

Subject Outcome of consultation on Investigations and Professional Conduct Committee Rules and Guidance
Purpose For Decision
From Helen Ransome, Head of Professional Standards

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1. Summary

To consider the outcome of the consultation on the Investigations and Professional Conduct Committee Rules (the Rules), Acceptance Criteria, and Sanctions Guidance, and to agree the final drafts for implementation on 1 April 2022.

2. Recommendations

It is recommended that the Board:

- a. issues the Rules with an implementation date of 1 April 2022;
- b. issues the Acceptance Criteria with an implementation date of 1 April 2022; and
- c. issues the Sanctions Guidance with an implementation date of 1 April 2022.

3. Open/Confidential Session

Open session

4. Contribution to the Board's Purpose and Objectives

Through the delivery of effective disciplinary investigations, we help to ensure the users of architects' services, and the buildings they design, are safe and can live well.

The proposed changes to the Rules and guidance are contributing to ARB's vision and strategic priorities concerned with the continuous improvement of our regulatory services. We have sought to ensure our procedures are accessible and effective, taking account of the needs and views of architects and others who may be affected by them.

5. Key Points

Background

- 5.1 In March 2020 ARB's Board commissioned an independent review of our investigatory processes, procedures, and rules. Following the recommendations made in that review, the Executive (alongside ARB's legal firm Bates Wells LLP) has proposed revisions to the Rules and two key, supporting guidance documents. These are the Acceptance Criteria and Sanctions Guidance.
- 5.2 The changes proposed to the Rules and guidance can fairly be described as good housekeeping – providing a more logical order, clearer and more modern language,

and increasing the transparency of the investigative process.

- 5.3** The Board approved the drafts at its meeting in September 2021, subject to some final amendment, and agreed to a full public consultation on the changes. Any feedback could then be considered by the Board before deciding whether to approve and introduce the new Rules and guidance.

The Consultation

- 5.4** The public consultation commenced on 23 September 2021 and closed on 20 December 2021. We notified key stakeholders of the consultation including the profession within the September eBulletin and through emails to professional bodies, Investigations Panel and Professional Conduct Committee members and legal firms who have represented architects in disciplinary proceedings in the past. There were twelve formal responses to the consultation which while low in number, despite promoting extensively, perhaps reflects the very technical nature of the consultation. The results of the consultation are outlined in the paper at [Annex A](#).
- 5.5** As a result of the consultation responses some changes have been proposed to the draft Rules and guidance. The redrafted documents, with tracked changes included, can be found at [Annex B](#), [Annex C](#), [Annex D](#) and [Annex E](#). It is these redrafted documents that the Board is asked to approve today.

6. Resource Implications

To be delivered within the existing budget. Limited to the cost of designing new rules and guidance documents and providing training to staff and those who carry out investigations on behalf of ARB.

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

When this consultation was launched it was promoted to all architects through the eBulletin and our social media accounts, and was sent directly to our contacts at professional institutes, our disciplinary legal firms, members of our Investigations Pool and Professional Conduct Committee, and legal firms who we know have represented architects in ARB regulatory proceedings in the past. The outcome of the consultation and the amended rules will be promoted to the same stakeholders. The changes proposed in consultation aimed to improve transparency and clarity, and our communications about the new rules and guidance will support these aims.

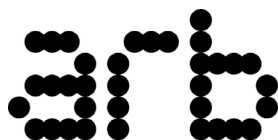
9. Equality and Diversity Implications

The consultation included a question about accessibility of the new rules and guidance. An Equality Impact Assessment has also been carried out and is at [Annex F](#). No adverse impacts

but some potential benefits have been identified.

10. Further Actions

Subject to the Board's agreement, the rules and guidance will be implemented on 1 April 2022. In advance of that date we will ensure all relevant information, guidance and correspondence is updated to reflect the changes, and that appropriate training has been given to all relevant persons.



Proposed changes to the Investigations and Professional Conduct Committee Rules, Acceptance Criteria and Sanctions Guidance

