



**Subject** Consultation on Investigation and Professional Conduct Committee Rules and Guidance

**Purpose** For Decision

**From** Helen Ransome, Head of Regulation

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## 1. Summary

For the Board to consider new drafts of the Investigations and Professional Conduct Committee Rules, and issue them for consultation.

For the Board to also consider fresh drafts of the two keystone guidance documents which support the application of those rules – the Acceptance Criteria document, and the Sanctions Guidance.

For the Board to note the development of the Regulation Quality Assurance Framework.

## 2. Recommendations

It is recommended that the Board:

- a. issues the new Investigations and Professional Conduct Committee Rules for consultation; and
- b. issues the Acceptance Criteria and Sanctions Guidance for consultation; and
- c. Notes the introduction of the Regulation Quality Assurance Framework

## 3. Open/Confidential Session

Open session

## 4. Contribution to the Board's Purpose and Objectives

In delivering the Act, ARB's objectives are:

## 5. Key Points

### Background

- 5.1 In March 2020 the Board commissioned an independent review of ARB's investigatory processes, procedures and rules.
- 5.2 The Board has previously considered the independent review, which did not identify any serious concerns about ARB's procedures but did identify areas which may benefit from a refreshed approach. The review recommended that we simplify and modernise the Investigations and Professional Conduct Committee Rules; that we establish a quality assurance framework, and that we review and refresh our guidance in some areas.

5.3 Rules Review

The Executive has, alongside ARB's legal firm Bates Wells LLP, undertaken a review and rewrite of ARB's Investigations Rules and Professional Conduct Committee Rules ([Appendix A](#)). This review has incorporated feedback from key staff and stakeholders and the proposed new rules have been tested by our case prosecution team at Kingsley Napley LLP. We have also undertaken a review of good practice at other regulators, adopting elements where appropriate, while considering the unique requirements and legal framework within which ARB must operate.

- 5.4 There are no substantial changes from the existing rules, which have worked well for ARB and withstood various legal challenges during their existence. The amendments are fairly described as good housekeeping; modernising language and accessibility, increasing the transparency of processes at each stage, and improving the logical ordering of the rules.

Guidance review

- 5.5 Much of the guidance that underpins ARB investigations is founded in law, rather than in policy. It is an operational matter to ensure that guidance is regularly updated to reflect the development in regulatory case-law and best practice. There are however two key guidance documents that have their basis in ARB policy, and so suitable for Board approval after consultation.
- 5.6 The Acceptance Criteria ([Appendix B](#)) guidance defines the threshold for ARB to apply when deciding whether a complaint about an architect's conduct or competence meets the legal test for further investigation under section 14 of the Architects Act. All of the relevant considerations at this screening stage have now been consolidated into the one redrafted guidance document, ensuring our decision-making criteria are transparent. The language has also been updated to ensure it is clear and accessible for members of the public.
- 5.7 The Sanctions Guidance ([Appendix C](#)) provides a framework for the Professional Conduct Committee to use when deciding what sanction to impose on an architect after a finding of unacceptable professional conduct or serious professional incompetence. It is a key aide to consistency of approach, and transparency of decision making. It has been updated to provide further guidance in important areas of the decision process, most notably in relation to aggravating and mitigating factors and allegations involving dishonesty. It has also been subject to a general refresh to ensure the content is up to date, thorough, transparent and accessible.

5.8 Quality Assurance

In conjunction with the Board's Policy Committee, we have updated our Quality Assurance framework (illustrated at [Appendix D](#)) to provide assurance that those involved in investigations are doing the right things, in the right way, at the right time.

- 5.9 We have reviewed the formal and informal quality measures across the Professional Standards department and spoken with other regulators about their quality assurance models. We have identified three overarching areas in which we consider we should seek ongoing assurance: quality of decision-making, quality of case management and quality of stakeholder experience.

- 5.10 Among the improvements made is the introduction of an external audit of investigatory decisions at all stages of the process, increased monitoring of individual and department wide workloads and performance, and an enhanced model of securing and acting on stakeholder feedback.

Consultation

- 5.11 We are lawfully obliged to consult on any changes to the Investigations and Professional Conduct Committee rules, and it is good practice to consult on key pieces of guidance that sit alongside them.
- 5.12 The proposed consultation document is at [Appendix E](#). While we must work within the strictures of the Architects Act and other relevant law, we are particularly keen to hear how we can make the investigations process more transparent and understandable for those involved in it.

**6. Resource Implications**

None outside of the existing budget.

**7. Risk Implications**

Regulatory investigations are a high-risk area of ARB's business, and compliance with rules and guidance is a subject area upon which many regulatory cases have been lost on appeal. Our existing rules and procedures have borne up well under legal scrutiny, and we have sought expert legal and professional advice in trying to ensure that we remain compliant with our statutory obligations while still improving the accessibility of our literature.

**8. Communication**

We want to ensure that our investigations are carried out legally, but also that they are transparent and fair to all those involved in the process. To do that we are updating our rules and guidance, and we are keen to receive feedback on how they might be improved further.

**9. Equality and Diversity Implications**

The consultation will include a question about accessibility and any EDI implications of the new rules and guidance. An Equality Impact Assessment will also be carried out and reported to the Board before it makes its final decision.

**10. Further Actions**

Subject to the Board's agreement, the rules and guidance will be issued for consultation, and brought back for a final decision in early 2022.

# **Investigations Rules**

# **Architects Registration Board**

1. These Rules were made by the Board on [DATE] under Section 23 and Part III of the First Schedule to the Architects Act 1997. They came into force on [DATE] and subject to Rule 25 replace the Rules made by the Board on 29 November 2018.

## **Interpretation**

2. In these Rules the words and phrases below shall, except where the contrary intention appears, have the following meanings:

“the Act” means the Architects Act 1997;

“ARB” means the Architects Registration Board;

“the Board” means persons designated under Part I of the First Schedule of the Act;

“the Case Presenter” is a person appointed by the Registrar to present a Charge to the Professional Conduct Committee on behalf of ARB;

“Charge” is a charge to be heard before the Professional Conduct Committee of unacceptable professional conduct or serious unprofessional incompetence or that the Registered Person has been convicted of a relevant criminal offence;

“Expert Advisor” means a person instructed by the Registrar to provide expert advice considered relevant to any investigation;

“Investigations Panel” means the panel of Investigation Pool Members designated under Rule 7;

“Investigations Pool Member” means a person appointed by the Board under section 14(1) of the Act;

“Inquirer” means a person appointed by the Registrar, drawn from a Panel of persons constituted by the Registrar to undertake investigations on behalf of the Investigations Panel;

“Lay person” means a person other than a Registered Person;

“Register” means the Register of Architects established under the Act;

“Registered Person” is a person whose name is on the Register;

“the Registrar” is the person appointed by the Board as the Registrar of Architects;

“relevant criminal offence” means a criminal offence which has a material relevance to the fitness of a Registered Person to practise as an architect;

“the Investigations Officer” is the employee of ARB appointed by the Registrar to act in that role;

“a referrer” is a person who refers a matter to the Registrar for the purposes of section 14(1) of the Act;

“Third Party Review” is a review further to a notice under rule 17(b);

“Third Party Reviewer” means a person or firm independent of ARB instructed by the Registrar in order to conduct a Third Party Review;

3. The Interpretation Act 1978 applies to these Rules as if they were an Act of Parliament.

### **Investigations Pool Members**

4. The Board shall appoint a minimum of six persons under section 14(1) of the Act to be Investigations Pool Members.

5. Investigations Pool Members shall:

- a) include both Registered and Lay persons; and
- b) not include members of the Board or the Professional Conduct Committee.

