

Response Form - Consultation



Architects Registration Board

Consultation on proposed amendments to the Professional Conduct Committee Rules

Response from:

(Name)
(Job Title)
(Organisation)
(Postal address)
(email address)

Please complete and return to Architects Registration Board, 8 Weymouth Street, London W1W 5BU, by 5pm on 28 October 2014.

This response form may also be submitted by email to professionalstandards@arb.org.uk or by fax to 020 7436 5269.



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Original version	Draft suggested document
<p>2. In these Rules the following words and phrases shall, except where the contrary intention appears, have the meanings assigned to them below:</p> <p>“the Act” means the Architects Act 1997;</p> <p>“Board” means the Architects Registration Board;</p> <p>“Charge” means the charge of unacceptable professional conduct, serious professional incompetence or of conviction of a criminal offence other than an offence which has no material relevance to fitness to practise as an architect, in a report of the Board’s Solicitor;</p> <p>“Clerk to the Professional Conduct Committee” is a barrister or solicitor of that title appointed by the Registrar;</p> <p>“Respondent” is a Registered Person charged before the Professional Conduct Committee with being guilty of unacceptable professional conduct and/or serious professional incompetence or with having been convicted of a criminal offence other than an offence which has no material relevance to their</p>	<p>2. In these Rules the following words and phrases shall, except where the contrary intention appears, have the meanings assigned to them below:</p> <p>“the Act” means the Architects Act 1997;</p> <p>“Board” means the Architects Registration Board;</p> <p>“Charge” means the charge of unacceptable professional conduct, serious professional incompetence or of conviction of a criminal offence other than an offence which has no material relevance to fitness to practise as an architect, in a report of the Board’s Solicitor;</p> <p>“Clerk to the Professional Conduct Committee” is a barrister or solicitor of that title appointed by the Registrar;</p> <p>"Consent Order" means the final order made when a Consent Order Panel has decided to approve a Proposed Consent Order.</p> <p>"Form A" means the form of a Proposed Consent Order and a Consent order, as appended to these Rules.</p>

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<p>fitness to practise as an architect, or their legal representative;</p> <p>“Investigations Panel” has the same meaning as under the Investigations Rules;</p> <p>“Professional Conduct Committee” means the Committee of that name appointed under Part II of the First Schedule to the Act or the members of that Committee designated under Rule 4 of these Rules;</p> <p>“Chairman” is a person elected by the Professional Conduct Committee under Part II of the First Schedule to the Architects Act 1997;</p> <p>“Register” means Part 1 of the Register of Architects established under the Act. It excludes any architect who is registered in Part 2 of the Register or in the list of visiting EEA architects;</p> <p>“Registered Person” is a person whose name is on Part 1 of the Register;</p> <p>“the Registrar” is the person appointed by the Board as the Registrar of Architects;</p> <p>“the Board’s Solicitor” is a barrister, advocate or solicitor of that title appointed by the Registrar.</p>	<p>"Hearing Panel" means the members of the Professional Conduct Committee designated by the Chairman under Rule 5.a.(i) to consider a Charge against a Respondent at a Professional Conduct Committee hearing.</p> <p>"Proposed Consent Order" means a document in "Form A" which sets out terms upon which the Board's Solicitor proposes that a Charge which is the subject of a report to the Professional Conduct Committee may be settled with the consent of the Respondent, and must include:</p> <ul style="list-style-type: none"> (i) a statement as to the facts; (ii) a statement as to the act or acts of unacceptable professional conduct or serious professional incompetence, or details of or the conviction which has material relevance to fitness to practise as an architect; (iii) the terms of any disciplinary order to be imposed and the reasons therefor (iv) confirmation that the Respondent has been offered the opportunity to argue his case at a hearing before a Hearing Panel, but does not wish to do so <p>"Consent Order Panel" means the three members of the Professional Conduct Committee designated by the Chairman under Rule 5.a.(ii) to consider a Proposed Consent Order</p> <p>“Respondent” is a Registered Person charged before the</p>

Original version	Draft suggested document
	<p>Professional Conduct Committee with being guilty of unacceptable professional conduct and/or serious professional incompetence or with having been convicted of a criminal offence other than an offence which has no material relevance to their fitness to practise as an architect, or their legal representative;</p> <p>“Investigations Panel” has the same meaning as under the Investigations Rules;</p> <p>“Professional Conduct Committee” means the Committee of that name appointed under Part II of the First Schedule to the Act or the members of that Committee designated under Rule 4 of these Rules;</p> <p>“Chairman” is a person elected by the Professional Conduct Committee under Part II of the First Schedule to the Architects Act 1997;</p> <p>“Register” means Part 1 of the Register of Architects established under the Act. It excludes any architect who is registered in Part 2 of the Register or in the list of visiting EEA architects;</p> <p>“Registered Person” is a person whose name is on Part 1 of the Register;</p> <p>“the Registrar” is the person appointed by the Board as the Registrar of Architects;</p> <p>“the Board’s Solicitor” is a barrister, advocate or solicitor of that</p>

