

Notification about possible offences

As well as managing complaints about the conduct of architects (practitioners registered with the Architects Registration Board Victoria (ARBV)), there are a number of criminal offences that people can report to the ARBV under the Architects Act 1991 (Act).

These provisions of the Act seek to:

- protect consumers from dishonest individuals who mislead people by calling themselves something they are not;
- maintain the standards and integrity of the profession of architecture;
- deter unregistered practitioners from carrying out misrepresentations and carrying out work based on those misrepresentations; and
- promote the importance of registration.

The ARBV regularly receives notifications about possible offences under the Act, many of which arise from representations made on social media, signages or in advertisements. At times, a notification is based on a notifier's engagement of an individual who promises to provide architectural services.

Holding out offences

To ensure the quality and safety of Victoria's built environment, only individuals and bodies (companies or partnerships) that are registered with the ARBV are allowed to represent themselves or allow themselves to be represented as architects. We keep a public register of all Victorian architects that can be searched online to make sure someone is an architect.

Only those with appropriate skills, training and experience can join the ARBV's public register.

We set standards for architectural education and training and require that architects maintain their qualifications, including through continuing professional development and annual registration.

Under the Act, it is unlawful to claim to be an architect, when an individual is not. We call this "holding out". The Act also makes it an offence for a person to represent that another individual is an architect when they are not.

We take a sensible approach to the use of the word "architect" that is connected to building and design. We recognise that other industries appropriately use the term, such as "software architect", "naval architect", or "landscape architect".

Restricted expressions

Only individuals and bodies that are registered with the ARBV are allowed to use the expressions "architectural services", "architectural design services" or "architectural design" in relation to the design of buildings or the preparation of plans, drawings or specifications for buildings.

Notification about possible offences

Notifying the ARBV

Anyone can submit a notification through our online portal (www.arbv.vic.gov.au). If assistance is required in submitting a notification, please call us on 03 9417 4444.

In order for us to assess a notification, we require the following:

- Notifier's name and contact details;
- Name and address of the practitioner, the subject of the notification;
- Relationship with the practitioner (for example, client, contractor);
- A timeline of events, where applicable; and
- Any documents or other evidence required to support the notification (for example, client agreement, relevant correspondence, etc).

We accept anonymous notifications, however, we might not be able to investigate the matter if we do not have sufficient information. With incomplete information, our ability to gather and assess evidence relevant to the notification may be limited.

We are unable to investigate the professional conduct of individuals providing design services if they are not architects.

What happens after a notification is submitted?

Assessment of a notification

Reports from the public provide us with valuable information. When we receive a notification, we will first assess the concerns raised to determine whether it is a matter which we can investigate under the Act. We do not provide updates to a notifier on our investigation and any regulatory steps we may decide to take.

While we generally don't act for individuals, we do value the information the public gives us, and we focus on matters where we can take action to benefit the public more broadly. We give an initial assessment to every matter, but not every matter will be one we take action on.

In determining our regulatory approach, we consider a number of public interest factors, including but not limited to the following:

- Whether the practitioner is subject to other regulatory frameworks;
- Likelihood of reoffending or whether the misrepresentations have ceased;
- The length of time of the misrepresentation;
- Whether consumers have suffered from the misrepresentation;
- Whether the practitioner has previously received a warning from the ARBV;
- The extent of misrepresentation, applying to other entities and other unregistered practitioners; and
- Other consumer protection interests, including whether consumers are from a culturally and linguistically diverse community.

Notification about possible offences

Possible outcomes

Pursuant to our Regulatory Strategy, we use a range of responses based on our risk assessment and resources. There are matters where we will not take any action for lack of evidence or we do not consider it to be in the public interest.

Low and moderate risk matters are dealt with through administrative management, including sending a letter. We may write to the practitioner and set out the alleged breaches of the Act and to formally request that they cease the prohibited conduct or misuse of restricted expressions. We may provide advice and seek assurance that the concerning activities have ceased. These matters are closed following effective regulatory action.

Prosecutions

Where we undertake prosecutions for offences in the Magistrates Court, we ensure that the prosecutions are in the public interest with a reasonable prospect of a conviction and in accordance with the model litigant principles. If someone is convicted of an offence under the Act, they may have to pay a fine. We can prosecute both individuals and companies, which can amount to multiple fines.

We list prosecutions on our website and issue press releases to help inform the public of our regulatory work and to serve as a deterrence to those who might otherwise have misrepresented themselves.

Proactive regulatory activities

In addition to receiving notifications from the public, we also conduct investigations proactively. For example, we monitor previous notifications, including where practitioners have undertaken to remove titles and restricted expressions.

We work with other institutions, agencies and regulators to prevent holding out and the misuse of restricted expressions from occurring:

- we advise students of architecture on the correct use of the title “architect”;
- we work with other regulators like the Victorian Building Authority to help educate building practitioners they regulate;
- we engage with training providers to building designers to raise awareness about criminal offences relating to holding out and misuse of restricted expressions.