### **Preliminary investigation**

6. Where matters are brought to the attention of the Registrar, whether by a referrer or otherwise, that there may be concerns as to unacceptable professional conduct by a Registered Person and/or the serious professional incompetence of a Registered Person, the Registrar:

- a) may carry out such preliminary investigations as in his or her opinion are appropriate for the purposes of section 14(1) of the Act;
- b) may obtain such advice as the Registrar sees fit;
- c) shall inform the relevant Registered Person of the matters brought to the attention of the Registrar under this rule and offer him or her an opportunity to comment before any referral is made to an Investigations Panel; and
- d) where appropriate and after taking into account any investigation, advice and comments from the Registered Person, make a referral to an Investigations Panel.

### **Action by the Investigations Panel**

7. Where the Registrar has referred a matter to an Investigations Panel, the Investigations Officer shall:

- a) designate three Investigations Pool Members to form the Investigations Panel;
- b) ensure that the Investigations Panel consists of one Registered Person and two Lay persons; and
- c) designate one of its number to act as its Chair.

8. Where the Registrar has referred a matter to an Investigations Panel, its role is to decide further to section 14(2) of the Act, taking into account the public interest and whether the evidence provides a realistic prospect of the Charge being upheld, whether there is a case to answer.

9. If the Investigations Panel considers that investigation or advice, additional to that sought under rule 6, is required it shall give directions to this effect to the Registrar including, where appropriate, for instructions to be given on its behalf to an Inquirer or an Expert Advisor.

10. Before carrying out its consideration under rule 15, the Investigations Panel may, if it considers it appropriate:

- a) invite written representations from the Registered Person;
- b) invite written representations from the referrer, if any,

and in so doing may indicate whether or not it is minded to refer the matter to the Professional Conduct Committee.

11. Investigations Panels shall not receive oral representations or evidence unless exceptionally it is necessary in the interests of justice to do so.

12. The decisions of an Investigations Panel:

- a) shall be by majority;
- b) may be taken by electronic means and if so, it will not be required for members of the Panel to deliberate in each other's presence unless Panel members consider it necessary to do so.

## **Request for evidence**

13. The Investigations Panel, an Inquirer or the Registrar may make a request for information and evidence (including for an inspection of such at the Registered Person's business premises) and the Registered Person shall comply with all such reasonable requests.

14. This requirement shall not apply to any information in relation to which the Registered Person is entitled to legal professional privilege or the disclosure of which would give rise to a breach of the law.

## **Decision**

15. The Investigations Panel once it has concluded its investigations in relation to a matter, shall consider whether there is a case to answer and proceed under rule 16 or 17.

16. a) Where the Investigations Panel is minded to decide that there is a case to answer and to refer the matter to the Professional Conduct Committee, it shall

- i) ask a Case Presenter to prepare a draft report to the Professional Conduct Committee;
- ii) then, subject to (b) below and any amendments it wishes to make to the report, make the referral, by way of the report, copied to the Registered Person.

b) Where a Case Presenter forms the view that the matter should be considered further by the Investigations Panel on account of new evidence or for some other reason, the Case Presenter shall write with this request, copied to the Registered Person who shall have an opportunity to comment before the Investigations Panel carries out any further consideration under rule 15.

17. a) Where the Investigations Panel is minded to decide that there is no case to answer, it:

- i) may give advice as to the Registered Person's future conduct or competence;
- ii) shall notify the Registered Person and the referrer, if any, in writing as to the decision it is minded to make, including any advice; and

b) Where, further to rules 19 and 20, there is no request for a Third Party Review or no Third Party Reviewer has been instructed, the Investigations Panel shall finalise its decision and notify the Registered Person and the referrer, if any, to this effect.



### **Third Party Review**

18. Where a referrer, if any, or the Registered Person has received a notice under rule 17(a)(ii) that the Investigations Panel is minded to decide that there is no case to answer and is dissatisfied with the process whereby it formed that view, that person may request a Third Party Review of that process.

19. Such a request must be made in writing to the Investigations Officer within 30 days of the date of receipt of the written notification under Rule 17(a)(ii), whereupon the Registrar shall consider whether to instruct a Third Party Reviewer.

20. The Registrar shall instruct a Third Party Reviewer where:

- a) the request clearly identifies the alleged deficiencies in the process; and
- b) it seems to the Registrar that these may, if upheld, reasonably lead to the Investigations Panel deciding to refer the matter to the Professional Conduct Committee.

21. The Third Party Reviewer shall submit a report to the Registrar, who shall send it to the Investigations Panel, the Registered Person and the referrer, if any.

22. The Investigations Panel, on receipt of the report, shall consider its content and give further consideration to the matter under Rule 15.

- a) Where the Investigations Panel carries out such further consideration and is minded to decide that there is a case to answer, it shall ask a Case Presenter to draft a report under rule 16(a)(i).
- b) Where the Investigations Panel carries out such further consideration and it remains of the view that there is no case to answer, and that no further action is to be taken, it shall finalise its decision and give its reasons in writing to the Registrar, the Registered Person and referrer, if any.

### **Action in respect of a criminal conviction**

23. If it appears to the Registrar that a Registered Person has been convicted of a relevant criminal offence:

- a) where necessary, the Registrar shall carry out an investigation into the relevant facts;
- b) the Registrar shall refer the matter to the Professional Conduct Committee by way of a report from a Case Presenter, copied to the Registered Person.

### **Reports to the Professional Conduct Committee**

24. A report to the Professional Conduct Committee shall contain:

- a) the Charge;
- b) a copy of any written statement or other document or plan that it is intended will be adduced against the Registered Person;
- c) the name of any witness whom it is intended to call in person before the Committee and a summary of what that witness is expected to say; and
- d) where the Charge relates to a relevant criminal offence, a certificate or other evidence of the conviction.

### **Transitional Provision**

25. These Rules do not apply to relevant criminal offences that come to the attention of the Registrar or allegations of unacceptable professional conduct or serious professional incompetence made before the date on which these Rules come into force and those matters will be subject to the Investigation Rules made on 29 November 2018, as if they had not been revoked.

**Professional  
Conduct  
Committee Rules**

**Architects  
Registration  
Board**

1. These Rules were made by the Board on [INSERT] under Section 23 and Part II of the First Schedule to the Architects Act 1997. They came into force on .....and replace the Rules made by the Board on 29 November 2018.