Consultation report

Executive summary

1. Following an independent review of ARB's investigatory processes, procedures and guidance, ARB has proposed changes to its Investigations and Professional Conduct Committee Rules (the Rules) and two key, associated guidance documents: the Acceptance Criteria and Sanctions Guidance. At its meeting in September 2021, the Board agreed to a public consultation on the proposed changes and this took place between 23 September and 20 December 2021. This report details the outcome of that consultation.
2. We received 12 formal responses to the online consultation, along with additional feedback from one member of ARB's Investigations Panel (IP) and one member of the Professional Conduct Committee (PCC).
3. We asked respondents to rate the clarity of each guidance document. Respondents were asked to what extent they agreed that the Rules provided a modern and clear framework for ARB's investigatory process with five options (agree, somewhat agree, neither agree nor disagree, somewhat disagree, and disagree). Respondents were then asked how clear they found the two guidance documents with five options available (clear, somewhat clear, neither clear nor unclear, somewhat unclear, unclear.)
 - i. 75% thought the Rules were somewhat or entirely clear and 25% could not say whether they were clear or unclear. No respondents described the Rules as unclear.
 - ii. On the Acceptance Criteria, 92% thought the document was somewhat or entirely clear and one respondent found the document somewhat unclear.
 - iii. For the Sanctions Guidance, 100% of respondents found the document to be either somewhat or entirely clear.
4. When asked whether six years was an appropriate timeframe within which complaints should be made to ARB, 58% of respondents agreed that it was, the rest said it was not. Half of all respondents provided follow up comments.
5. The key changes we made in light of the feedback we received include:
 - i. We have proposed minor drafting changes in areas where feedback suggested the content was not clear or our language was inconsistent;
 - ii. We removed references to male and female pronouns (i.e. "he", "him", "her" etc.) to make the documents more inclusive;

- iii. We removed the requirement that referrers must complain directly to the architect before approaching ARB with a complaint;
- iv. We provided further guidance on the issue of insight and remediation.

Background

ARB's role

6. Architects play a crucial role in creating a built environment that is safe, sustainable and where everyone in society can live well. The Architects Registration Board (ARB) is an independent professional regulator, established by Parliament as a statutory body, through the Architects Act, in 1997. We are accountable to government.
7. The law gives us a number of core functions:
 - To ensure only those who are suitably competent are allowed to practise as architects. We do this by approving the architecture qualifications, both in the UK and internationally, required to join the UK Register of Architects.
 - We maintain a publicly available Register of Architects so anyone using the services of an architect can be confident that they are suitably qualified and are fit to practise.
 - We set the standards of conduct and practice the profession must meet and take action when any architect falls below the required standards of conduct or competence.
 - We protect the legally restricted title 'architect'.
8. 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 practise as an architect. Where those investigations conclude that the architect has a case to answer in respect of the allegation(s), they are referred to the PCC for it to decide whether they are guilty of the allegation, and if so whether they should receive a disciplinary sanction.
9. In accordance with the Act, ARB sets out the framework for investigating complaints in the Rules and its supplementary guidance documents. Included in this guidance are the 'Acceptance Criteria' - the criteria which must be met for an allegation to be investigated, and the Sanctions Guidance which assists the PCC in deciding what level of sanction is appropriate when an architect has been found guilty of a disciplinary offence. These are both important decision points in the regulatory process.

The new rules and guidance

10. In March 2020 the ARB Board commissioned an independent review of ARB's investigatory processes, procedures, and rules. The Board has previously considered the review, which did not identify any serious concerns, but did suggest areas which would benefit from a fresh approach. The review recommended that we simplify and modernise the Rules, and that we review and refresh our guidance.

11. As a result of that review, the Executive, alongside ARB's legal firm Bates Wells LLP, undertook a review and redraft of the Rules, incorporating feedback from key staff and stakeholders (such as our case preparation legal team at Kingsley Napley LLP, and members of our IP and PCC). We also carried out a review of good practice at other regulators, adopting elements where appropriate.
12. There were no substantial changes proposed to the existing rules, which have worked well for ARB and have been tested through various legal challenges during their existence. The proposals instead focus on accessibility and transparency, by providing a more logical order, clearer and more modern language, and simplifying our presentation of the investigative processes.
13. We have also proposed changes to two key guidance documents which we consider appropriate for Board approval. Those documents are the Acceptance Criteria and the Sanctions Guidance. We have made changes to both documents with the aim of ensuring they are thorough, up to date, transparent and accessible. As before, feedback was sought from key stakeholders during the review process.
14. The Board reviewed the redrafted Rules and guidance documents at its meeting in September 2021. It approved the draft documents for consultation subject to some final changes, most notably to the Acceptance Criteria, adding an already established expectation that complaints should be made to ARB within six years.

The consultation

15. While comparatively few architects become involved in ARB's investigatory processes, it is nonetheless important that anyone interested in the proposed changes, including those who may be affected by them, have an opportunity to provide feedback. For this reason, we proposed a full public consultation on all the changes. Most importantly we wanted to understand whether we had achieved our aim of making the information clear and accessible. Any feedback could then be considered by the Board before deciding whether to approve and introduce the new Rules and guidance.
16. The Board agreed this approach at its meeting in September 2021 and we subsequently consulted on all three documents from 23 September to 20 December 2021.
17. We promoted the consultation through an eBulletin sent to 44,081 architects. We sent direct emails to several key stakeholders including professional bodies, our disciplinary legal firms, members of our IP and PCC. We also sent the consultation to legal firms who have represented architects in ARB regulatory proceedings in the past.
18. In addition to some questions to help us understand who was responding, the consultation asked the following:

- i. To what extent do you agree that the Rules provide a modern and clear framework for ARB’s investigatory process?
- ii. Is there anything you would like us to change in the Rules?
- iii. The Acceptance Criteria document identifies the criteria to be applied when deciding whether or not to investigate a complaint. How clear is the guidance?
- iv. Do you agree that six years is an appropriate timeframe within which complaints must be made to ARB?
- v. The Sanctions Guidance explains the rationale for imposing a disciplinary order after an architect has been found guilty of unacceptable professional conduct or serious professional incompetence. How clear is the guidance?
- vi. Are there any changes we could make to improve accessibility to our investigation procedures, or make the process more inclusive?
- vii. Do you have any other comments to make?

