

UPDATED CODE OF ETHICS – PART II BYLAWS

Bylaw Review Information and Consultation
Session

Welcome

- > I would like to begin by acknowledging the Indigenous Peoples of all the lands that we are on today. While we are meeting on a virtual platform, I would like to acknowledge the traditional territory of the Coast Salish Peoples, specifically the shared traditional territory of the Squamish, Musqueam, and Tsleil-Waututh Peoples on which the AIBC office is situated.

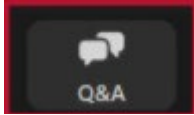
Recording and Privacy

- > This presentation is being recorded and may be posted on the AIBC website for bylaw consultation purposes for up to six months.
- > Note that only the presenters will be visible on screen
- > The microphone and camera features have been turned off for all attendees.

Recording and Privacy

- > By signing up for and joining this presentation you are consenting to information that may be identified to you to be included in the recording.

Asking a question

- > We've dedicated time at the end of the presentation for questions.
- > To ask a question: 
 - Type your question into the Q&A feature, found along the bottom of your screen
 - Questions typed into this feature will be read aloud by the moderator, along with your name, and will also appear in this area for all attendees to see when it is read aloud.

Asking a question

- > Technical questions can also be asked in the Q&A feature and you will receive a private reply. We will do our best to provide technical support.

Background

- > In January 2020, AIBC Council gave support in principle for the Code of Ethics – Part II bylaws to proceed to registrant consultation.
- > On February 11, 2020 the Bylaw Review Committee (BRC) hosted an initial in-person and online registrant information and consultation session.

Background

- > Also, the BRC surveyed the Code of Ethics Focus Group about the suite of proposed bylaws and the AIBC's Registration & Licensing department surveyed Architects AIBC and certificate of practice holders about the proposed Supervision of Interns bylaw.

Background

- > During the initial consultation period the BRC received valuable feedback from AIBC registrants and internally from the AIBC's Practice Advisors and staff.

Background

- > After considering the feedback and reviewing the proposed bylaws, the BRC and AIBC staff recommended that the consultation period be extended and that several drafting changes be made to the initial version of the proposed bylaws.

Background

- > The BRC is now consulting with you on the updated version of the Code of Ethics - Part II bylaws. An overview of the proposed amendments follows.

Advertising

- > The BRC is not recommending any further amendments to the proposed advertising bylaw.
- > The proposed bylaw requires registrants to be accurate, factual, and not misleading in advertising and promotions.

Advertising

- > This new bylaw will accompany existing Bylaw 32.2, which requires accurate representations regarding qualifications, and scope of responsibility and credit for work.

Advertising

> Proposed New Bylaw 32.2.1:

32.2.1 An architect must ensure that all advertising, marketing, and other promotional information is accurate, factual, and not misleading.

Harassment/Discrimination

- > In January 2020, the BRC recommended amendments to current Bylaw 34.5, and the creation of new bylaw 34.5.1.

Harassment/Discrimination

- > The proposed amendments to Bylaw 34.5 include consolidating the first five council rulings under this bylaw and adding a new paragraph specifically prohibiting harassment and discrimination.

Harassment/Discrimination

- > Upon further review of the proposed amendments, the BRC recommends minor changes to the initial proposal.

Harassment/Discrimination

- > The proposed changes to Bylaw 34.5 include:
 - Separating previous paragraph (a) into two separate paragraphs; and
 - A minor wording change in paragraph (a).

Harassment/Discrimination

> Proposed Amended Bylaw 34.5:

34.5 ~~An architect shall~~ **An architect must conduct**
their ~~the architect's~~ affairs in a professional
manner and refrain from any act which would
~~reflect unfavourably on the profession as a~~
~~whole,~~ **including but not limited to refraining**
from:

Harassment/Discrimination

- (a) dishonourable or discourteous conduct towards the public, other registrants or any other party, **a person or entity;**
- (b) conduct unbecoming in the professional or personal life of an architect;

Harassment/Discrimination

- (c) harassment, discrimination or other failure to comply with human rights laws in force in Canada, its provinces and territories; and
- (d) behaviour that would reflect unfavourably on the profession.

Harassment/Discrimination

- > **Discourteous conduct** that could be determined to be unprofessional conduct:
 - Inflammatory/outrageous behaviour at public meeting or online (e.g., social media risks).

Harassment/Discrimination

- > **Conduct unbecoming** generally means behaviour that brings a profession into disrepute, often in the context of private behaviour or 'non-technical' unprofessionalism, such as criminal behaviour of certain kinds, but there are many examples.

Harassment/Discrimination

- > The proposed new Bylaw 34.5.1 combines the remaining three council rulings under current Bylaw 34.5 that relate to registrant's obligations to the AIBC, namely:
 - respond promptly;
 - cooperate with investigations; and
 - promptly advise of changes in contact information.