### **Interpretation**

2. In these Rules the words and phrases below shall, except where the contrary intention appears, have the following meanings:

“the Act” means the Architects Act 1997;

“ARB” means the Architects Registration Board;

“the Board” means persons designated under Part I of the First Schedule of the Act;

“Case Presenter” is a person appointed by the Registrar to present a Charge to the Professional Conduct Committee on behalf of ARB;

“Charge” is a charge to be heard before the Professional Conduct Committee of unacceptable professional conduct or serious unprofessional incompetence or that the Registered Person has been convicted of a relevant criminal offence;

‘Consent Order’ means a document which sets out terms upon which the Case Presenter proposes that a Charge which is the subject of a report to the Professional Conduct Committee may be settled with the consent of the Registered Person.

"Consent Order Panel" means the three members of the Professional Conduct Committee designated by the Chair under Rule 4(c) to consider the settlement of a Charge with the consent of a Registered Person;

“Disciplinary Order” means a disciplinary order made by the Professional Conduct Committee under section 15(1) of the Act;

"Hearing Panel" means the members of the Professional Conduct Committee designated by the Chair under Rule 4(a) to consider a Charge against a Registered Person at a hearing;

“Investigations Panel” means the panel of Investigation Pool Members designated under Rule 7 of the Investigations Rules;

“Investigation Rules” means the rules of that name made by the ARB on [INSERT] and in force on [INSERT];

“Professional Conduct Committee” means the Committee of that name appointed under Part II of the First Schedule to the Act or, where a Hearing Panel has been designated under Rule 4(a) or 4(c), that Panel;

“referrer” is a person who refers a matter to the Registrar for the purposes of section 14(1) of the Act’;

“Register” means the Register of Architects established under the Act;

“Registered Person” is a person whose name is on the Register;

“Registrar” is the person appointed by the Board as the Registrar of Architects;

“relevant criminal offence” means a criminal offence which has a material relevance to the fitness of a Registered Person to practise as an architect.

3. The Interpretation Act 1978 shall apply to these Rules as if they were an Act of Parliament.

#### **Action upon receiving a report**

4. Upon receiving a report from the Investigations Panel under Rule 16(a)(ii) or the Registrar under Rule 23(b) of the Investigation Rules, the Chair of the Professional Conduct Committee shall subject to Rules 5 and 6, designate:

- a) three members of the Professional Conduct Committee as a Hearing Panel to consider the Charge;
- b) a Chair for the purposes of the proceedings before the Hearing Panel (which may be him or herself unless unavailable or it is otherwise appropriate for another member of the Committee to act as Chair for these purposes);
- c) if needed, three further but different members of the Professional Conduct Committee as a Consent Order Panel to consider any proposed Consent Order in relation to that Charge.

5. No member of the Professional Conduct Committee who was a member of an Investigations Panel when it considered the conduct or competence of a Registered Person shall be designated either as a member of a Hearing Panel or as a member of a Consent Order Panel to consider a Charge against that person arising out of the consideration by that Investigations Panel.

6. No member of the Professional Conduct Committee appointed to a Consent Order Panel to consider a proposed Consent Order shall be designated to a Hearing Panel to consider the same matter at a hearing.

### **Notice of the hearing**

7. Not less than 49 days before the date set for the hearing of a Charge by the Hearing Panel, a written notice of the date, time and venue of the hearing shall be served upon the Registered Person or his or her legal representative (and for these purposes "venue" may include audio or video conferencing facilities).
8. A shorter period of notice than that specified in Rule 7 may be given where the Registered Person consents or the Chair of the Hearing Panel or Chair of the Professional Conduct Committee (if different) considers it reasonable in the public interest.
9. Such notice shall be accompanied by:
  - a) the Charge;
  - b) a copy of the report from the Investigations Panel to the Professional Conduct Committee;
  - c) a copy of any written statement or other document or plan that the Case Presenter intends to adduce in evidence at the hearing; and
  - d) the name of any witness whom the Case Presenter intends to call in person at the hearing, including any expert witness, and a summary of what that witness is expected to say.

### **Registered Person's response**

10. Within 21 days of receipt of the notice referred to in Rule 7 the Registered Person shall give to the Case Presenter written notice:
  - a) of whether he or she intends to appear at the hearing;
  - b) if he or she is to be legally represented, the name and address of his or her legal representative; and
  - c) brief particulars of any defence.
11. If the Registered Person intends to deny the Charge then not less than 21 days before the date set for the hearing he or she shall serve upon the Case Presenter a notice which contains:
  - a) particulars of the defence;
  - b) a copy of any written statement or other document or plan that he or she intends to adduce in evidence at the hearing; and

- c) the name of any witness whom he or she intends to call in person at the hearing, including any expert witness, and a summary of what that witness is expected to say.

12. Such notice may be given by being sent either by post or electronically, addressed to the Case Presenter at the registered offices of ARB or at any other address given for this purpose in the notice served under Rule 7 of these Rules.

### **Adjournment**

13. The Hearing Panel, the Chair of the Hearing Panel, or Chair of the Professional Conduct Committee (if different) on any day prior to the relevant hearing may adjourn any hearing at any time if they consider that it is appropriate to do so.

14. Written notice of the date, time and venue of the adjourned hearing shall be served upon the Registered Person and if a copy of the notice of the original hearing was sent to a referrer, a copy of the notice of the adjourned hearing shall be sent to that person also.

### **Case Management directions**

15. At the request of the Case Presenter or a Registered Person or of his or her own volition, the Chair of the Hearing Panel or of the Professional Conduct Committee (if different) may give such directions as are in the interests of justice and as they see fit. These may include directions as to

- a) participation in a case management meeting;
- b) any other directions for the conduct of the hearing.

### **Expert Evidence**

16. The Registered Person or the Case Presenter may apply to the Chair of the Hearing Panel for permission to adduce expert evidence, which shall be restricted to that which is reasonably required to resolve the proceedings.

17. The Chair may give directions with regard to the provision of a written report by any expert witness, any evidence in reply and the giving of oral evidence.

### **Proceeding in the absence of the Registered Person**

18. If the Registered Person fails to appear in person or by his or her legal representative at a hearing of a Charge the Hearing Panel may, if satisfied that the Registered Person has been served with notice of the hearing or all reasonable efforts have been made to serve the notice of the hearing, hear the case in the Registered Person's absence.

### **Evidence and proof**

19. The Hearing Panel may admit any evidence it considers fair and relevant to the case before it, whether or not such evidence would be admissible in a court of law.

20. Neither the Registered Person or the Case Presenter shall, without the permission of the Hearing Panel, call a witness or adduce evidence that was not referred to in a notice served on the other before the hearing in accordance with these Rules.

21. In determining whether a charge of unacceptable professional conduct or serious professional incompetence has been proved, the Hearing Panel shall take into account any failure by the Registered Person to comply with any provision of the Code of Professional Conduct and Practice issued by the Board under Section 13 of the Act.

22. The burden of proving a relevant fact shall lie upon the Case Presenter.

23. The Hearing Panel shall apply the civil standard of proof to any findings of fact.

### **Joinder**

24. Except where it appears to it that it would not be in the interests of justice to do so, the Hearing Panel may hear Charges against two or more Registered Persons at the same time and two or more Charges against a Registered Person at the same time.