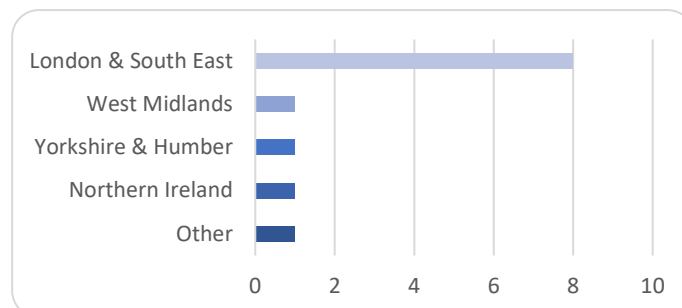
Who responded

19. We received a total of 12 responses to the online consultation. Of these, the majority (10) identified as architects. One respondent identified as a legal firm, and another as ‘other.’ We also received feedback from a member of the IP and a member of the PCC. Five responses were made on behalf of organisations.

20. We asked consultation respondents to complete additional questions to help us collect some demographic data.

- i. The majority of respondents (75%) identified as male, and 17% as female. The remaining respondent chose not to identify their gender.
- ii. One respondent chose not to state their ethnic group. Of those who did state their ethnic group, the most common (58%) was White, followed by Asian (17%).
- iii. The most common place of residence was London or the South East (67%) with no responses received from Scotland, Wales or the Republic of Ireland.

21. Image B below shows the breakdown of respondents by place of residence.



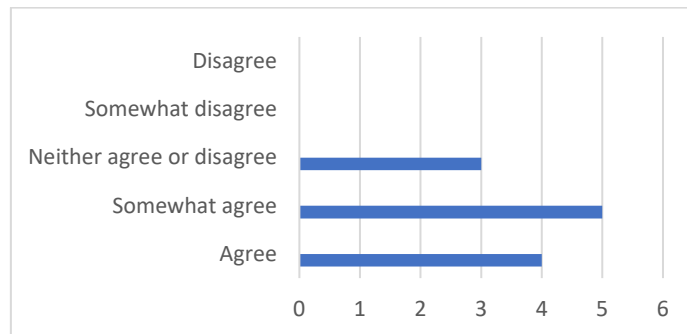
B – Breakdown by place of residence

What the respondents said

22. In our consultation we asked respondents about the clarity of each guidance document, and their views on our proposed changes. Below we summarise the range of views and recurring themes from the responses.

The Rules

23. We asked respondents to what extent they agreed the Rules provided a modern and clear framework for ARB’s investigatory process. Image C shows a breakdown of the answers given.



C - Whether respondents agreed the Rules provided a modern and clear framework

24. 75% of respondents considered the Rules to be somewhat or entirely modern and clear, with none stating they disagreed with the statement. When asked whether there were changes respondents would like to see to the Rules, we received several suggestions and comments. One respondent raised concerns that the Rules allow for ARB’s case presenter to refer cases to the IP, but such referrals cannot be made directly by architects under investigation.

“The Investigations Panel is not required to reconsider its Decision if additional evidence emerges before a Hearing Panel or reference to a Consent Order Panel takes place. Under the draft Rules, such a review is only undertaken at the discretion of the Case Presenter and there is no provision for a submission by the Respondent Architect that new evidence merits reconsideration.”

The Royal Institute of British Architects

25. We also received some suggestions for minor drafting changes to improve clarity and consistency of language. It was also suggested we remove references to male and female pronouns to make the Rules more inclusive.

26. One respondent suggested we take a more flexible approach to investigations, making provision for agreed outcomes and seeking consent orders more often. This included a

“The Consent Order procedure does not provide for any modification by agreement of the Proposed Consent Order prepared and proposed by the Case Presenter. The Respondent Architect must either accept or reject the Order as proposed. There is no scope for a partial admission of facts.”

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suggestion that consent orders should be available in cases where the architect does not make full admissions and where some degree of negotiation is needed to reach an agreed order.

