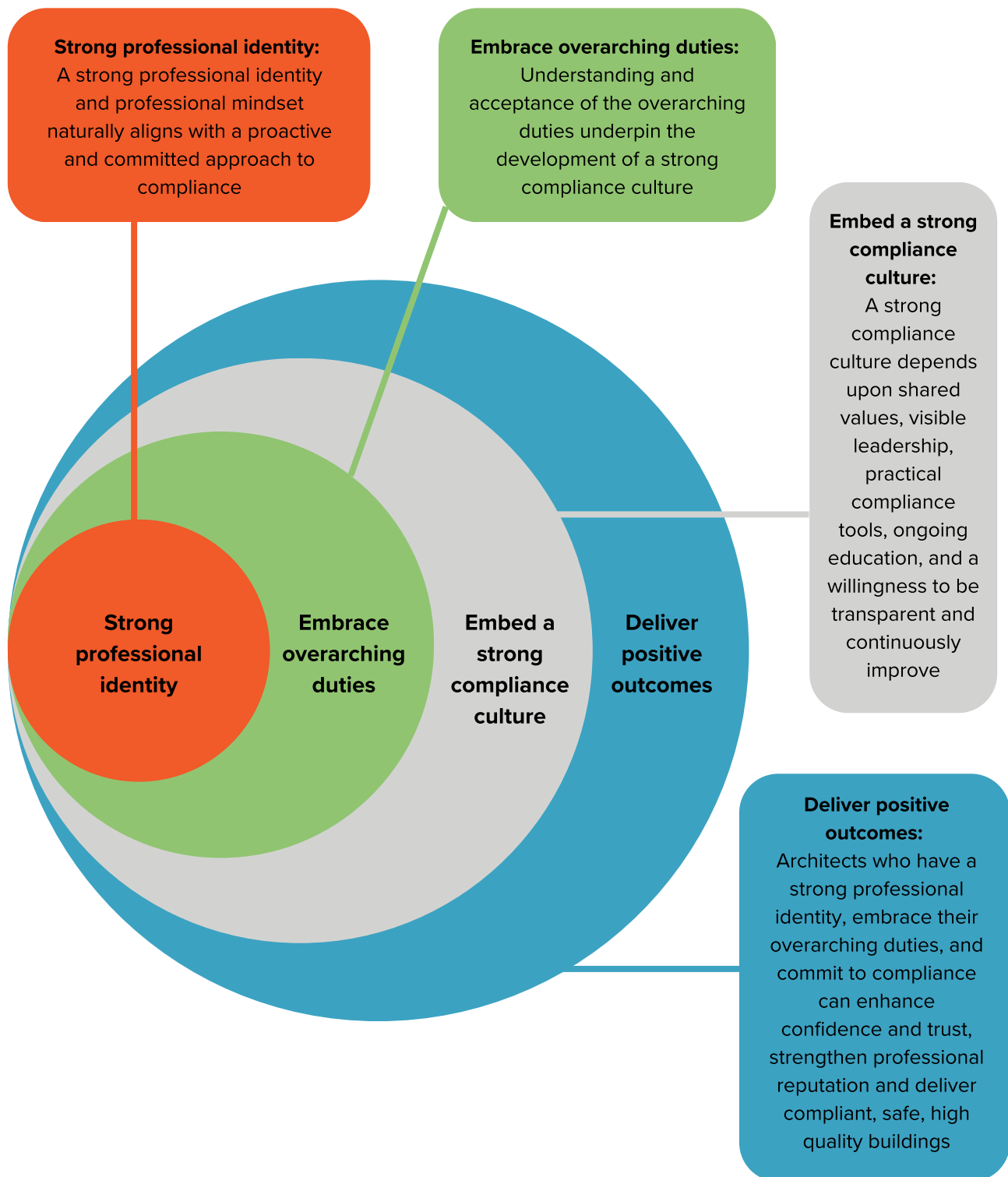
\*This document supplements the ARBV's report on "Strengthening Compliance Culture in the Architecture Sector". It is for guidance only and should not be relied upon as legal advice.