### **Order of proceedings at hearings of the Professional Conduct Committee**

25. Subject to Rule 28 the procedure at a substantive hearing is to be as provided for in this rule.

a) The Chair of the Hearing Panel shall:

- i. require the Registered Person's name and registration number to be confirmed by the Registered Person, where the Registered Person is present; or



- ii. require the Case Presenter to confirm the Registered Person's name and registration number, where paragraph (i) does not apply.
- b) The Hearing Panel shall hear and consider any preliminary legal arguments.
- c) The Chair shall ask for the Charge to be read out and inquire whether the Registered Person wishes to make any admissions.
- d) Where facts have been admitted, the Chair of the Hearing Panel shall announce that such facts have been found proved.
- e) Where facts remain in dispute, the Case Presenter is to open the case and may adduce evidence and call witnesses in support of it.
- f) The Registered Person's case is then to be opened, and the Registered Person may adduce evidence and call witnesses in support of it.
- g) Following the conclusion of the evidence, the Case Presenter followed by the Registered Person shall be invited to make closing submissions.
- h) The Hearing Panel shall, after consideration of all the evidence and submissions made:
  - i. consider and announce its findings of fact and give reasons for that decision;
  - ii. after hearing further submissions and evidence if appropriate, the Hearing Panel shall then decide and announce whether it finds the Registered Person guilty of unacceptable professional conduct and/or serious professional incompetence and/or a conviction of a relevant criminal offence.
- i) Following the announcement of that decision the Hearing Panel may receive further evidence and hear any further submissions from the Case Presenter and the Registered Person as to the appropriate disciplinary order, if any, to be imposed.
- j) The Hearing Panel shall, having considered any further evidence and any further submissions made under Rule 25(i), announce its decision as to the disciplinary order (if any) to be imposed, giving reasons for its decision.

26. Where it appears to the Hearing Panel at any time during the hearing, either upon the application of the Case Presenter or the Registered Person, or of its own volition, that

- a) the particulars of the Charge or the grounds upon which it is based and which have been notified under Rule 9, should be amended; and
- b) the amendment can be made without injustice,

it may, after hearing from the Case Presenter and Registered Person, and taking legal advice, amend those particulars or those grounds in appropriate terms.

27. At any stage before making its decision as to the imposition of a disciplinary order, the Hearing Panel may adjourn for further information or evidence to assist it in exercising its functions.

### **Departure from these Rules**

28. Provided that the proceedings are fair to the Registered Person and it is in the interests of justice to do so:

- a) no objection shall be upheld to any technical fault in the proceedings;
- b) the Hearing Panel may depart from any provision of Rule 25 of these Rules.

### **Witnesses**

29. Witnesses shall be required to take an oath, or to affirm, before giving oral evidence at a hearing.

30. Subject to Rule 31, witnesses:

- a) shall first be examined by the party calling them;
- b) may then be cross-examined by the opposing party;
- c) may then be re-examined by the party calling them; and
- d) may at any time be questioned by the Hearing Panel.
- e) Any further questioning of the witnesses by the parties shall be at the discretion of the Chair of the Hearing Panel.

31. Subject to legal advice, and upon hearing representations from the Case Presenter and the Registered Person, the Hearing Panel may adopt such measures as it considers appropriate to enable it to receive evidence from a witness.

### **Public hearing**

32. Subject to Rules 33 and 34, hearings of the Professional Conduct Committee shall be held in public.

33. The Hearing Panel may determine that the public shall be excluded from the proceedings or any part of the proceedings, where they consider that the circumstances of the case outweigh the public interest in holding the hearing in public.

34. An application that all or part of a hearing should be conducted in private shall be heard in private.

### **Recording**

35. An audio recording shall be made of the proceedings of a Hearing Panel and a copy or transcript of such recording shall be provided to the Registered Person as soon as reasonably practicable, upon his or her written request and on receipt of the costs thereof.

### **Reasons**

36. The Hearing Panel shall provide the Registered Person with written reasons for its decisions as soon as practicable after the hearing.

### **Consent Orders**

37. At any time after a report has been served upon the Registered Person but not less than 42 days before the date fixed for a hearing of the Charge, unless otherwise agreed between the Registered Person and ARB, the Case Presenter may serve on the Registered Person a proposed Consent Order setting out terms upon which it is proposed that the case may be concluded with the consent of the Registered Person.

38. The Registered Person may within 14 days of the date when the proposed Consent Order was sent to him or her (subject to any extension of time agreed between the Registered Person and ARB), confirm in writing to the Case Presenter that the Registered Person accepts the matters set out in the proposed Consent Order and agrees to the terms of the disciplinary order, if any, therein.

39. Where the Registered Person does not confirm within 14 days his or her consent to the proposed Consent Order in accordance with Rule 38, the proposed Consent Order will be regarded as withdrawn and the case must proceed to be considered at a hearing.

40. Where the Registered Person has given the consent referred to in Rule 38, the Case Presenter must refer the proposed Consent Order to the Consent Order Panel.

41. The Consent Order Panel must make such arrangements as it considers appropriate to decide whether to approve or reject the proposed Consent Order, provided that:

- a) such arrangements must not involve a hearing in the presence of the parties;
- b) such arrangements need not require the members of the Consent Order Panel to deliberate in each other's presence, unless they consider it necessary to do so;

- c) the Consent Order Panel must consider and reach its decision in relation to the proposed Consent Order within 21 days of receipt.

42. As soon as reasonably practicable after reaching its decision the Consent Order Panel must inform ARB and the Registered Person of its decision in writing.

43. Where a proposed Consent Order is not consented to by the Registered Person or not approved by the Consent Order Panel, the Charge must proceed to be considered by a Hearing Panel at a hearing.

44. Where a proposed Consent Order has not been agreed or approved, any discussions relating to it between the Case Presenter and the Registered Person shall remain confidential and shall not be made known to any Hearing Panel designated to hear the Charge, unless the Registered Person chooses to bring it to its attention.

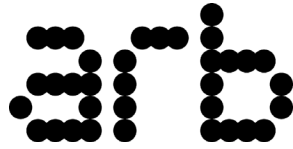
### **Publicity**

45. The Professional Conduct Committee shall, in such manner as it considers appropriate:

- a) where there has been an adverse finding, instruct that the name of the Registered Person be published with a description of the conduct, incompetence or relevant criminal offence and nature of any disciplinary order or Consent Order;
- b) where it does not uphold a Charge of unacceptable professional conduct or serious professional incompetence, and if so asked by the Registered Person, it shall instruct that a statement of fact to this effect, be published.

### **Transitional provision**

46. These Rules do not apply to proceedings in respect of which a report has been made to the Professional Conduct Committee by the Investigations Panel or Registrar before the date on which these Rules come into force and those proceedings will be subject to the Professional Conduct Rules made on 29 November 2018, as if they had not been revoked.



## **Screening new complaints**

### **ARB's acceptance criteria**

#### **Introduction**

1. This guidance has been developed by the Architects Registration Board (ARB) to assist members of the public when making a complaint about an architect. It explains the factors that will be considered when screening each new complaint to decide whether it is an allegation which must be investigated by ARB.