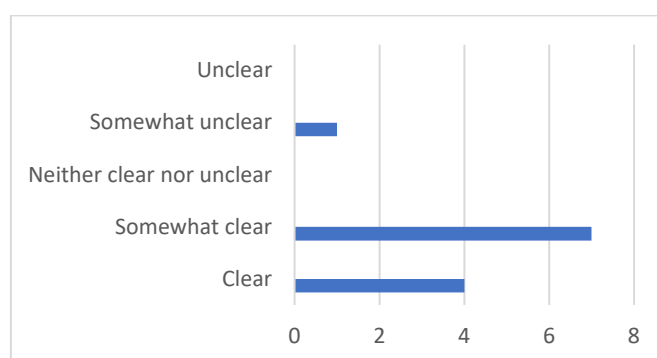
27. Two respondents suggested we provide a flowchart to assist readers in understanding the procedure laid out in the Rules. There were also suggestions made for wider guidance to assist with the application of the Rules such as on the issue of public interest.

"I especially think the PCC procedure Rules are admirably concise and clear and allow for considerable flexibility in practice that ought to aid all parties, ensure efficiency and effectiveness, and importantly ensure fairness to all. I think too that allowing for the separation of the determination of UPC/SPI from the determination on the Facts in appropriate cases, will only be of help."

Lay member of the Professional Conduct Committee

The Acceptance Criteria

28. We asked respondents how clear they found our new Acceptance Criteria guidance. Image D below provides a breakdown of the responses received.



D - How clear respondents found the Acceptance Criteria

29. 92% of respondents thought the document was either clear or somewhat clear. Only one found the document somewhat unclear. Again, some drafting suggestions were received to improve clarity and consistency of language.

"The RIBA agrees that the adoption of Acceptance Criteria is an important safeguard to prevent the investigation of matters which do not fall within the statutory remit of the ARB, and also to avoid frivolous or vexatious complaints. The primary concern in any acceptance criteria or threshold test for complaints should be to consider the significance of the complaint in relation to public safety and protection."

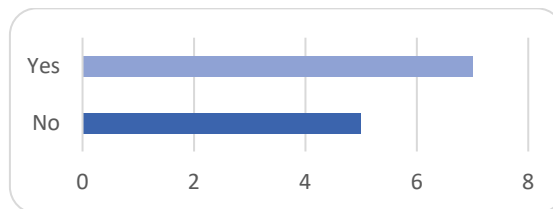
The Royal Institute of British Architects

30. One respondent suggested that referrers should not be required to complain to the architect in question before contacting ARB with a complaint.

“Whilst how an architect responds to a complaint from a client might become relevant later regarding insight and remediation, the fact that they might apologise for UPC or SPI – and a client accept that apology - surely should not mean that the Regulator should not take an interest and actively investigate. This criteria rather suggests that the Regulator might only be interested in UPC/SPI in situations where the client remains unsatisfied with whatever explanation or apology the architect might make.”

Lay member of the Professional Conduct Committee

31. Respondents were then asked whether they agreed that six years was an appropriate timeframe within which complaints should be made to ARB. Image E below provides a breakdown of responses.



E - Whether respondents agreed that six years is an appropriate timeframe for complaints

32. Five respondents suggested in their comments that the timeframe should be shortened. Most did not provide a reason for this view.

“Six years is too long for small scale projects where architects are not involved in the construction.”

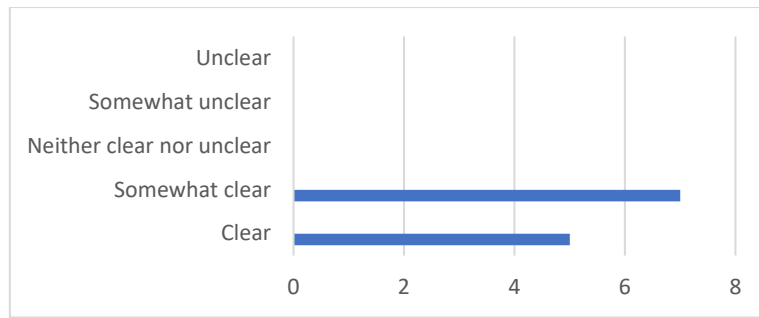
Registered architect

“I think 6 years is fine - logical as the same period that architects need to keep records.”

Lay member of the Investigations Pool

The Sanctions Guidance

33. We asked respondents how clear they found our new Sanctions Guidance document. Image F below provides a breakdown of the responses received.



F - How clear respondents found the Sanctions Guidance

34. All 12 respondents found the Sanctions Guidance to be either clear or somewhat clear. Similar drafting suggestions were made as detailed above. One respondent suggested we provide further detail on the issues of insight and remediation to assist unrepresented architects.

“This states that insight and remediation should be given their everyday meaning. In my experience people are often not clear what these terms mean. I am also conscious of the need to ensure that unrepresented registrants can give their best evidence. I thought it might be helpful to flesh this out somewhat...”

