



Subject Investigations Oversight Committee's Annual Report 2016-17
Purpose For Note
From Chair of the Committee, Ros Levenson

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1. Summary

To note the activities of the Investigations Oversight Committee (IOC) from July 2016 to June 2017.

2. Open

Open Session

3. Contribution to the Board's Purpose and Objectives

In delivering the Act, ARB's objectives are:

Consumers: will have confidence in ARB's process for investigating and adjudicating on a complaint about an architect's conduct or competence.

Architects: A robust and fair disciplinary procedure will maintain the reputation of the profession and the ARB as its regulator.

4. Key Points

i. Executive Summary

This is the fourth annual report of the IOC since its formation in January 2013. Under its Terms of Reference ([Annex A](#)) the role of the Committee is to keep under review ARB's processes for discharging its disciplinary statutory responsibilities fairly and efficiently. It has a workplan which it updates throughout the year ([Annex B](#)).

ii. The regulatory functions of ARB are generally operating efficiently and fairly, with no significant failings or risks to report to the Board. Key Performance Indicators (KPIs) are generally being met. There remain areas in which reform would bring about improvements in performance and efficiency.

iii. As the Government's Periodic Review has been published, now is an opportune moment to undertake a comprehensive review of how ARB fulfils its statutory

duties under s14 Architects Act 1997¹. While such a review may be vulnerable to future legislative change, the IOC considers that there may be benefits in terms of cost and efficiency that can be delivered without a change to the Act.

Meetings, Committee membership and meeting attendees

- iv. The Committee membership from May 2016 – May 2017 was:
Nabila Zulfiqar (Chair)
Danna Walker
Jagtar Singh

The Committee membership from May 2017 onwards was:
Ros Levenson (Chair)
Danna Walker
James Grierson

The Terms of Reference for the Committee will be reviewed in November 2017.

- v. **Investigations Pool**
The Investigations Pool consists of at least three architects and four lay members, who are appointed by the Board under s14 of the Architects Act 1997. Their role is to consider allegations of unacceptable professional conduct and serious professional incompetence and decide whether an architect has a case to answer at the Professional Conduct Committee.
- vi. Three new members of the Investigations Pool were reappointed at the start of 2017, while two completed their maximum term and stood down in April. The cross-over period was to ensure the consistent, smooth running of the Pool. The expanded membership will provide more resilience in the event of absence, conflicts of interest, or an unexpected upturn in case load. Furthermore the recruitment of a Scottish architect member has improved the knowledge available to the Pool.
- vii. IOC members periodically observe Investigations Pool meetings and are satisfied that they are conducted appropriately. The IOC has noted that the performance of the Investigations Pool in the last 12 months against its KPIs has continued to be high, with 81% of cases concluded with the 12 week benchmark in 2016 (and 89% mid-way through 2017). The Investigations Pool performance is monitored at regular intervals not only in terms of timeliness, but by the result of Third Party Reviews of decisions and findings at the Professional Conduct Committee. During 2016, the Investigations Pool made a total of 73 decisions and took an average² time of 10 weeks to make a decision. This was an improvement on 2015, when the Investigations Pool made a total of 72 decisions and took an average time of 11 weeks to make a decision.

¹ Section 14 Architects Act 1997 sets out ARB's statutory obligations to investigate allegations of unacceptable professional conduct and serious professional incompetence against registered architects

² Mean average of time taken for IP decisions in 2016

- viii. The Investigations Pool provides a report annually to the IOC on its work and performance. The IOC was reassured that the Investigations Pool had been provided with appropriate training sessions throughout the year and that its members are periodically appraised on an ongoing basis.
- ix. The IOC also noted that an online portal is due for introduction in 2017. This will allow for paperless working, cutting down not only on the expense of delivering hard-copy papers to Panel members, but also reducing the risk of future data breaches by allowing confidential information outside of the control of ARB.

Professional Conduct Committee (PCC)

- x. The PCC consists of three architects, three lay members and three legally qualified members nominated by the Law Society³. They are appointed by the Board under Schedule 1 of the Architects Act 1997. Their role is to decide whether architects are guilty of unacceptable professional conduct or serious professional incompetence and to impose disciplinary orders. They are functionally separate from the investigations process and do not take part the earlier stage of deciding whether an architect has a case to answer.
- xi. The PCC makes its decisions independent of the Board; that independence is crucial to its credibility in the eyes of both the profession and the public. The IOC nevertheless considers all the PCC decisions - not only so it can assess the performance of those undertaking investigations on behalf of ARB, but so that it can identify areas of learning and improvement that it might disseminate to the profession via the Board.
- xii. The IOC has noted the ongoing difficulties of listing PCC hearings promptly as a result of PCC member unavailability. The IOC is advised that any improvement in this area is unlikely given the upwards trend in caseload and lack of ability to expand the membership of the PCC. It is however pleased to understand that there are now steps being considered which will allow a change to the Architects Act and increase PCC membership.
- xiii. ARB employs external solicitors to prepare and present all of its cases at the PCC. The IOC has noted the recommendation of the Periodic Review that a business case is considered as to whether those legal services can be brought in house. This matter was discussed at the June meeting of the IOC, and the Committee notes that a recommendation will be made to the Board at its September meeting, after further investigatory work has been carried out.