#### **The purpose of the acceptance criteria**

2. The acceptance criteria are an important safeguard to prevent us investigating matters which do not fall within our statutory remit. Although complaints are only made about a minority of architects, considering them properly is a resource-intensive process that has an impact on all those involved in that investigation. It is important that the available resources are used effectively to protect the public and are not diverted into investigating matters which are not suitable for regulatory intervention. Our primary concern is public protection, so we do not set rigid and inflexible criteria. The criteria are intended to be used flexibly to help us reach the right decision quickly and fairly.
3. Before a complaint reaches the investigation stage and becomes an allegation, it must meet the following criteria:
  - The information provided must identify the architect against whom the complaint is made;

- A formal complaint should usually have been made to the architect, in writing, and the architect given the opportunity to respond;
- The complaint to us must be in writing;
- The nature of the complaint must be clear and sufficiently detailed in order that the architect can understand the concerns raised;
- The evidence provided must be credible in respect of the complaint as a whole; and
- The complaint must be sufficiently serious that it may constitute an allegation of Unacceptable Professional Conduct (UPC), Serious Professional Incompetence (SPI) and/or a relevant criminal conviction.

#### **What is the difference between a ‘complaint’ and an ‘allegation?’**

4. When a client or member of the public contacts us to raise concerns about an architect we refer to this as a ‘complaint’. As part of its screening process we must then determine whether the complaint is sufficiently serious that it falls within our regulatory remit. The Architects Act 1997 (the Act) enables us to investigate only two types of allegations: UPC and SPI. These are both serious disciplinary matters and go beyond accusations of mere mistakes or minor lapses in behaviour or conduct. For further information on what constitutes UPC and/or SPI please refer to our detailed guidance [here](#).
5. The Act also gives ARB the power to investigate where an architect has been convicted of a criminal offence which may have material relevance to their fitness to practice as an architect. Architects are required to inform ARB if they are convicted of, or accept a caution for, a criminal offence.
6. If it is clear at the screening stage that the complaint is not sufficiently serious that it could amount to an allegation as recognised under the Act, then it does not fall within our remit and must be closed. If we consider it may be sufficiently serious

then it becomes an 'allegation' of either UPC, SPI or that the architect has committed a relevant criminal offence.

## **The acceptance criteria**

### *The complaint must identify the architect*

7. We can only consider allegations against an architect who is currently on our [Register](#) and so we must be confident that we have correctly identified the architect who is the subject of the complaint.
8. Where a concern relates to someone who is not on our Register, we can't consider the matter further, but we will try to signpost you to other organisations, such as their membership body, the ombudsman, or the Police.
9. It is important to note that ARB does not register or regulate architectural practices, but individual architects. If you provide details of an architectural practice, ARB will take reasonable steps to trace the architect concerned. If after taking such steps we cannot link the complaint to an identified architect on our Register, we won't be able to investigate further.

### *The complaint should be made to the architect first*

10. Before making a complaint to ARB, you should try to sort out your concerns directly with the architect first. This is often the quickest and best way to deal with a complaint or problem and is in line with [Standard 10 of the Architects Code](#). Under our Code of Conduct architects should have their own process for dealing with complaints and should respond in full to your concerns within 30 working days.
11. You should make your complaint to the architect formally, and in writing. Sending your complaint in this way will assist the architect in understanding your concerns

and allow them the opportunity to address the complaint and put things right where possible. If you remain dissatisfied then you should provide us with a copy of your complaint and the architect's response. It will form part of the evidence we consider when determining whether we can formally investigate the issues.

12. While in most cases it is appropriate to contact the architect directly with a complaint, we appreciate there will be exceptional circumstances where making a complaint to the architect would not be helpful or suitable (for example, where a member of the public becomes aware that an architect has been convicted of a criminal offence). In such cases we will not require you to contact the architects before deciding whether the matter will proceed to an investigation.

*The complaint should be in writing*

13. To consider if a concern amounts to an allegation of UPC/SPI or a relevant criminal conviction, we need to have a written account of the complaint.
14. If you raise a concern with us over the phone, we will ask you to put your concerns in writing. The requirement that complaints be made in writing is so we can be sure that we have all of the relevant information from the person making the complaint, in their own words, without risk of error or misunderstanding. It is not to act as an obstacle to raising a complaint.
15. If you need assistance putting the information in writing, we will provide you with the help you need. This may be achieved by:
  - giving you advice on how to put concerns to ARB in writing;
  - sending a copy of relevant guidance and a complaint form to complete (which may be partly completed using the information already provided);  
or
  - taking a statement of your complaint orally and sending it to you for verification and signing.



*The nature of the complaint must be clear*

16. We will make enquiries at the screening stage to ensure we have an accurate and complete understanding of the concern to help us make our decision as to whether the matter can be investigated. If the scope of the concern is unclear, we'll contact you and ask you to clarify what the complaint is about. If no clarification is provided, we may not be able to consider the matter any further.
17. The requirement to make clear the nature of the complaint is about substance and not form. It is met where a complaint is made in sufficient detail for a preliminary decision to be reached as to whether it raises serious concerns about an architect's conduct or competence.

*There should be credible evidence*

18. Before we consider whether a complaint is serious enough to investigate we will need some evidence to support the concerns raised. We will always make an objective assessment of the evidence we are given, rather than rely on an individual's interpretation of the evidence.
19. If you make a complaint without sufficient supporting evidence, we will make further enquiries to establish whether there's any evidence to support the concerns raised. Where we have taken reasonable steps but are left without sufficient credible evidence, we won't be able to take the matter further.
20. The requirement that evidence is "credible" does not require someone to prove at the outset that it is true. The test is that the information provided is sufficient to cause a reasonable person to consider that it is worthy of belief. What constitutes credible evidence will vary from case to case, but evidence is more likely to be regarded as credible if it provides a coherent, logical, and reasonable explanation of the events in question, particularly if it is either supported by other evidence (e.g.

notes, emails or documents from the time of the events in question) or is consistent with already known facts.

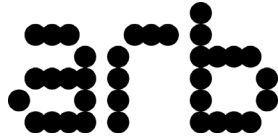
21. If an allegation is not pursued due to a lack of credible evidence this does not mean the person making the complaint has been disbelieved, but simply that the evidence provided was insufficient to enable the complaint to be pursued further.

*The complaint must be sufficiently serious*

22. While architects are expected to comply with the standards laid down in the [Architects Code](#), not every shortcoming or failure to meet the standards in the Code will be sufficiently serious that it requires us to carry out a disciplinary investigation. We recognise that architects will make mistakes during their professional lives, and so many of the complaints we receive are not sufficiently serious that they could amount to an allegation of UPC/SPI or a relevant criminal conviction. When assessing whether a concern is serious, we will refer to our guidance 'What constitutes UPC and SPI.'
23. In some cases, we may decide that the concerns are not so serious that we need to take action to protect the public, but that the architect should be contacted to address the concerns with you directly or to remind them of their professional obligations under the Architects Code. We will let you know if we plan to do this.
24. At this stage in the process, any doubts as to the seriousness of the complaint will be resolved in favour of public protection by allowing an allegation to proceed. In some cases, we may contact the architect for their response before determining whether the matter amounts to an allegation that can be investigated. Again, we will let you know if we plan to take this approach.