Lay member of the Professional Conduct Committee

Accessibility and inclusivity

35. We asked respondents whether there were any changes which could be made to our procedures and processes to make them more accessible and inclusive. A third of all respondents provided comment.

36. Two respondents stated that no further changes should be made. Several other comments did not relate to the issue of accessibility or inclusivity. One respondent commented that we should provide the information in more accessible formats.

“Further consideration could be given to making the documentation accessible to all, for example an audio description version for those with visual impairments or print disabilities.”

The Royal Institute of British Architects

Other comments

37. We finally asked respondents if there were any other general comments they would like to make. A third of respondents provided comment.

38. In this section we received feedback about the experiences of architects involved in disciplinary investigations including the stress experienced and cost incurred seeking legal representation. We also received general feedback on ARB's approach during investigations and its administrative processes and procedures.

"The Professional Conduct Committee can appear intimidating to architects. Hearing Panel members can be unduly overbearing and Hearings an intimidating experience, especially due to the fact that architects are likely to be unrepresented. It is noticeable that Respondent Architects frequently do not appear."

The Royal Institute of British Architects

ARB's response

36. Below we summarise our response to the notable issues and suggestions raised by respondents and in feedback. Where we have decided not to take further action, we have endeavoured to explain our rationale.

General feedback

36. Although respondents largely found the documents to be clear and accessible, we have proposed further changes where respondents made suggestions as to how particular aspects could be clearer or better expressed. We have also removed references to male and female pronouns within the documents as we agree this is a simple and effective way to make the procedures and guidance more inclusive.

37. Some of the general feedback we received related to issues beyond ARB's control; sometimes about matters of law or the duties and procedures required of us under the Act. For these reasons such suggestions have not been adopted. The respondents who offered these observations may be interested in the ongoing Departmental Review in which the government is looking for opportunities to develop and improve the regulatory framework. Further information can be found [on the Government's website](#).

38. We received several suggestions which did not relate to the content of the documents in question but that nonetheless provided us with helpful feedback on the wider approach we take to our guidance and information. For example, that we should provide documents in a variety of accessible formats and that our procedures should be documented as flowcharts to assist in their understanding. We agree with these suggestions and will develop flowcharts of our procedures. We will also make clear in all relevant literature that we will make reasonable adjustments as required to ensure our guidance is fully accessible. This includes providing information in other formats.

39. Respondents also commented that improved and additional guidance would assist in the application of those procedures, such as guidance on the issue of public interest. We accept

these observations and will action them as part of the wider guidance and information review, once the Rules, Acceptance Criteria and Sanctions Guidance have been approved and issued.

40. Some of the comments may have arisen from misunderstanding about the roles and procedures within disciplinary investigations, for example, about the function of case presenters and the expectations of those acting as McKenzie Friends. We will address these issues by developing specific guidance on such topics and by developing a more thorough guide for architects who are unrepresented.
41. We acknowledge the comments made about the impact disciplinary investigations have on those involved, both in terms of the stress experienced and the financial implication of seeking legal representation. Whilst the cost of legal fees is not a matter which can be resolved by ARB, we are mindful of this, and the other issues raised. We aim to ensure we carry out investigations as expeditiously as possible, keeping parties properly informed, and that processes are explained fully (particularly where someone is unrepresented). We also provide architects with information about organisations which may be able to assist and support them.
42. Finally, a number of suggestions related to other areas of ARB's work such as the routes to registration or protection of the title 'Architect'.

The Rules

Rule 16(b) – Referral for further consideration by the Investigations Panel

36. One respondent raised concerns about the powers permitted under Rule 16(b) of the revised Investigations Rules in that ARB's case presenter may refer a case to the IP for further consideration, but that such referrals cannot be made directly by architects under investigation. We have considered this feedback carefully and remain of the view that this Rule, as drafted, provides a fair, appropriate and necessary mechanism to ensure only the right matters are put before the PCC. It is both in the public interest and in the interests of those under investigation that this Rule remain.
37. Rule 16(b) provides a safeguard to ensure, for example, the IP can consider a matter further where new, relevant evidence has come to light after it made its decision. Such new evidence may be a result of further investigation (such as the taking of witness statements) or because the architect has provided new evidence to us. It is critical Rule 16(b) does not become a mechanism simply to make further representations to the IP following its decision as this would simply frustrate the regulatory process.
38. It is ultimately a matter for ARB what cases it pursues to the PCC, and in what form. Rule 16(b) allows ARB to prepare its cases in a fair manner, making dynamic assessments of the evidence and public interest until the matter reaches this stage. Architects will always have the right to put their case to the PCC in the event a hearing is necessary, and Rule 16(b) as drafted ensures architects are able to make representations on any referral to the IP for further consideration. For all these reasons we have not made changes to Rule 16(b).

