Guideline
Obligation to inform client
Clause 7 of the Victorian Architects Code of Professional Conduct

Architects have obligations to keep clients informed, with reasonable promptness, and with accurate and unambiguous information.

By keeping a client informed, the architect supports the client by alerting them to risks and opportunities, while fostering a constructive relationship between the client, architect, and other parties. An informed client can alert the architect to any concerns or changes to their brief at an early point. Importantly, an informed client is of benefit to the project and all involved.

Framework

Clause 7 of the Victorian Architects Code of Professional Conduct (contained within Schedule 1 of the Architects Regulations 2015) provides:

An architect must—

a. take reasonable steps to ensure that a client is informed of decisions required of the client in respect of the services; and

b. provide sufficient relevant information with reasonable promptness to enable a client to make an informed decision in relation to the provision of services; and

c. respond, with reasonable promptness, to a client's reasonable requests for information or other communications about the provision of services to the client; and

d. take reasonable steps to ensure that all information and material provided to a client is accurate and unambiguous.

Clauses 11, 12, and 13 of the Code provide that architects must disclose paid referrals, paid endorsements, and conflicts of interest.

ARBV guidance

The ARBV considers:

• Architects should provide information about decisions required of a client in writing. This enables a client to make an informed decision as it provides greater opportunity for the client to seek clarification and to consider all relevant information prior to making a decision. Providing information supports the architect's compliance with the clause 7(a) obligation to take reasonable steps to ensure a client is informed of decisions required of them and the clause 7(b) obligation to provide information to enable informed decisions.

• To make informed decisions, a client must have all project documents or know how to access them, should they choose to do so. As such, an architect is obliged to provide documents or access to the documents to comply with the clause 7(b) obligation to provide sufficient relevant information to enable a client to make an informed decision.

• Architects need to consider what decisions a client is required to make, per clause 7(a), as well as what decisions a client may reasonably wish to make in order to support their compliance with the clause 7(b) obligation to provide information to enable informed decisions.

• Architects need to consider whether a client would understand complex or technical concepts or language to support their compliance with the clause 7(d) obligation to ensure that all information and material provided to a client is unambiguous. Assumptions about a client's level of knowledge or expertise should not be made and a client's level of knowledge or expertise is something that should be explored with the client at the time of engagement and relevant times during the engagement's progression.

The ARBV considers it best practice for architects to:

- confirm verbal advice given to clients with prompt written advice

- provide information in a manner that the client can understand, and be ready to assist the client in understanding complex or technical concepts or language

- confirm whether a client understands all relevant information or materials provided

- confirm any variations to the scope/budget in writing and ensure receipt of the client's written approval

- provide copies of all meeting minutes to the client regardless of whether the client attended or not

- provide copies of, or ready access to, all project documents to the client, including advice received from specialist consultants and other requests for information

- provide copies of all relevant correspondence with the building contractor to the client.

Examples

1. At the town planning stage, an architect requires the client to decide whether to lower a fence to increase solar access or to increase window size. The architect explains the cost implications of both options.

   To make an informed decision, the client is likely to require further additional information about matters such as planning approval implications of energy efficiency impacts, overlooking and intervisibility between neighbours, and privacy requirements, etc. Such information must be provided with suffient time to allow the client to consider all relevant information, prior to making their decision.

2. An architect becomes aware of a potential or likely delay due to unforeseen circumstances. The delay will not affect any deadlines, such as those regarding applications and permits.

   Although there is potentially no decision required of the client, the delay may prompt the client to make a decision. The architect must provide information to the client about the delay (or likely delay).

3. An architect provides advice to a client about a complex issue or concept. The client doesn't tell the architect that they don't understand, so the architect assumes they do.

   The architect must consider whether someone inexperienced in architectural, planning or building matters would understand the relevant concepts. Assuming the client understands may increase the risk of a client being unable to make an informed decision, potentially creating other risks. The architect should explain any technical concepts and may also need to consider any language barriers. A good way to confirm understanding is to ask questions that lead the client to explain it back in their own words.

4. An architect has information that may reasonably lead a client to terminate the engagement. This may include information about mistakes, errors of judgement, conflicts of interest, or an architect's intention to retire.

   Although there is potentially no decision required of the client, the architect should consider whether the information may reasonably prompt the client to make a decision. The architect must provide relevant information to the client.

Conclusion

An architect's obligations to inform their client of relevant information will enable a client to make informed decisions. A client that is informed is better able to understand a project and contribute to it appropriately, thus assisting the architect in their engagement. An informed client is of benefit to the overall project and all involved.

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