**Next steps**

25. If the acceptance criteria are met, we will draft the allegation and send it to the architect, with the supporting evidence, for their formal response. It is important to note that the content of the allegation we draft may differ from your original complaint as it will only address those aspects of the complaint which were found to meet the acceptance criteria. The allegation may also include matters you did not complain about, but that we have identified of being serious regulatory concern. While you play a key role as the person who referred the matter to the ARB, we must manage the investigation independently and impartially.
26. If a complaint is found not to meet the acceptance criteria then the matter must be closed. The reasons for that decision will be communicated to you in writing, alongside advice on how you may request a review of that decision, and any other organisation(s) that may be able to assist you further.



## **Professional Conduct Committee**

### **Sanctions Guidance**

#### **Introduction**

1. This guidance has been developed by the Architects Registration Board (ARB) to assist its Professional Conduct Committee (PCC) in making fair, consistent and proportionate decisions in relation to sanctions. It is also intended to assist the public and architects in understanding the PCC's decision-making process. The content of the guidance draws on an analysis of previous PCC decisions and relevant caselaw.
2. Sanctions are applicable in cases where an architect is found guilty of unacceptable professional conduct (UPC) and/or serious professional incompetence (SPI). Sanctions are also applicable when an architect is convicted of a criminal offence which has material relevance to their fitness to practise.
3. While the PCC may rely on this document for guidance and consistency, it is not intended in any way to fetter the discretion of the PCC when deciding what, if any, sanction to impose. Each case will turn on its own facts and PCC members are expected to exercise their own judgment in making decisions.
4. This guidance was approved by the Board on XXXX and adopted by the PCC from XXXX.

#### **The purpose of sanctions**

5. The primary purpose of sanctions is to protect members of the public, to maintain the integrity of the profession, and to declare and uphold proper standards of conduct and competence. Sanctions are not imposed to punish architects, but they may have a punitive effect.

## Sanctions available

6. If an architect is found guilty of UPC, SPI, and/or convicted of a relevant criminal offence, the PCC must decide what, if any, sanction should be imposed. Under the Architects Act 1997 (the Act) the sanctions available to the PCC are:

- Reprimand
- Penalty order
- Suspension
- Erasure

7. The Act does not require the PCC to impose a sanction in every case where a guilty finding is reached, so the PCC may choose to make no disciplinary order.

## The PCC's approach

8. In making a decision the PCC will consider the seriousness of the case and determine a fair and proportionate sanction. It must consider each sanction option available to it, in ascending order, starting with the least restrictive. This includes considering whether a sanction is necessary in the circumstances of the case.

9. The case of **Raschid v General Medical Council [2006] EWHC 886 (Admin) (per Collins J)** sets out the approach to be taken when imposing sanctions:

*'It is necessary for a Panel, when considering the appropriate sanction, to work from the bottom up [...] to consider the least penalty and to ask itself whether that is sufficient, and, if not, then to go to the next one, and so on. Thus they go from taking no action and merely recording a serious professional misconduct finding through a reprimand, the imposition of conditions, suspension, and the final sanction of erasure.'*

10. The court further elaborated on the approach to sanctions in **Fuglers & Ors v Solicitors Regulation Authority [2014] EWHC 179 (per Popplewell J)** and stated as follows,

*'There are three stages to the approach... The first stage is to assess the seriousness of the misconduct. The second stage is to keep in mind the purpose for which sanctions are imposed by such a tribunal. The third stage is to choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.'*

11. In deciding what sanction to impose the PCC should have regard to the principle of proportionality, weighing the interests of the public with those of the architect. The interference with the architect's right to practise whilst using the title 'architect' must be no more than necessary to achieve the PCC's purpose of protecting the public and upholding the reputation of the profession and proper standards.
12. Once the PCC has reached what it considers to be the necessary and proportionate sanction it should then 'test' its decision by considering the following, more severe, sanction and determine why that would not be appropriate or proportionate in the circumstances of the case.
13. Full written reasons should be given for the PCC's decision, including all relevant considerations in reaching that conclusion.

### **Aggravating and mitigating factors**

14. Before considering which sanction, if any, it should impose, the PCC must consider the aggravating and mitigating factors in the case. Aggravating factors are features of the case which make it more serious. Mitigating factors are features which make it less so.
15. The PCC should weigh the aggravating and mitigating factors thoroughly, paying careful regard to the weight that has been given to those factors in demonstrating the proportionality of any sanction it determines to impose.

16. The list below provides some common examples of aggravating and mitigating factors (the list is not exhaustive). These factors are not determinative of the seriousness of the conduct and/or incompetence. They are there to assist considerations of fairness and proportionality when determining the appropriate sanction.

*Aggravating Factors*

- A pattern of poor conduct/competence
- Substantial risk of harm to clients and/or the wider public
- Refusal or inability to acknowledge failings
- Failure to engage with the disciplinary process constructively
- Failure to take appropriate remedial steps
- Previous disciplinary history
- A finding of dishonesty
- Misconduct involving the commission of a criminal offence
- Conduct or actions that were repeated or deliberate
- Conduct affecting someone vulnerable
- Concealment of wrongdoing

*Mitigating Factors*

- Little or no risk of harm to clients and/or the wider public
- Conduct/incompetence representing an isolated failing or brief duration in an otherwise unblemished career
- Evidence of insight and/or remorse
- Personal circumstances such as periods of stress or illness
- Evidence of remedial action taken to prevent repetition
- Evidence of good character
- The architect voluntarily notifying ARB of the facts giving rise to the disciplinary proceedings
- Open and frank admissions at an early stage
- Acted under duress or deception from another party (including client)

17. As a general principle, the PCC will be less able to take mitigating factors into account when the concern is about public safety, or is of a more serious nature, than if the concern is about public confidence in the profession.

### *References and testimonials*

18. Architects may submit references and testimonials as mitigation evidence. The PCC should assess the usefulness of such references considering factors such as:

- The availability of referees;
- the seriousness of the offence;
- the relationship of the referee to the architect;
- whether the referee is aware of the allegation(s) faced by the architect;
- whether the referee is aware their testimonial will be submitted to the PCC in mitigation.

19. The PCC should not draw adverse inference from the absence of references or testimonials.

### *Insight and Remediation*

20. Both insight and remediation should be given their everyday meaning. The PCC should focus on whether there is real evidence that the architect has been able to look back at his or her conduct with a self-critical eye and that they have acknowledged fault, expressed contrition and/or apologised. In effect, they need to demonstrate to the PCC that there is a real reason to believe they have learned a lesson from the experience. However, the PCC should be mindful of cultural differences as to how an architect expresses insight and apology, including nonverbal cues such as lack of eye contact and facial expressions.

## **The sanctions**

### No sanction



21. In most cases where there has been an adverse finding against an architect a sanction will be necessary to protect the public and uphold the reputation of the profession; however, the Act does not require the PCC to impose a sanction in every case.
22. In rare cases the PCC may conclude, having had regard to all the circumstances, that the level of seriousness of the architect's conduct or incompetence is so low that it would be unfair or disproportionate to impose a sanction. Where the PCC has determined a sanction is not required, it is particularly important that it is clear in its written reasons as to the exceptional circumstances that justified taking no action.