Virtual hearings and bad character evidence

39. One respondent suggested we add a rule which provides specifically for holding PCC hearings via virtual video-link and another to deal specifically with the admissibility of bad character evidence. We have decided not to make these changes as we believe the issues are dealt with sufficiently within the Rules as drafted (see Rules 7 and 19 of the PCC Rules).
40. It is our view that adding additional provisions risks overcomplicating matters and may necessitate further additions to address other, similar issues (such as the admissibility of hearsay evidence). We are confident all such matters can be dealt with under the Rules as currently drafted.

Dealing with cases via agreed outcomes/consent orders

41. One respondent suggested we take a more flexible approach to investigations, making provision for agreed outcomes and seeking consent orders more often. This included a suggestion that consent orders should be available in cases where the architect does not make full admissions and where some degree of negotiation is needed to reach an agreed order.
42. The Act provides for the disciplinary outcomes available to ARB and the procedure by which investigations must be carried out. Consequently, ARB has no power to reach agreed outcomes at, for example, the IP stage of the investigation. This would require a change to the Act.
43. In all cases which reach the PCC stage we consider whether a consent order would be an appropriate approach, taking account of the public interest and the architect's response to the allegation. We remain of the view that it would be inappropriate to consider consent order cases where an architect is not making full admissions. Such an approach would fail to address the public interest through a thorough investigation and exploration of the facts and circumstances in each case. It is also for public interest reasons that we do not negotiate the content of proposed consent orders. Any sanction proposed is one we believe is appropriate and proportionate in the circumstances of the case. It would be wholly inappropriate for ARB, as a regulator, to propose a lesser sanction simply because an agreement could otherwise be reached. In such cases it is right and proper that a hearing takes place. For all these reasons we have not proposed any changes to the consent order process.

Acceptance Criteria

Complaining first to the architect

44. Following comments received through the consultation, we now propose removing the requirement that all complaints be made to the architect before they are raised with ARB. We agree that such a requirement risks serious issues being withheld from the regulator. This may be because the complainant does not feel comfortable submitting a formal complaint to the architect, or because a resolution is reached locally between the parties. Whatever the

reason, there may still be serious regulatory and/or public protection concerns that require investigation.

45. We will provide wider guidance to the profession and the public about dealing with a dispute, and continue to advise complainants to contact their architect directly where it is clear the issues can be dealt with safely at a local level and do not require regulatory intervention.

Six-year timeframe for complaints

46. We have carefully considered the comments made about whether six years is an appropriate timeframe within which most complaints should be made to ARB. While some respondents would like to see this period reduced, we did not see any persuasive reason why it should be changed. In the absence of any such reason, we propose that it is maintained.
47. In our view the six-year timeframe takes account of the public interest in ARB investigating serious matters, some of which may not come to light for years after the completion of work. It also takes account of the requirement that architects maintain records for six years and the effect the passage of time thereafter may have on the quality and availability of evidence.
48. We understand the importance of taking a flexible approach to this issue and so we will continue to do so, taking account the circumstances in each case.

Sanctions guidance

Insight and remediation

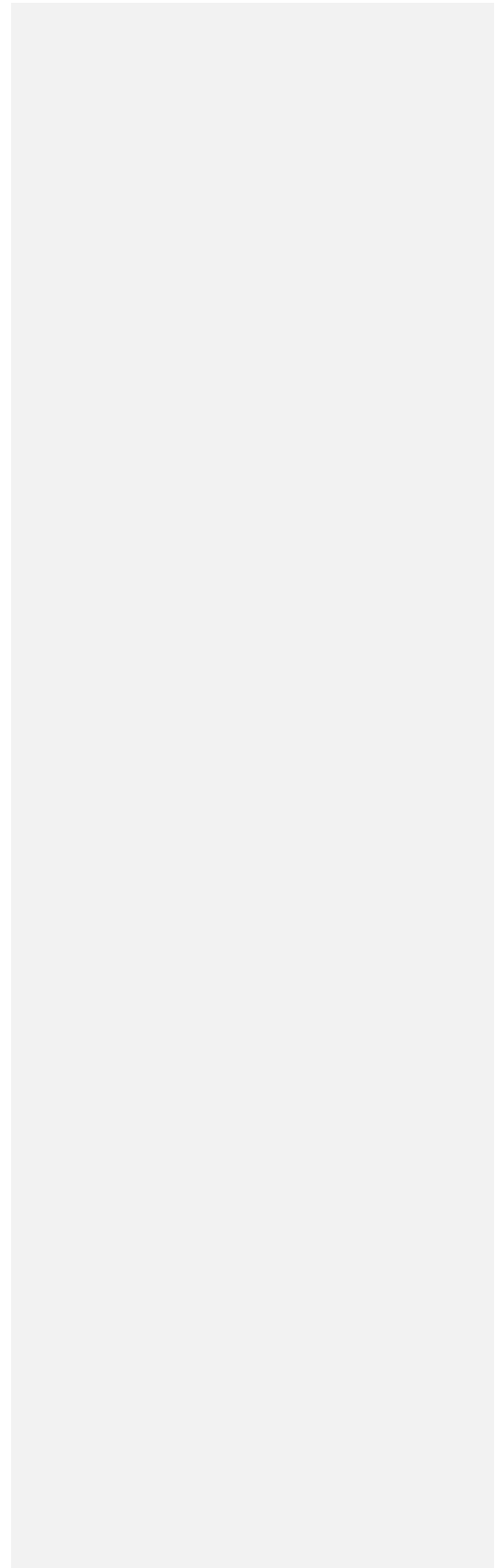
49. One respondent suggested we provide more detail on the issues of insight and remediation, particularly to assist architects who are unrepresented. We agree with this suggestion and have drafted additional content with the aim of providing further guidance in this area (see paragraphs 20 and 21 of the Sanctions Guidance).