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	title appointed by the Registrar
<p>5.</p> <p>a. Upon receiving a report the Chairman of the Professional Conduct Committee shall designate three or more members of the Committee to hear the Charge. If the Chairman of the Committee does not designate himself or herself, he or she shall appoint one of the members to act as the Chairman for the purpose of the hearing. A further report shall be dealt with by the members designated in relation to the previous report.</p> <p>b. No member of the Professional Conduct Committee who was a member of the Investigations Pool when it considered the conduct of a Registered Person shall be designated to hear a Charge against that person arising out of that consideration.</p> <p>c. If at any time the Chairman of the Professional Conduct Committee is of opinion that it is for any reason impracticable for the hearing of a Charge to be completed by the members designated the Chairman may designate further members to hear that Charge afresh.</p> <p>d. If a Charge is re-heard pursuant to the previous paragraph, any of the members originally designated may be designated again.</p>	<p>5.</p> <p>a. Upon receiving a report the Chairman of the Professional Conduct Committee shall designate:</p> <p>(i) three or more members of the Professional Conduct Committee as a Hearing Panel to consider the Charge at a hearing. If the Chairman of the Committee does not designate himself or herself, he or she shall appoint one of the members to act as the Chairman for the purpose of the hearing. A further report shall be dealt with by the members designated in relation to the previous report;</p> <p>(ii) three further members of the Professional Conduct Committee as a Consent Order Panel to consider any Proposed Consent Order in relation to that Charge</p> <p>b. No member of the Professional Conduct Committee who was a member of the Investigations Pool when it considered the conduct 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 the Investigations Pool.</p> <p>c. No member of the Professional Conduct Committee appointed to a Consent Order Panel to consider a</p>

Original version	Draft suggested document
<p>e. The Clerk to the Professional Conduct Committee shall at all times attend upon the Committee when sitting in the presence of the Respondent or his or her legal representative and shall provide the Committee with such advice concerning matters of law, practice and procedure (including the powers of the Committee) as it may request or he or she deems necessary. Any such advice given to the Professional Conduct Committee shall be in public in the presence of the parties or if given not in the presence of all of the parties shall be communicated to all of the parties as soon as practicable thereafter.</p>	<p>Proposed Consent Order shall be designated to a Hearing Panel to consider the same matter at a hearing.</p> <p>d. If at any time the Chairman of the Professional Conduct Committee is of opinion that it is for any reason impracticable for the hearing of a Charge to be completed by the members designated the Chairman may designate further members to hear that Charge afresh. This is subject to paragraph c.</p> <p>e. If a Charge is re-heard pursuant to the previous paragraph, any of the members originally designated may be designated again.</p> <p>f. The Clerk to the Professional Conduct Committee shall at all times attend upon a Hearing Panel when sitting in the presence of the Respondent or his or her legal representative and shall provide the Hearing Panel with such advice concerning matters of law, practice and procedure (including the powers of the Hearing Panel) as it may request or he or she deems necessary. Any such advice given to a Hearing Panel shall be in public in the presence of the parties or if given not in the presence of all of the parties shall be communicated to all of the parties as soon as practicable thereafter.</p>
<p>11. d. At any time within 28 days of the sending of notice of the decision of the Professional Conduct Committee a Respondent who has neither attended nor been</p>	<p>11. d. At any time within 28 days of the sending of notice of the decision of the Hearing Panel a Respondent who has neither attended nor been represented at the hearing of</p>

Original version	Draft suggested document
<p>represented at the hearing of his or her case may apply to the Professional Conduct Committee for a rehearing by a sworn statement or affirmation setting out the facts and exhibiting medical or other evidence upon which he or she wishes to rely. If the Professional Conduct Committee is satisfied that the Registered Person has not had in the circumstances an adequate opportunity to appear before the Professional Conduct Committee to argue his or her case and that it is just to do so, it may direct a re-hearing upon such terms as it thinks appropriate. The Chairman of the Committee shall designate three members to hear the Charge(s) none of whom had conducted the previous hearing. Any decision of the Professional Conduct Committee shall stand until a new hearing is convened.</p>	<p>his or her case may apply to the Professional Conduct Committee for a rehearing by a sworn statement or affirmation setting out the facts and exhibiting medical or other evidence upon which he or she wishes to rely. If the Professional Conduct Committee is satisfied that the Registered Person has not had in the circumstances an adequate opportunity to appear before the Hearing Panel to argue his or her case and that it is just to do so, it may direct a re-hearing upon such terms as it thinks appropriate. The Chairman of the Committee shall designate three members to hear the Charge(s) none of whom had conducted the previous hearing, or been part of a Consent Order Panel in relation to the case. Any decision of the Hearing Panel shall stand until a new hearing is convened.</p>
<p>N/A</p>	<p>Consent Orders</p> <p>21. At any time after a report has been served upon the Respondent in accordance with Rule 6 but not less than 42 days before the date fixed for the hearing of the Charge, the Board's Solicitor may serve on the Respondent a Proposed Consent Order in Form A setting out terms upon which it is proposed that the case may be settled with the consent of the Respondent.</p> <p>22. The Respondent may within 14 days of the date when the Proposed Consent Order was sent to him or her (subject to any extension of</p>

