

Independent Third Party Review of Procedure Terms of Reference

1. Introduction

1.1. The Architects Registration Board (“the Board”) has identified a number of situations where persons who have been affected by a decision of the Board’s Panels might be offered an opportunity to seek an independent third party review of the procedure undertaken in reaching that decision.

1.2. A third party review of procedure is independent of the Board and does not affect the rights of any individual to pursue matters through judicial review or, where there are statutory rights laid down under the Architects Act 1997, to appeal to the Courts. Third party review of procedure does not in itself reconsider the decision reached, only whether the procedure set down by the Board has been followed and/or whether the procedure was appropriate and efficient. In the Reviewer’s consideration of appropriateness and efficiency, the Reviewer will consider, in particular, whether:

- the procedure was faulty;
- there were avoidable delays.

2. Who can apply for third party review of procedure?

2.1. An independent third party review of procedure may be requested by an individual where a decision has been reached in the following circumstances:

Examination Appeals Panel

- a) Where an individual has appealed to the Examination Appeals Panel on the basis that there were:
- defects or irregularities in the conduct of the examination and/or examination procedure that had a materially adverse effect on the candidate’s performance; or
 - special circumstances (for example, illness, family bereavement, etc.) which were not known to the Examiners at the time of examination, and the candidate can show good reason why such circumstances could not have been known to the Examiners at the time of the examination.

The individual may request a third party review of procedure on the grounds that the Examination Appeals Panel has not followed correctly the procedures laid down under Appendix 2 of the Board’s Examination Procedures, or that the procedure was inappropriate or inefficient (see section 1.2 above).

Investigation Panel decisions

- b) Where the Investigations Panel or the Registrar has made a decision not to refer a case to the Professional Conduct Committee, the architect or complainant may request a third party review of procedure on the grounds that the Investigations Rules have not been followed, or that the procedure was inappropriate or inefficient (see section 1.2 above).

2.2. An independent third party review of procedure cannot be offered in any area of the Board's work where the Act specifies that there is a formal procedure to appeal to the Courts.

2.3. In cases where the only route available is to appeal formally to the Courts, appellants should bear in mind that under Civil Procedure Rules, both parties to the appeal, the individual and the Board, should consider whether any form of alternative dispute resolution would be a more suitable method of resolving the case.

3. What does the third party review of procedure consider?

3.1. Independent third party reviews of procedure consider whether the Board's Panels, or in certain situations the Secretariat, have followed the *procedures* laid down under the Act or in the rules made by the Board, and whether the procedure was appropriate and efficient (see section 1.2 above). It is not a mechanism for an appeal against the *decision* taken by the Board's Panels. Appeals against decisions must be considered through judicial review.

4. What is the third party review of procedure?

4.1. A request for an independent third party review of procedure must be made within 30 days of the date of the decision being made. Guidance on when an application must be made is given in the Appendix to this leaflet.

4.2. Applicants for an independent third party review of procedure must submit an application to the Registrar in the form laid down by the Board. The application must identify clearly where the procedures have not been followed and/or were inappropriate or inefficient. In particular, the defects or deviation from the procedure must be specified, and the Registrar may decline to submit a matter for review where no such grounds for a review are identified in the application. The Registrar may also defer any review which might interfere with any Court or other procedure.

4.3. When a valid application is received, the Registrar will appoint one of two independent persons appointed by the Board to conduct the third party review of procedure ["the Reviewer"]. The Reviewer will have no prior knowledge of the case before considering the review papers, and is independent of the Board save that they will be paid from the Board's funds. There will be no charge to the applicant for the review.

- 4.4. The review procedure will be conducted on the basis of written submissions only, and the Board will make the file of papers relating to the case available to the Reviewer. The Reviewer may attend the Board's offices to consider the papers, if considered helpful to do so, and/or seek further information or clarification from the applicant, the Panel or the Registrar, as appropriate.
- 4.5. The Reviewer may, at their discretion, give each party the opportunity to comment after the application has been received. The parties will be informed where information is to be exchanged for comment.
- 4.6. The Reviewer is not liable to any party for any act or omission in connection with the third party review of procedure conducted under this procedure.
- 4.7. In making an application for a third party review of procedure, the applicant agrees that the Board may make all information held in respect of the matter available to the Reviewer.

5. What will be the outcome of the review?

- 5.1. The Reviewer will aim to provide a report within 28 days and identify whether the procedure has been followed correctly and, if not, advise what deficiencies have been identified. The Reviewer may also advise where a procedure is, in their view, inappropriate or inefficient (see section 1.2 above). The Reviewer's report will be directed to the relevant Panel and will be made in writing to the Registrar, who will send it to the Panel and the applicant. The Reviewer will not comment on the decision made by the Panel, only whether the procedure adopted was in accordance with the Rules or guidelines of the Board, or was inappropriate or inefficient. It will be for the Panel to decide whether to accept the Reviewer's comments and, as appropriate, the recommendations. Furthermore, if the procedures were not in accordance with the Rules or guidelines laid down or there was some deficiency in the procedure, the Panel may decide to reconsider the case (where it has power to do so) to ensure it had reached its decision correctly.
- 5.2. The Registrar will pass on the Reviewer's report to the applicant and to the appropriate Panel within ten working days of its receipt in order for it to consider the decision. The Registrar will advise the applicant of any action that will be taken as a result of the Reviewer's report.

Guidance on when to lodge an application

All Applications

Any application for a review must be received within 30 days of the date of the written notification of the decision. The Registrar may consider applications received after the deadline if the applicant produces evidence that, although not received by the Secretariat, the application was sent within 30 days of the date.

Applications must identify the respects in which it is alleged that the procedures have not been followed and/or were inappropriate or inefficient. In particular, the defects or deviations from the procedure must be specified, and the Registrar may decline to submit a matter for review where no such matters are identified in the application. The Registrar may also defer any review which might interfere with any court or other process.

Examination Appeals

An application for an independent third party review cannot be lodged until the Appeals Panel has reached and issued a final decision.

Investigations Panel Decisions

An application for an independent third party review cannot be lodged until the Board's Investigations Panel has decided that a case it has considered will not proceed to the Professional Conduct Committee.