# KEY CONCEPTS

<p><b>What is compliance culture?</b></p> 	<ul style="list-style-type: none"> <li>• Compliance culture is the combination of the shared values, attitudes and habits that guide people’s behaviour, actions and decisions regarding their compliance obligations.</li> <li>• Architects are required to comply with “all applicable laws”, including the Architects Act, Code of Professional Conduct, the National Construction Code, as well as other laws, including (but not limited to) competition laws, occupational health and safety laws, and taxation laws.</li> <li>• The spectrum of architects’ compliance obligations can be simplified to a suite of seven “overarching duties”:             <ol style="list-style-type: none"> <li>1. Duty of care</li> <li>2. Duty of competence</li> <li>3. Duty of honesty and integrity</li> <li>4. Duty to comply with all applicable laws</li> <li>5. Duty of confidentiality</li> <li>6. Duty to act impartially and avoid conflicts of interest</li> <li>7. Duty to keep records and communicate effectively</li> </ol> </li> <li>• These overarching duties reflect the core values and responsibilities of members of the architecture profession.</li> </ul>
<p><b>Why does compliance culture matter?</b></p> 	<ul style="list-style-type: none"> <li>• A weak compliance culture can lead to poor client-architect relationships, designs that do not meet clients’ needs or have adverse social or environmental impacts, and defective and unsafe buildings. It can also lead to regulatory action when non-compliance is established.</li> <li>• A strong compliance culture reduces the risk of non-compliance with applicable obligations and regulatory sanction. It also enhances trust and confidence in architects and the profession and can support business growth and staff morale. It can set a positive example in the broader construction sector.</li> </ul>
<p><b>What does strong compliance culture look like in practice</b></p> 	<ul style="list-style-type: none"> <li>• The foundation for a strong compliance culture is a shared understanding and agreement about why compliance is important.</li> <li>• In practice, this involves:             <ul style="list-style-type: none"> <li>• a commitment to learning about compliance requirements;</li> <li>• an acceptance of responsibility for addressing compliance risks;</li> <li>• a vigilant approach in daily tasks to identify and document compliance issues; and</li> <li>• a commitment to choosing a compliant pathway, regardless of the incentives and rewards that might exist for doing otherwise.</li> </ul> </li> </ul>

# THE LINK BETWEEN PROFESSIONALISM, COMPLIANCE CULTURE AND POSITIVE OUTCOMES

Architects are professionals and, as such, are held to high standards by their clients, the public and professional peers. By upholding professional standards and complying with their overarching duties, architects and architectural firms can strengthen compliance culture and, in turn, build confidence and trust in the profession and deliver compliant, safe and high-quality buildings.



**The ripple effect - An individual's strong professional identity supports wider compliance culture within a firm and the broader construction industry**

# ARCHITECTS' OVERARCHING DUTIES

The spectrum of architects' compliance obligations can be simplified to a suite of seven "overarching duties". These overarching duties – which are based on the common law and are embedded in the Code of Professional Conduct – derive from architects' status as professionals. They represent the core values and responsibilities of the profession. Understanding, accepting and upholding these duties is essential to maintain architects' professional status.

<b>1. Duty of care</b> 	<ul style="list-style-type: none"><li>• Architects must exercise reasonable care and diligence in the performance of their duties.</li><li>• They must carry out their work to the standard of a reasonably competent architect.</li><li>• The 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.</li><li>• 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.</li><li>• 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.</li><li>• This duty helps to ensure that architects perform their services to the appropriate standard, which protects clients and users of architectural services from harm</li></ul>
<b>2. Duty of competence</b> 	<ul style="list-style-type: none"><li>• Architects are required to maintain adequate knowledge, skill, and training to perform their work to the relevant standard of care.</li><li>• The duty of competence requires architects to possess and apply the necessary knowledge, skills, and judgment to perform their roles professionally.</li><li>• 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.</li><li>• The duty seeks to ensure that architects are capable of delivering services that meet accepted standards.</li></ul>
<b>3. Duty of honesty and integrity</b> 	<ul style="list-style-type: none"><li>• The duty of honesty and integrity requires architects to act honestly, transparently, and ethically in all aspects of their work.</li><li>• 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.</li><li>• Exaggeration of qualifications or plagiarism of the work of others would constitute a breach of this duty.</li><li>• This duty is important because it helps to maintain a trusting relationship between architects and their clients, the public and the broader profession.</li></ul>