Original version	Draft suggested document
	<p>time agreed in writing by the Board's Solicitor), confirm in writing to the Board's Solicitor:</p> <p>(a) that the Respondent accepts the matters set out in the Proposed Consent Order and agrees to the terms of disciplinary order, if any, therein; and</p> <p>(b) that he or she does not require the opportunity to argue his or her case at a hearing before the Professional Conduct Committee.</p> <p>23. Where the Respondent does not confirm his or her consent to the Proposed Consent Order in accordance with Rule 22, the Proposed Consent Order will be regarded as withdrawn and the case must proceed to be considered at a hearing in accordance with the procedure in Rules 8-20.</p> <p>24. Where the Respondent has given the consent referred to in Rule 22, the Board's Solicitor must refer the Proposed Consent Order to the Consent Order Panel.</p> <p>25. 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:</p> <ul style="list-style-type: none"> (i). such arrangements must not involve a hearing in the presence of the parties; (ii). 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; (iii).the Consent Order Panel must consider and reach its decision in relation to the Proposed Consent Order within

Original version	Draft suggested document
	<p data-bbox="1234 279 1459 311">14 days of receipt.</p> <p data-bbox="1087 354 1953 451">26. In deciding whether to approve or reject the Proposed Consent Order the Consent Order Panel must have regard to its powers under Section 15 of the Act and the public interest.</p> <p data-bbox="1087 493 1913 526">27. The decision of the Consent Order Panel is to be by majority vote.</p> <p data-bbox="1087 568 1953 665">28. Where a majority of the Consent Order Panel does not approve the Proposed Consent Order, it will be regarded as rejected and will not be effective.</p> <p data-bbox="1087 708 1953 805">29. As soon as reasonably practicable after reaching its decision the Consent Order Panel must inform the Board's Solicitor and the Respondent of its decision in writing.</p> <p data-bbox="1087 847 1953 1019">30. Where Rule 23 (Proposed Consent Order not consented to by the Respondent) or Rule 28 (Proposed Consent Order rejected by the Consent Order Panel) apply the Charge must proceed to be considered by a Hearing Panel at a hearing, in accordance with the provisions of Rules 8 to 20 of these Rules.</p> <p data-bbox="1087 1062 1953 1273">31, Where Rule 23 or Rule 28 apply, the terms of the Proposed Consent Order and any discussions relating to it between the Board's Solicitor and the Respondent shall remain confidential and shall not be made known to the Hearing Panel designated to hear the Charge under Rule 5a(i), nor to any subsequent hearing panel appointed to hear the Charge unless the Respondent chooses to bring it to its attention</p> <p data-bbox="1087 1315 1953 1373">32. A Consent Order, including any disciplinary order made, will be published in accordance with the Board's usual arrangements for</p>

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	publication, unless the Consent Order Panel expressly determines otherwise.
Rules 6(a), 8(c), 9(a), 11(a), 11(b), 12(a), 12(b), 12(d), 12(e), 13(a), 13(b), 14, 16(a), 16(c), 16(f), 16(h), 17(a), 17, 18(c), 19 and 20: references to “Professional Conduct Committee”	Rules 6(a), 8(c), 9(a), 11(a), 11(b), 12(a), 12(b), 12(d), 12(e), 13(a), 13(b), 14, 16(a), 16(c), 16(f), 16(h), 17(a), 17, 18(c), 19 and 20 : Change “Professional Conduct Committee” to “Hearing Panel”



Architects Registration Board

Consultation Questions

We would welcome your general views, specifically in response to the following questions:

1. Do you think Consent Orders would affect the fairness of the regulatory process?

2. Do you think it is in the public interest for a case to be dealt with by way of a Consent Order?

3. Are any of the proposed amendments to the detriment of the Rules?

4. Are there any omissions which, if included, you feel would be to the benefit of the Rules?

5. Any further comments