Harassment/Discrimination

- > The proposed minor change to Bylaw 34.5.1 is:
 - Adding the word “mandatory” to paragraph (a) in order to clarify that the obligation to respond promptly to AIBC communication applies to communication that requires a response.

Harassment/Discrimination

> Proposed New Bylaw 34.5.1:

34.5.1 An architect must:

- (a) respond promptly to any AIBC communication requiring a **mandatory** response;
- (b) promptly notify the AIBC of any change in contact information that the AIBC may from time to time request; and

Harassment/Discrimination

- (c) cooperate fully with the AIBC in a professional conduct matter at whatever stage, including attending in person upon request, summons or notification by the investigations committee, consensual resolution review panel, or disciplinary committee.

Supervision of Intern Architect

- > During the initial consultation the BRC proposed an intern supervision standard requiring supervising architects to sign and comply with a “supervision undertaking” established by council.

Supervision of Intern Architect

- > During the initial consultation process, the AIBC surveyed architects and certificate of practice holders about this proposed bylaw.
- > While feedback regarding this new standard was positive, there were concerns about the limitations some firms have in providing the full range of intern experience.

Supervision of Intern Architect

- > As a result of the feedback, the BRC recommends no further changes to the proposed bylaw but has modified the proposed Supervising Architect Undertaking.

Supervision of Intern Architect

> Proposed New Bylaw 34.4.1:

34.4.1 An architect supervising an intern architect must sign and comply with the supervision undertaking established by council.

Supervision of Intern Architect

- > A draft Supervising Architect Undertaking:
I [name of architect] ... undertake that:
 1. I am familiar with the requirements and objectives of the intern architect program (IAP);
 2. I have the time and ability to assess the quality of work of the intern;

Supervision of Intern Architect

3. I will meet as necessary with the Intern, and in any event no less than twice per year, to specifically review logbooks, assess and monitor work and ~~strategize on~~ **plan** future project **experiences**;
4. I will provide reasonable assistance to the Intern in preparation for written and oral examinations;

Supervision of Intern Architect

5. I will provide such ~~personal~~ **professional** supervision of and guidance to the Intern as appropriate, including **within my firm's limitations**, assisting the Intern to obtain the necessary range of practical architectural experience for registration. **In the event my firm cannot provide the necessary range of experience, I will contact the AIBC for assistance and direction**; and

Supervision of Intern Architect

6. I will support the Intern's efforts in relation to continuing education **and Intern courses** to the extent reasonably possible within my firm's capacity.

Client Confidentiality

- > The BRC does not recommend any changes to the proposed client confidentiality bylaw, which reinforces the expectation that registrants maintain client confidentiality.

Client Confidentiality

- > However, based on feedback received regarding concerns about understanding the limits of confidentiality, the BRC drafted additional commentary that would accompany the proposed new standard in the Code of Ethics and Professional Conduct.

Client Confidentiality

> Proposed New Bylaw 34.4.1:

34.4.1 An architect must maintain the confidentiality of confidential client information and not disclose such information except:

(a) with client consent;

(b) where required to deliver such information to the AIBC;

Client Confidentiality

- (c) as may be required by law; or
- (d) in the event the architect believes on reasonable grounds that there is an imminent risk of serious public harm.

Client Confidentiality

> Proposed Commentary:

This bylaw reinforces the expectation that as trusted professional advisers and service providers, architects will protect confidential client information. Many professions have similar standards. Most client-architect contracts also address confidentiality as a contractual obligation.

Client Confidentiality

This bylaw does not provide a definition of confidential client information. This information may vary with the client-architect relationship, timing of the project, the nature of the commission, and contract language, among other variables.

The essence of the bylaw is recognition that an architect is likely to become aware of confidential client information and must protect it, subject to the exceptions.

Client Confidentiality

The hallmarks of confidential information are that it:

- *Was obtained by virtue of the professional relationship between client and architect;*
- *May or may not be expressly identified by the client as confidential;*
- *Is not in the public realm; and*
- *Carries with it some economic benefit to the client, such that its unauthorized disclosure has potential to damage the client's project, business, reputation, and/or prospects.*

Election Procedures & Voting Bylaws

- > The Elections Bylaw (22.0) and the Voting Bylaw (24.0) have been added to the suite of bylaws that make-up the Code of Ethics – Part II bylaws.

Election Procedures & Voting Bylaws

- > The AIBC became aware of a minor inconsistency between the wording for the return of ballots for council elections in both Bylaw 22.0 and Bylaw 24.0 and the wording found in the *Architects Act* (*the “Act”*).
- > BRC recommends an amendment to the bylaws to better aligned them with the *Act*.