# ARCHITECTS' OVERARCHING DUTIES

## 4. Duty to comply with all applicable laws



- Architects must adhere to all legal and regulatory requirements relevant to their work.
- In guidance published on its website about this duty, 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 Architects Act, Architects Regulations and Code of Professional Conduct, but also under other relevant regulatory instruments, such as the National Construction Code.
- The ARBV's guidance additionally refers inclusively to competition laws, occupational 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.
- 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.
- Where relevant, architects must also provide clients guidance about necessary regulatory approvals and consents that are required for a project.
- 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.

## 5. Duty of confidentiality



- Architects owe clients a duty to keep their information and communications private unless they are authorised or legally required to disclose it.
- 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.
- Among other things, this duty means that client information and communications should be stored securely.
- 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.

# ARCHITECTS' OVERARCHING DUTIES

## 6. Duty to act impartially and avoid conflicts of interest



- Architects must act impartially and avoid situations where their personal or commercial interests could compromise their professional judgement.
- In practice, this duty means that architects should pursue the best solution for clients, even if this is at the expense of personal gain.
- 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.
- Architects should refuse gifts or favours that could influence or be perceived as influencing their actions and decisions.
- This duty seeks to ensure that architects make choices and decisions that are fair, unbiased and in the best interest of their clients.

## 7. Duty to keep records and communicate effectively



- The duty to keep records and communicate effectively is crucial for ensuring clarity, accountability, and legal protection.
- Agreements regarding all key aspects of the provision of architectural services between architects and clients must be documented.
- Architects must maintain accurate and complete records of decisions, communications, and project developments. Good record-keeping practices support informed decision-making, demonstrate due diligence and professionalism, and can provide legal protection in the event of a dispute.
- Clear, timely, and effective communication with clients, consultants, contractors, and authorities is essential to manage risk and maintain trust.
- 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.
- Effective communication helps clients feel more confident and secure, which is vital for strong relationships and successful project outcomes.

# CASE STUDIES

The following case studies illustrate each of the overarching duties owed by architects and explains what they mean in practical, accessible terms. Each duty is explored using a “small practice” case study involving sole practitioners or small firms, as well as a “large practice” case study. The case studies highlight both the risks of breaching the overarching duties, as well as the proactive steps that can be taken to prevent breaches from occurring.

## 1. DUTY OF CARE – 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.



## 1. DUTY OF CARE – 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.

Sometime 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.



## 2. DUTY OF COMPETENCE – 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.

## 2. DUTY OF COMPETENCE – 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.

## 3. DUTY OF HONESTY AND INTEGRITY – 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.

## 3. DUTY OF HONESTY AND INTEGRITY – 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.

## 4. DUTY TO COMPLY WITH ALL APPLICABLE 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.

## 4. DUTY TO COMPLY WITH ALL APPLICABLE LAWS – 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.

## 5. DUTY OF CONFIDENTIALITY – 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.



## 5. DUTY OF CONFIDENTIALITY – 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.

## 6. DUTY TO ACT IMPARTIALLY AND AVOID CONFLICT OF INTEREST – 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.

## 6. DUTY TO ACT IMPARTIALLY AND AVOID CONFLICT OF INTEREST – 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.

## 7. DUTY TO KEEP RECORDS AND COMMUNICATE EFFECTIVELY – 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.

## 7. DUTY TO KEEP RECORDS AND COMMUNICATE EFFECTIVELY – 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.

# 10 STRATEGIES TO STRENGTHEN COMPLIANCE CULTURE: SOLE PRACTITIONERS AND SMALL FIRMS

Set out below is a list of ten strategies that sole practitioners and small firms could employ to strengthen compliance culture.