### Reprimand

23. Where the PCC decides it is necessary to impose a sanction, a reprimand is the least severe sanction that can be applied. It may be used in relation to offences which fall at the lower end of the scale of seriousness, and where it would be appropriate to mark the conduct or incompetence of an architect as being unacceptable.

24. A reprimand may be considered where many of the following factors are present (this list is not exhaustive):

- There is no evidence that the architect poses a risk to the public;
- The conduct and/or incompetence found has not seriously affected clients or the wider public;
- There is evidence of genuine insight and remorse;
- The architect has taken corrective steps;
- There is evidence of previous good disciplinary history;
- The conduct and/or incompetence found represents an isolated incident;
- The architect's actions were not deliberate.

### Penalty order

25. A penalty order is a fine of up to level 4 on the standard scale of fines for summary offences, currently set at £2,500. Only one penalty order can be issued per charge.

Under the Act, ARB can only bring a charge of UPC, SPI and/or that the architect has been convicted of a relevant offence. Penalty orders are payable to HM Treasury.

26. A penalty order may be appropriate where the following factors are present (this list is not exhaustive):

- The failings found are too serious to warrant a reprimand;
- There is evidence of limited insight or remorse;
- The architect has benefitted financially from the conduct;
- The architect and/or their practice have sufficient financial resources.

27. The PCC will specify the period within which the sum must be paid, and a failure to satisfy the order may lead to it being replaced by a suspension or erasure order.

#### Suspension order

28. A suspension order may be imposed by the PCC for serious offences, but where the circumstances are not so serious as to warrant erasure from the Register. A suspension has a deterrent effect and can be used to send out a signal to the profession and public about what is regarded behaviour unbecoming of an architect.

29. Suspensions are for a maximum period of two years and the architect is automatically reinstated to the Register at the end of the suspension period. Any individual suspended from the Register cannot use the title 'Architect' in business or practice during that time (nor any reference to membership or fellowship of RIBA).

30. A suspension order may be considered where many of the following factors are present (this list is not exhaustive):

- The failing or conduct is so serious that a reprimand or penalty order would be insufficient to protect the public or the reputation of the profession;
- The behaviour is not fundamentally incompatible with continuing to be an architect;

- There is no evidence of entrenched integrity issues;
- There is a lack of sufficient insight or remorse;
- The PCC is satisfied that the behaviour is unlikely to be repeated;
- The conduct is capable of being rectified;
- There is no evidence of repetition of similar behaviour since the incident;
- The architect has failed to pay a previously imposed penalty order.

31. The length of the suspension is a matter for the PCC's discretion. It should provide reasons for the period of suspension, including the factors that led it to conclude that the duration was appropriate. When determining the appropriate length of suspension, the PCC's primary consideration will be protecting the public and the reputation of the profession, and the seriousness of its findings. It will also take account of mitigating and aggravating factors and the time needed to allow the architect to take corrective steps.

#### Erasure order

32. An erasure order may be imposed by the PCC for those offences that are so serious that only removal from the Register will protect the public and/or uphold the reputation of the profession.

33. Erasure may be appropriate where the following factors are present (this list is not exhaustive):

- There is a serious risk of harm to the public;
- The architect has committed a serious criminal offence;
- There is evidence of a deliberate or reckless disregard for public safety and/or the standards expected of an architect;
- The architect's conduct or failing is fundamentally incompatible with continuing to be an architect;
- The PCC lacks confidence that a repeat offence will not occur;
- There is evidence of dishonesty or a serious lack of integrity;
- There is evidence the architect put their own interests before their client;

- The architect demonstrates a persistent lack of insight into the seriousness of actions or consequences;
- Non-payment of a previously imposed penalty order.

34. Any individual erased from the Register is not permitted to use the title 'Architect' in business or practice (nor any reference to membership or fellowship of RIBA).

35. Erasure from the Register is permanent, though it is open to an architect to apply to re-join the Register after a period of time recommended by the PCC (a minimum of two years). The PCC must provide in its reasons the duration before which the architect is entitled to apply for restoration to the Register, and why. Applications for reinstatement to the Register are considered by the Board.

### **Criminal convictions**

36. Architects are referred to the PCC when they have been convicted of a criminal offence or received a caution that the Registrar considers is relevant to their fitness to practise as an architect. If the PCC receives a signed certificate of a conviction or determination, from a criminal court in the United Kingdom or a foreign court for an offence, which, if committed in England and Wales, would constitute a criminal offence, it must accept the certificate as conclusive evidence that the offence was committed. The architect can then make submissions as to why no further action or a more lenient sanction should be made by the PCC.

37. The purpose of sanctions in relation to a conviction is not to punish the architect a second time for the same offence, but again to protect the public and maintain the collective reputation and integrity of the profession. Cases about criminal offending illustrate the principle that, '*the reputation of the profession is more important than the fortunes of any individual member.*' (**Bingham L.R**) **Bolton v Law Society [1994] 1 WLR 512**

38. As a general principle, where an architect has been convicted of a serious criminal offence they should not be permitted to resume unrestricted practice until they have completed their sentence.

## **Dishonesty**

39. The Code of Conduct and Practice states that architects must always act with honesty and integrity. This is a fundamental tenet of the Code and underpins the trust the public places in the profession. Consequently, a finding of dishonesty is particularly serious and likely to warrant more serious action.