Election Procedures & Voting Bylaws

> Proposed amended Bylaw 22.0

22.0 Council shall establish rules for the conduct of council elections conducted by mail ballot and by electronic vote. These rules must address procedures and information not already provided for in these bylaws or in the Architects Act, including:

Election Procedures & Voting Bylaws

- (a) the format and contents of council election ballots;
- (b) notification of the election to voting members, including the voting commencement date and time and the closing deadline for return of ballots on the date of **set for** the annual meeting;
- (c) the confidentiality and security of the election process;

Election Procedures & Voting Bylaws

- (d) the management of the election process, including appointment of scrutineers and announcement of election results; and
- (e) dispute resolution in relation to irregularities in the nomination or voting processes.

Election Procedures & Voting Bylaws

> Proposed amended Bylaw 24.0

24.0 Whether a council election is conducted by mail ballot or electronic vote, ballots must be returned to the CEO or delegate by the deadline established in the council rules under Bylaw 22.0 on the day of **date set for** the annual meeting in order to be considered valid.

Professional Engagement & Client Communication Bylaws

- > While the following three bylaws are, introduced now **they will not be part of the upcoming bylaw vote.**
- > Instead, they will be in the next initiative, in spring 2021.

Professional Engagement & Client Communication Bylaws

- > The BRC raises these bylaws now to provide more opportunity for architects and other registrants to comment and ask questions.

Professional Engagement & Client Communication Bylaws

- > During the initial round of consultation, the BRC recommended a new standard (Bylaw 28.1.1) that requires architects to notify clients in writing when fewer than all basic services will be provided and to identify the basic service(s) that will be omitted.

Professional Engagement & Client Communication Bylaws

- > After a review of feedback, the BRC is now proposing a broader standard intended to improve client communication and understanding of the terms of the client-architect relationship, including scope of services that architects will provide.
- > The following three new bylaws are proposed – not for vote in this phase, but solely for consultation.

Client Communication

- > The BRC proposes elevating council ruling 34.10 (c) to a standalone bylaw.
- > The bylaw would continue to require architects to communicate adequately with clients and keep clients reasonably informed.

Client Communication

- > Additional commentary has been drafted to help registrants understand the communication expectations.

Client Communication

> Proposed New Bylaw 28.4:

28.4 An architect must communicate adequately with the client and keep the client reasonably informed.

Client Communication

> Proposed Commentary:

The level of communication with clients varies with the client and the nature of the commission. At minimum, architects owe a duty to explain the nature of the services the firm will provide, and to respond in a timely manner to clients' reasonable requests for information and other client communication requiring a reply. Adequate and informed communication also includes advising clients in a timely manner of important commission issues such as delays, cost concerns, etc.

Architectural Services Contract Discussion

- > The BRC recommends a bylaw that will require architects to discuss the client-architect contract with their client and confirm, in writing, the discussion or the client's decision not to discuss, before providing services on any commission.

Architectural Services Contract Discussion

- > The motivation for this bylaw is increased client understanding.
- > Many practice inquiries and professional conduct matters continue to be based on a lack of understanding of the terms and extent of an architect's services, as well as a communication breakdown.

Architectural Services Contract Discussion

- > New standard – but is similar to how services were provided years ago
- > Contract 8C is an example of where problems start as there is minimal description of (or space for) scope of service

Architectural Services Contract Discussion

> First page of 8C



ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

Contract only
valid with AIBC
Authorization
Sticker.

AIBC – DOCUMENT 8C – 2020

Standard Short Form Contract Between *Client* and *Consultant*

Contract between *Client* and *Consultant* made as of: _____

AGREEMENT: The *Client* and *Consultant* agree to the following terms, Definitions and General Conditions.

Client Name: _____
Address: _____

Consultant Name: _____
Address: _____

☐ Architect ☐ Managing Consultant ☐ Engineer Discipline: _____

1. **Managing Consultant** (if not this *Consultant*): _____ Discipline: _____ (or) ☐ N/A

Sub-Consultant(s): _____ Discipline: _____ (or) ☐ N/A

Other Consultant(s): _____ Discipline: _____ (or) ☐ N/A

Client's Project (name, address, location, brief description of project, including size and budget where applicable):

2. **Consultant's Scope of Services** (brief description of services, Scope and Sequence, attach schedule as necessary):

3. The *Client* and *Consultant* agree to execute a more detailed *Contract for Consultant Services* consistent with the AIBC Standard Form of Contract – Document 6C or other AIBC- or ACEC-endorsed form of contract ☐ yes / ☐ no by _____

4. The *Consultant* carries professional liability insurance: Amount: \$ _____ (per claim) / \$ _____ (aggregate)

5. The *Client* will pay the *Consultant* fees and *Reimbursable Expenses* as set out below (attach schedules as necessary):

☐ Fixed fee of \$ _____ ☐ Fee calculated on an hourly basis: \$ _____
☐ Percentage-based fee: _____ % of Construction Cost ☐ Hourly rates for Additional Services: \$ _____
☐ Fee calculated on a per diem basis: \$ _____ ☐ Retainer of \$ _____

Payment: Invoices will be submitted monthly and are due upon receipt. On invoices unpaid after 30 calendar days, interest will be charged monthly at the rate of _____ % per annum. *Reimbursable Expenses* are charged at cost plus _____ % for administration. The retainer will be credited against the final invoice. GST will be invoiced and payable in addition to fees and *Reimbursable Expenses* as applicable.