Key Performance Indicators

- xiv. One of the responsibilities of the IOC is to monitor ARB's performance against its KPIs.

³ There are a further seven Board members appointed to the PCC under the Act, but do not take any part in its business.

- xv. The initial investigations stage, preparation of solicitor reports and completion of PCC hearings have generally been undertaken in line with agreed KPIs. The IOC has received sufficient assurance that those providing services on behalf of ARB are doing so competently and cost-efficiently.
- xvi. At its February meeting the IOC agreed that one of the KPIs – the time taken for initial investigations to be concluded – was insufficiently challenging and could be reduced. The IOC also requested an additional KPI to reflect the entire length of an investigation rather than just its individual stages. This KPI was agreed at 56 weeks, and has been met on every occasion in 2017.
- xvii. The Committee will continue to monitor this and all other targets to ensure that they remain appropriate. A more detailed consideration of the suitability of ARB's KPIs relating to investigations will need to be undertaken once the structure of ARB's disciplinary processes have been assessed as part of the section 14 review.
- xviii. The Board receives information on the KPIs and performance of the IP and PCC twice a year. Up to date figures on how the Investigations Panels and Professional Conduct Committee is performing against its KPIs will be reported separately to the Board at its July 2017 meeting.

Third Party Review

- xix. The Third Party Review facility is open to parties involved in a complaint where the Investigations Panel decides that the architect concerned does not have a case to answer at the PCC. Third Party Review does not revisit the original decision, but looks at whether the process was properly and correctly followed. There are two independent Third Party Reviewers.
- xx. The IOC considers the findings of all Third Party Reviews, and receives an annual report from the Reviewers at its February meeting. While it was concerning that the Reviewers found shortcomings in two of the four investigations looked at, the IOC was satisfied that those issues, having been identified, were now being properly addressed. The two issues highlighted were the perception of conflict of interest for one of the Investigations Panel members, and a lack of clarity surrounding it reasons in an another case.

Section 14 Review

- xxi. At its July meeting, and following the conclusion of the Periodic Review, the IOC noted the Executive's plan to commence a full scale review of how ARB investigates allegations of unacceptable professional conduct and serious professional incompetence.
- xxii. It was agreed that progress updates will be brought to the IOC periodically, and the Committee will be updated on any proposals to change procedures, guidance or rules before they are brought to the Board for approval. This may necessitate more frequent IOC meetings than the standard three times a year.

5. Resource Implications

The annual cost of the Investigations Oversight Committee is limited to the expenses of its members. For 2015-16, the expenses claimed were £2,271.70.

6. Risk Implications

The IOC continues to monitor the effectiveness of ARB's investigations into architects' conduct and competence; there are serious reputational and financial risks in respect of potential failures.

Last year the two main risks identified were the restricted membership of the PCC, and the lack of Scottish expertise on the Investigations Pool. A Scottish member of the Investigations Pool has now been recruited, and the IOC is hopeful that legislative change following the Periodic Review will allow for the expansion of the PCC.

7. Communication

The Investigations Oversight Committee prepares an annual report for the Board to assist the Board in carrying out its oversight responsibilities. The annual report also gives the Board an opportunity to explore the IOC's work and identify any areas of concern.

8. Equality and Diversity Implications

Whilst the production of this Annual Report has no specific E&D implications, the specific work of the Committee takes into consideration the E&D implications during the formation and delivery of that work.

The IOC intends to make how ARB deals with matters of Equality & Diversity within its investigations as a central theme to its work in the coming year. While the age, sex and location of those architects involved in disciplinary proceedings is published periodically ([Annex C](#)), the IOC will be considering whether there any issues surrounding protected characteristics that need addressing – whether that be relevant to architects or other users of ARB's services.

9. Further Actions

As detailed above.

ANNEX A

Investigations Oversight Committee Terms of Reference

Purpose

The purpose of the Investigations Oversight Committee (the IOC) is to:

- keep under review the processes by which allegations of unacceptable professional conduct and serious professional incompetence against architects are investigated under sections 14(1) and (2) of the Architects Act 1997 (the Act); and
- assist the Board in discharging its responsibilities under the Act by providing assurance that
 - The investigations process is fair and transparent
 - The investigations process is operating efficiently, fairly and in accordance with relevant best practice
 - The investigations process is operating in accordance with all appropriate principles, including those on equality and diversity
 - Agreed performance indicators (which may include (without limit) timescales, budget and quality of decision making) are being observed, and that adequate data is available to enable the Board to obtain a true picture of the investigations process
- carry out any specific task as instructed by the Board

Specific Cases

Members of the IOC are not persons appointed in accordance with section 14(1) of the Act and the IOC has no responsibility for making decisions in specific cases. The IOC shall have such access to information relating to specific cases as it may require for the purpose of its functions.

Membership

The members of the IOC shall be appointed by the Board and shall consist of no fewer than three Board members comprising

- At least one elected member and
- At least two appointed members, one of whom shall be the Chair of the IOC

The secretary to the IOC shall be the Professional Standards Manager.