1	Understand your unique culture	<ul style="list-style-type: none"><li>• Reflect on how your personal values, knowledge, and circumstances shape your approach to compliance</li></ul>
2	Lead by example	<ul style="list-style-type: none"><li>• Demonstrate a strong personal commitment to compliance through everyday actions and decisions</li></ul>
3	Practise self-discipline	<ul style="list-style-type: none"><li>• Apply self-discipline and good judgment to maintain compliance in all contexts, even when under commercial or time pressures</li></ul>
4	Stay informed	<ul style="list-style-type: none"><li>• Regularly participate in CPD and industry events, and access regulatory updates to stay informed about compliance obligations and risks</li></ul>
5	Use simple compliance tools	<ul style="list-style-type: none"><li>• Adopt practical tools like checklists and templates to manage key compliance obligations efficiently and effectively</li></ul>
6	Embed compliance in practice	<ul style="list-style-type: none"><li>• Integrate compliance risks, actions and decisions into routine workflows, project planning, and client discussions</li></ul>
7	Proactively address compliance issues	<ul style="list-style-type: none"><li>• Identify and resolve compliance risks early</li></ul>
8	Seek external support	<ul style="list-style-type: none"><li>• When necessary, seek external support for guidance and assistance to ensure compliance obligations are met</li></ul>
9	Learn from mistakes	<ul style="list-style-type: none"><li>• Analyse compliance incidents to understand root causes and prevent recurrence</li></ul>
10	Document work	<ul style="list-style-type: none"><li>• Maintain clear records of compliance decisions and actions to demonstrate accountability</li></ul>

# 10 STRATEGIES TO STRENGTHEN COMPLIANCE CULTURE: LARGE FIRMS

Set out below is a list of ten strategies that large firms could employ to strengthen compliance culture.

1	Set the tone at the top	<ul style="list-style-type: none"> <li>Practice owners and senior managers should champion the importance of compliance and ethical behaviour through visible actions and communications</li> </ul>
2	Actively foster a compliant culture	<ul style="list-style-type: none"> <li>Promote pride in the profession and reinforce the message that compliance protects clients, reputation and ensures safety and quality</li> </ul>
3	Implement tailored Compliance Management System	<ul style="list-style-type: none"> <li>Develop tailored policies, procedures, and systems to manage compliance risks consistently across the firm and projects</li> </ul>
4	Engage with staff	<ul style="list-style-type: none"> <li>Regularly engage with staff to ensure that they understand that compliance is a shared, collective responsibility</li> </ul>
5	Clarify responsibilities	<ul style="list-style-type: none"> <li>Ensure that individual staff are aware of their particular responsibilities to ensure compliance, including in different project contexts</li> </ul>
6	Provide ongoing training and education	<ul style="list-style-type: none"> <li>Ensure that staff receive ongoing training so that they understand compliance expectations and how to manage compliance and ethical risks in practice</li> </ul>
7	Promote openness and transparency	<ul style="list-style-type: none"> <li>Create a supportive environment where staff feel comfortable and safe to raise compliance concerns</li> </ul>
8	Establish reporting mechanism	<ul style="list-style-type: none"> <li>Establish formal mechanisms and, where appropriate, confidential channels, to report compliance issues</li> </ul>
9	Incentivise compliance	<ul style="list-style-type: none"> <li>Link staff performance reviews and recognition programs to compliant behaviour</li> </ul>
10	Continuously improve	<ul style="list-style-type: none"> <li>Regularly review policies, conduct risk assessments, and adapt systems based on compliance incidents and lessons learned</li> </ul>

## MORE INFORMATION

More information about how to strengthen compliance culture in the architecture can be found in the ARBV's report available on its website: [www.arbv.vic.gov.au](http://www.arbv.vic.gov.au).