

Minutes of Investigations Oversight Committee Meeting 21 September 2018

Location	Present	In Attendance
8 Weymouth Street London W1W 5BU	Ros Levenson (Chair) Danna Walker James Grierson	Helen Ransome Ellie Bagnall (Minutes) Holly Wignall (Observer)

Note

1. Apologies

Apologies were received from Simon Howard (SH).

The Chair welcomed HW as an observer.

2. Minutes of previous meeting and matters arising

The minutes were discussed and agreed.

Item 11: The Committee requested an action point that ARB look at feedback processes at other regulators.

Action point – HR to add the above to the matters arising table

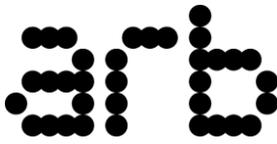
3. Investigations Pool (IP) update

The minutes of the recent IP meeting were noted.

HR reported on the recruitment process for new IP members, noting that there were a high number of lay applications. The IOC considered whether architects in practice might find it more difficult to apply, therefore explaining the smaller number of applications from architects. HR told the Committee that she had received telephone calls on this point and had made clear that the role can be managed around full time work, if the minimum time commitment can be met.

HR gave an update on the portal. In light of the Section 14 changes, a simple system will be developed in the interim for the upload and download of IP bundles. The rest of the IP process will remain unaffected. It was noted that ARB had asked for feedback from the IP.

The IOC shared its experiences with software such as 'MeetingSquared' and 'BoardPad'. It also noted that certain papers i.e. charts, drawings, would be unsuitable for electronic



viewing.

4. Professional Conduct Committee (PCC) update

HR reported on recent cases. She explained that there had been a number of consent orders. She told the IOC that a consent order is an effective tool for reaching a proportionate outcome without the need for a full disciplinary hearing.

The IOC discussed a case where the architect had removed confidential information from his employer, and noted that ARB had published a 'Dear Architect' article on the importance of good data management.

The IOC also queried the time limits for ARB accepting new complaints. HR explained that ARB did not take on complaints about events more than six years old, except in exceptional circumstances.

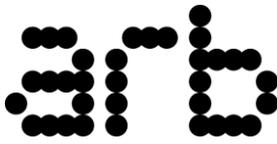
HR relayed the events of a case where a complaint had been brought to RIBA and was due to go to a hearing at which point the Complainant also brought the matter to ARB. When the case reached the PCC, the architect's defence was that he ought not to be tried by a second body on the same matters and that the ARB process was manifestly unfair. The PCC ultimately agreed with this latter point. The IOC considered the legal advice the ARB had received on the PCC's decision. The IOC asked for clarification on the criteria ARB uses when considering whether it might judicially review a decision taken by the PCC.

The IOC also considered how ARB deals with the competency of its PCC members whilst also being mindful of its independence. HR explained the PCC appraisal and performance management systems which are in place.

The IOC noted that HR and SH had met with RIBA to discuss the protocol in light of these events. It was agreed that neither organisation could be bound by decisions made by the other and that cases and relevant information would be shared. It noted that ARB had no jurisdiction over RIBA. The IOC heard that there were to be quarterly meetings between ARB and RIBA. The IOC suggested a memorandum of understanding between ARB and RIBA to outline the threshold for referral from RIBA to ARB and the process (i.e. timetable for doing so). It raised the possibility that this could increase ARB's complaint caseload.

The IOC requested a further update on these issues following the PCC review day.

Action point – SH/HR to provide an update following the PCC day.



Action point – SH/HR to look into memorandum of understanding for referrals from RIBA to ARB

Action point – SH/HR to provide criteria to be applied when considering Judicial Review

Action point – SH/HR to provide further information about performance management of the PCC

5. **RIBA protocol**

IOC considered that this was suitably discussed under the above item.

6. **Update on KPIs**

The IOC discussed the KPIs and noted that the explanatory comments on where the targets had not been met were helpful. The IOC asked that the number of cases be added to the KPI data in future so that the percentage figures can be better understood in context.

HR noted a performance issue with Inquirers. She told the IOC that two cases had missed their KPI due to an Inquirer taking an undue amount of time to carry out the work and draft a report. The IOC noted that new Inquirers would be appointed next year via a robust recruitment process and stricter deadlines would be put in place to ensure Inquirers do not cause undue delay to the investigations process. It was also decided any poorly performing Inquirers would not be used again where possible.

Action point – HR to add case numbers to the KPI data

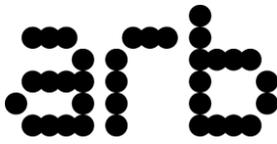
7. **Update on legal challenges**

HR provided an oral update.

8. **2018 costs**

The IOC noted the 2018 costs. HR told the IOC that although there is a current underspend it is anticipated that costs will be on target by the end of the year.

9 **IOC Terms of Reference (ToR)**



HR told the IOC that the proposed changes to the ToR are to allow IOC powers to consider ARB's function in investigating title misuse. She told IOC that this was particularly important given the recent investment in this area. The IOC agreed the proposed changes to the ToR and that these should be put to the Board for approval.

Action point: HR to take revised ToR to the Board for approval.

10 **2 year complaints review**

The IOC considered the report on complaints received in the last two years.

HR suggested a larger sample size (i.e. five years) is needed to improve the integrity of the data. The IOC agreed that conclusions should not be drawn from such a small data set but noted that it did helpfully show themes. The IOC further noted that data capturing year on year changes would be useful but hard to achieve.

The IOC discussed the statistics: it noted that whilst there were a growing number of younger architects involved in complaints, that older male architect made up most of the numbers. The IOC suggested ARB asks its registrants for their views on what the statistics may indicate. It suggested asking RIBA for any similar data collected on its complaints.

Action point - HR to look into stakeholder research

Action point - To share the data analysis information with RIBA (and obtain RIBA's information)

11 **Section 14 Review update**

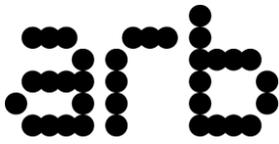
HR reported that ARB had gone out for consultation following the Board meeting. The consultation has been sent to ARB's consultee list and key stakeholders as part of a communications exercise.

12 **Third Party Review Terms of Reference (ToR)**

HR explained the function of a Third Party Review, specifically the requirement for a procedural irregularity to be identified and welcomed feedback on the recently amended ToR.

HR told the IOC that currently the Investigations Rules say that the Registrar 'shall' appoint a third party reviewer upon request. This had been amended as part of the consultation to reflect that a reviewer will only be appointed by the Registrar where the appropriate criteria are met.

The IOC raised issue with point 3.2 i.e. 'unfair'. It was raised that this was a broad term



and it may be unclear to stakeholders what would fall under this criteria.

Action point – HR/SH to reconsider point 3.2 wording, and then publish the guidance

“Lessons Learned” Professional Standards Authority Report

- 13 The IOC considered the lessons learned from the report and decided it should be assessed to identify any relevance to ARB and any action to be taken as a result. It was agreed that this would be on the agenda for discussion at the next meeting.

The IOC noted that ARB’s work was different to that of the NMC in that it does not have interim measures / orders to protect the public, as registration is not synonymous with a licence to practice. HR reported that much of the learning identified in the report is unique to the NMC as a large organisation, managing a much larger caseload than ARB. However, the IOC noted some important lessons in relation to transparency and communication.

Action point –SH to consider whether there are specific learning points arising from the Report that should be further considered by the IOC

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AOB

There was no other business

Next meeting – TBC 2019