Assessing live witness evidence

50. We were asked to provide further clarity in the guidance as to how expressions of insight or remorse may differ based on cultural diversity. Upon further reflection we consider this issue is more properly dealt with in wider guidance about the assessment of witnesses and live evidence, as it will not only apply to the issue of sanctions. For this reason, we propose removing the statement from this guidance document and incorporating it into the wider guidance review.

**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~~ **their** 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~~ **them** 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.

Commented [HR1]: Remove male/female pronouns

Commented [HR2]: Remove male/female pronouns.

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 onand 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~~ themselves 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.

Commented [HR1]: Remove male/female pronouns

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~~their legal representative (and for these purposes “venue” may include audio or video conferencing facilities).

Commented [HR2]: Remove male/female pronouns

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 Investigations Panel’s report from the Investigations Panel as drafted by the case presenter~~ 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.

Commented [HR3]: To help make clear the difference between the IP’s decision and the report it makes via the case presenter to the PCC.

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~~they intends to appear at the hearing;
- b) ~~if he or she is~~they are to be legally represented, the name and address of ~~his or her~~their legal representative; and
- c) brief particulars of any defence.

Commented [HR4]: Remove male/female pronouns

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~~they shall serve upon the Case Presenter a notice which contains:

Commented [HR5]: Remove male/female pronouns

- a) particulars of the defence;
- b) a copy of any written statement or other document or plan that ~~he or she~~they intends to adduce in evidence at the hearing; and

Commented [HR6]: Remove male/female pronouns

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

Commented [HR7]: Remove male/female pronouns

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~~their 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

Commented [HR8]: Remove male/female pronouns

- 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 ~~at a hearing of a Charge, or by and his or her a legal representative does not appear on their behalf. 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.

Commented [HR9]: •Remove male/female pronouns
•Improve clarity of wording.

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~~them (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.

Commented [HR10]: Remove male/female pronouns

39. Where the Registered Person does not confirm within 14 days ~~his or her~~their 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.

Commented [HR11]: Remove male/female pronouns

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, the proposed Consent Order, the decision of the Consent Order Panel, and 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.

Commented [HR12]: To make clear that the proposed order and decision of the consent order panel will not be disclosed to the hearing panel.

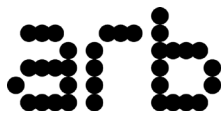
Publicity

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~~ those looking to 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.

Commented [HR1]: Architects may wish to complain also, not just members of the public.

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;
- Unless in exceptional circumstances, the events complained about must be no more than six years old;
- 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, serious professional incompetence and/or a relevant criminal conviction.

Commented [HR2]: Remove the requirement to complain to the architect.

What is the difference between a 'complaint' and an 'allegation?'

4. When ~~a client or member of the public~~ you contacts us to raise concerns about an architect we refer to this as a 'complaint'. As part of our 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: unacceptable professional conduct and serious professional incompetence. These are both serious disciplinary matters and go beyond accusations of mere mistakes or minor lapses in behaviour or conduct. Here is our detailed guidance on [what constitutes unacceptable professional conduct and serious professional incompetence](#).
5. The Act also gives us 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.

Commented [HR3]: •Improve consistency of language
•Architects may also wish to complain, not just members of the public.

6. If it is clear at the screening stage that ~~your~~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~~we will close the case. If we consider it may be sufficiently serious then it becomes an 'allegation' of either unacceptable professional conduct, serious professional incompetence or that the architect has committed a relevant criminal offence.

Commented [HR4]: Improve consistency of language.

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. 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.
9. Where a concern relates to someone who is not on our Register we will try to signpost you to other organisations which may be able to help, such as a relevant membership body, the ombudsman, or the Police.

~~The complaint should be made to the architect first~~

Commented [HR5]: Remove the requirement to complain to the architect.