This Contract complies with the AIBC Bylaws, including especially (but not limited to) Bylaw 28: Professional Engagement and Bylaw 34.16: Tariff of Fees for Architectural Services, and the Code of Ethics.

Client signature/name and title

Consultant signature/name and title

Architectural Services Contract Discussion

- > Suggest having the client discussion before the contract is signed so that the client is aware of scope.

Architectural Services Contract Discussion

> Proposed new Bylaw 28.5:

28.5 Prior to providing architectural services to a client, an architect must discuss the terms of the architectural services contract with the client and keep a written summary record of any discussion or declined offer to discuss the contract.

Architectural Services Contract Discussion

> Proposed Commentary:

This bylaw standard underscores the importance of both client communication and the client-architect agreement to a successful commission.

The depth, duration, and medium for the ‘contract discussion’ are left to the architect and client to determine. Given the specific requirement in Bylaw 28.6 for advising clients whether basic or partial basic services are being provided, the ‘contract discussion’

Architectural Services Contract Discussion

should include a reasonable review of the scope and nature of services the architect will/will not provide.

The discussion is an opportunity for the architect to highlight key areas of the contract, which may vary by commission, and for the client to ask questions and clarify the terms of engagement.

Many clients are public bodies, corporations or other organizations without a single owner. Architects should ensure that the contract discussion is held with the individual authorized by the client – often a project manager or other decision-maker.

Partial Basic Services Notification

- > This bylaw is an amended version of the initially proposed Bylaw 28.1.1. and it includes draft commentary and definitions.

Partial Basic Services Notification

- > This proposed bylaw will require architects providing 'partial basic services' on a design and/or construction phase commission to notify clients that fewer than all basic services will be provided, and which basic services will be omitted.

Partial Basic Services Notification

> Proposed new Bylaw 28.6:

28.6 An architect providing only partial basic services on a design and/or construction phase commission must:

- (a) accurately describe the reduced scope of services in the architectural services contract required under Bylaw 28.0; and

Partial Basic Services Notification

- (b) specifically notify the client which basic service(s) found in the AIBC Schedule of Architectural Services will not be provided.

Partial Basic Services Notification

> Proposed Commentary:

The AIBC Council-approved AIBC Schedule of Architectural Services lists basic services and those services that may be omitted if the client is specifically notified in writing. An architect providing fewer than basic services is providing “partial basic services”. Notifying the client whether basic or partial basic services will be provided, and which if any basic services will be omitted, can be done simply by providing this information in the client–architect contract.

Definitions

AIBC Schedule of Architectural Services means the AIBC Council-approved schedule of services for the purposes of Bylaw 28.6.

Architectural Services means the scope of professional services provided by an architect to a client on any commission.

Definitions

Basic Services means the architectural services that an architect must provide on any design and/or construction phase commission unless providing partial basic services in compliance with Bylaw 28.6. Basic services are comprised of those services found in the AIBC Schedule of Architectural Services.

Definitions

Client means the person or entity identified as such in the contract and includes for the purpose of the contract discussion requirement in Bylaw 28.5 any individual(s) designated by the client.

Design and/or construction phase commission means [*definition to be finalized*].

Partial basic services means the approved provision by an architect of fewer than basic services consistent with bylaw requirements.

Next Steps

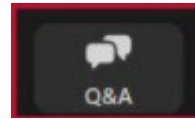
- > As with previous bylaw votes, your suggestions during this consultation session will be reviewed by the BRC to fine-tune the proposed bylaws and they will be appended to the BRC's final submission for council's consideration before council votes whether to approve these proposed bylaws for our e-vote.

Next Steps

- > If council approves the BRC's final submission of these proposed bylaws, our e-vote is likely in **December-January 2021.**

Questions?

> To ask a question:



- Type your question into the Q&A feature, found along the bottom of your screen
- Questions typed into this feature will be read aloud by the moderator, along with your name, and will also appear in this area for all attendees to see when it is read aloud.

Consultation

- > Proposed bylaw amendments and supporting rationales on the AIBC web site.
- > Two Information/Consultation Sessions.
- > Email bylawfeedback@aibc.ca.
- > Online feedback form.

Thank you for attending.