Meetings and Procedures

- The IOC will meet not less than once a year.
- The Chair of the IOC may at any time by giving a minimum of fourteen days' notice call additional meetings where there appears to be good cause for doing so.
- The quorum of the IOC shall be two, with the Chair of the IOC having the casting vote in the event of any tied vote.
- Members of staff may attend all or part of the meetings at the request of the IOC.
- Members of the Investigations Pool may attend all or part of the meetings at the request of the IOC.
- Meetings of the IOC shall be minuted and the minutes submitted to the Board.
- The IOC shall submit an annual report to the Board on its work.
- The IOC may review, and where necessary recommend to the Board, amendments to, its Terms of Reference.

The IOC shall have no power to

- investigate any allegations relating to an architect; or
- consider the merits of any individual decided or current cases.

November 2015

ANNEX BInvestigations Oversight Committee Workplan 201724 February (10am)

Investigations Pool Annual Report
 Annual Report of Third Party Reviewer
 Professional Conduct Committee update
 Annual 2016 KPIs & costs
 Review of KPIs
 Legal challenge update
 Section 14 review update

9 June (10am)

IOC Annual Report to the Board (to go to July Board meeting)
 Half-year KPIs
 Investigations Pool update
 Professional Conduct Committee update
 Costs update
 Legal challenge update
 Section 14 Review update
 Business Plan 2018 planning

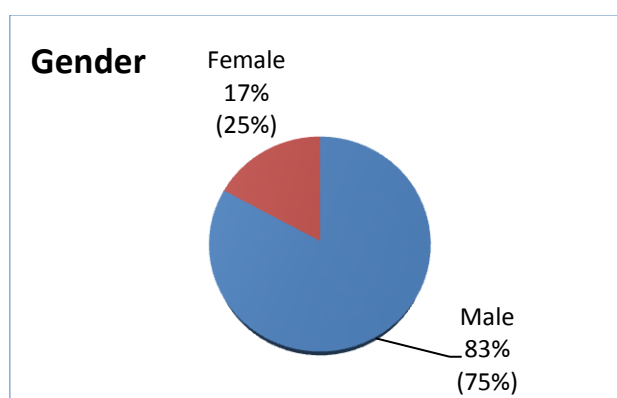
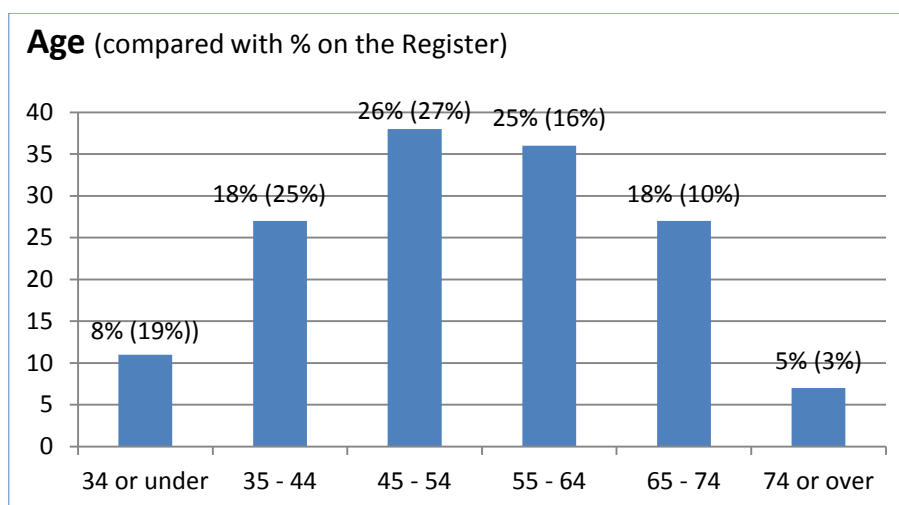
3 November (10am)

Professional Conduct Committee Chair attending meeting
 Review Terms of Reference
 Plan Equality & Diversity work
 Investigations Pool update
 Costs update
 Legal challenge update
 Section 14 Review update
 KPIs

IP Meeting Dates	2017 Board meeting dates
18 January	16 February
12 April	11 May (Development Day)
20 July	12 May
7 September	13 July
12 December	14 September
	23 November

ANNEX C

Breakdown of 146 official complaints in 2016



<u>Type of complaint</u>	<u>Number of complaints</u> ⁴
Failed to provide accurate information	25
Acted dishonestly	25
Failure to communicate	21
Lack of terms of engagement	19
Conflict of interest	14
Failed to deal with the complaint	11
Signed off work without adequate inspection	6
Unreasonable delay	6
Failed to keep clients informed of progress	5
Failure to inspect properly	4
Breach of confidentiality	3
Failure to manage finances	3
Failed to maintain PII	2
Failed to keep within the budget	2

⁴ There may be more than one complaint about an individual architect

<u>Location</u>	<u>Number of architects</u>
North East	2
North West	8
East Midlands	6
West Midlands	5
London	44
South East	27
South West	12
Wales	3
Scotland	35
Northern Ireland	3
Isle of Man	1