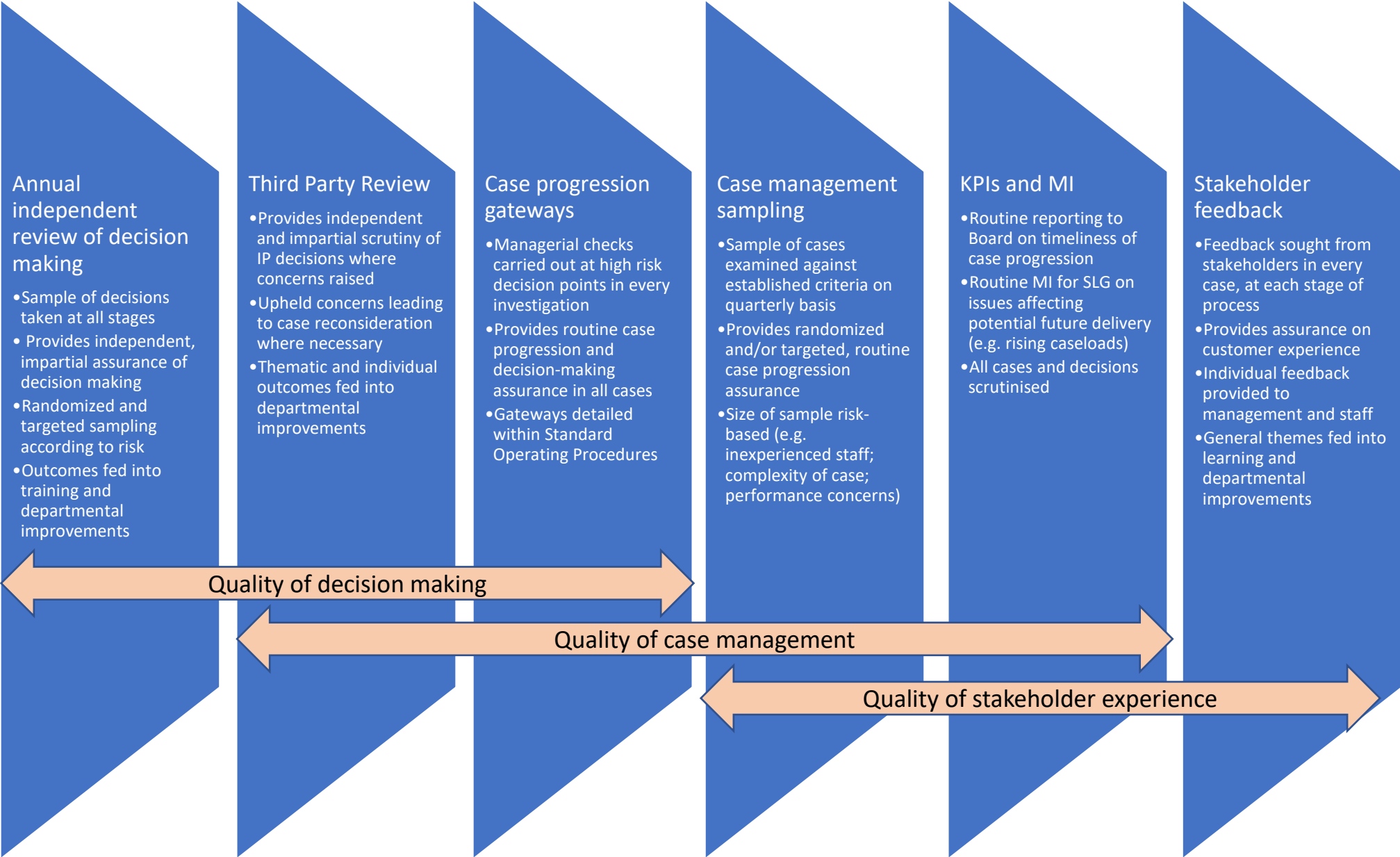
40. There is a broad spectrum of dishonesty which the PCC must consider when determining the appropriate and proportionate sanction. Dishonest conduct can take many forms: *'some criminal, some not; some destroying trust instantly, others merely undermining it to a greater or lesser extent'* **Lusinga v Nursing and Midwifery Council [2017]**. In every case the PCC should carefully consider the nature of the dishonesty and determine how serious it is.

41. The following examples are of conduct generally considered more serious, and so more likely to result in erasure:

- A deliberate cover up when things have gone wrong;
- Dishonesty resulting in a direct risk to clients or the wider public;
- Dishonesty affecting someone vulnerable;
- Dishonesty resulting in personal financial gain;
- Premeditated, systematic or longstanding deception.

42. In contrast, incidents of opportunistic or spontaneous dishonesty, and one-off incidents may be considered less serious by the PCC.

# Regulation Department Quality Assurance Profile





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## **Consultation on proposed changes to the Investigations and Professional Conduct Committee Rules, Acceptance Criteria, and Sanctions Guidance**

### **Introduction**

1. The Architects Registration Board (“ARB”) was established by Parliament in 1997 to regulate the architects’ profession in the UK. We are an independent public interest body, and our work in regulating architects ensures that good standards within the profession are consistently maintained for the benefit of the public and architects alike.
2. The Architects Act 1997 (“the Act”) requires ARB to investigate where it is alleged an architect is guilty of unacceptable professional conduct, serious professional incompetence or that they have been convicted of a criminal offence which is relevant to their fitness to practice as an architect. Where those investigations conclude that the architect has a case to answer to the allegation(s), they must be referred to the Professional Conduct Committee (“PCC”) for it to decide whether they are guilty of the allegation, and if so whether they should receive a disciplinary sanction.
3. Aside from the Act, the framework for how ARB investigates complaints is set out in the Investigations and Professional Conduct Committee Rules (“the Rules”). ARB also issues a body of guidance for the procedural application of the Rules and in making key decisions. The ‘Acceptance Criteria’ guidance provides the criteria which must be met for investigating complaints, and the Sanctions Guidance assists the PCC when issuing sanctions against architects who have been found guilty. These are both important decision points in the investigatory process.

## Background to the consultation

4. In March 2020 the Board commissioned an independent review of ARB's investigatory processes and procedures. Among other things the review included an examination of the Rules and all associated guidance.
5. While the review did not identify any serious concerns about the functioning of ARB's investigatory procedures, it identified some areas where ARB's approach could be refreshed and modernised. It recommended that the Rules and key supporting guidance be revisited to ensure they are thorough, accessible and reflect modern regulatory best practice.
6. The Rules have been updated regularly over the last 15 years and were last updated in 2018. While as a set of rules the various iterations have proven successful in allowing investigations to be carried out under a robust framework, a side effect of so many changes has been that the overall document has become complex and inconsistent in its language. Rather than risking further inconsistency, the Rules and guidance have been approached afresh. Best practice has been sought from other regulators; however, we recognise that each organisation has unique requirements and legal frameworks within which they must operate.
7. Before deciding upon any proposed changes, it is important that we gather a wide range of views and suggestions from key stakeholders.

## Changes proposed

### *The Rules*

8. The Rules have been redrafted to improve consistency, modernise the language used, and streamline and simplify the content. The process by which an investigation is carried out has not materially changed but it is hoped the redrafted Rules will help make the process more transparent and accessible for all parties involved in investigations.

### *Acceptance Criteria*

9. The Acceptance Criteria guidance has been redrafted to ensure the decision-making process is explained fully and that the content is clear and accessible. While the criteria for commencing a regulatory investigation have not changed, the redrafted guidance consolidates information which is currently detailed across various guidance documents, placing all relevant considerations in one place with the aim of improving transparency.



## *Sanctions Guidance*

10. We have built upon the existing sanctions guidance which was last updated in 2019. We have added further guidance in important areas of the decision process, most notably in relation to aggravating and mitigating factors and allegations involving dishonesty. As with the other documents, the Sanctions Guidance has also been subject to a general refresh to ensure the content is up to date, thorough, transparent and accessible.

## **Consultation questions**

11. We welcome views and suggestions on the proposed changes, in particular:
  - i. Do the Rules provide a modern and clear framework for ARB's investigatory process? Are there any changes you would like to see?
  - ii. Does the Acceptance Criteria document accurately identify the criteria to be applied when deciding whether to investigate a complaint? Are there any changes you would like to see?
  - iii. Does the Sanctions Guidance clearly explain the rationale for imposing a disciplinary order after an architect has been found guilty of unacceptable professional conduct or serious professional incompetence? Are there any changes you would like to see?
  - iv. Are there any changes we could make to improve accessibility to our investigation procedures, or make the process more inclusive?
  - v. Do you have any other comments to make?

## **Next steps**

12. At the close of the consultation we will analyse and consider the responses received. The Board will be invited to consider the consultation responses before determining whether the proposals (and any further changes following the consultation) should be adopted. It is envisaged that the Board will carry out that consideration in the first quarter of 2022.