~~10. Before making a complaint to us, 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 architect before deciding whether the matter will proceed to an investigation.~~

The complaint should be in writing

~~13.10.~~ To consider if a concern amounts to an allegation of unacceptable professional conduct or serious professional incompetence or a relevant criminal conviction, we need to have a written account of the complaint.

~~14.11.~~ 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.

~~15.12.~~ 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 your concerns 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

~~16-13.~~ 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.

~~17-14.~~ 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.

The complaint should be no more than six years old

~~18-15.~~ It is important we deal with complaints as soon as possible after the events in question took place. This is because we need to investigate quickly to minimise any risk to the public. As part of an investigation we will gather evidence and speak with people involved in what happened. As time passes it becomes more difficult to access important evidence and memories fade. Architects are required to keep information for six years after a project finishes and as a result, we may not be able to access important records after that time. Depending on the circumstances, there may also be less public interest in investigating events which took place a long time ago as they may not be relevant to the architect's current practice.

Commented [HR6]: To improve clarity.

19-16. For all these reasons ARB cannot investigate concerns where the events took place more than six years ago, except for in exceptional circumstances. The following list provides some factors that may be taken into account in deciding whether an exception should be made (the list is not exhaustive):

- a. the allegation is so serious that the public interest demands we investigate, despite the passage of time;
- b. it is clear the complaint could not have been made earlier (for example, where problems with a building have only recently come to light);
- c. the quality of the evidence available has not been diminished by the passing of time.

20-17. If the events happened more than six years ago, we'll ask you why you couldn't raise your concern earlier and look at the nature of the complaint and evidence available, to help us decide whether we can investigate.

There should be credible evidence

21-18. 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.

22-19. 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.

23-20. The requirement that evidence is "credible" does not require **that** **you 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

Commented [HR7]: Improve consistency of language.

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.

24-21. If an allegation is not pursued due to a lack of credible evidence this does not mean ~~the person making the complaint has been~~~~you were~~ disbelieved, but simply that the evidence provided was insufficient to enable the complaint to be pursued further.

Commented [HR8]: Improve consistency of language.

The complaint must be sufficiently serious

25-22. 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 unacceptable professional conduct or serious professional incompetence or a relevant criminal conviction. When assessing whether ~~a concern~~~~your complaint~~ is ~~sufficiently~~ serious, we will refer to our guidance '[What constitutes unacceptable professional conduct and serious professional incompetence.](#)'

Commented [HR9]: Improve consistency of language.

26-23. 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.

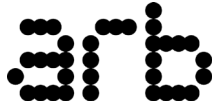
27-24. At this stage in the process, any doubts as to the seriousness of the complaint will be resolved in favour of public protection by allowing an allegation to proceed. In some cases, we may contact the architect for their response before determining

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

28-25. 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 of 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.

29-26. 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 and/or serious professional incompetence. 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 unacceptable professional conduct, serious professional incompetence, 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 Professional Conduct Committee'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 ~~it 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

Commented [HR1]: To make clear it's a reference to the weight the Committee has given these factors, not the weight given in submissions by others.

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
- **A lack of sufficient insight and/or remorse**
- 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

Commented [HR2]: To ensure consistency with the mitigating factors below.

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. The PCC should take account evidence of both ~~Both~~ insight and remediation – that is, whether the architect has demonstrated an accurate and full understanding of their failings and whether they have taken steps to set things right. They may have taken steps to remedy the issues which led to the complaint, or taken steps to improve their future practice, or both. ~~should be given their everyday meanin~~

~~20.21.~~ g- The PCC should focus on whether there is real evidence that the architect has been able to look back at ~~their his or her~~ conduct with a self-critical eye and that they have acknowledged fault, expressed contrition and/or apologised. It should consider whether the architect has truly understood their failings, any underlying reasons for them, and the impact their actions had. 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~~

Commented [HR3]: Remove male and female pronouns.

Commented [HR4]: To assist unrepresented architects in understanding what we mean by evidence of insight and remediation.

differences as to how an architect expresses insight and apology, including nonverbal cues such as lack of eye contact and facial expressions.

Commented [HR5]: This is a point better addressed in wider guidance about assessing live, witness testimony. It doesn't only apply to sanctions.

The sanctions

No sanction

21-22. 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.

22-23. 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~~ imposing no sanction.

Commented [HR6]: To improve consistency of language.

Reprimand

23-24. 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.

24-25. A reprimand may be considered appropriate where ~~one or more~~ ~~many~~ of the following factors are present (this list is not exhaustive):

Commented [HR7]: To improve consistency of language.

- 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

25-26. A penalty order is a monetary fine the architect must pay. Under the Architects Act the Professional Conduct Committee may issue a penalty order of up to £2500 for each charge (there are three possible charges: unacceptable professional conduct, serious professional incompetence and/or that the architect has been convicted of a relevant offence). Penalty orders are payable to HM Treasury.

26-27. A penalty order may be considered appropriate where one or more of the following factors are present (this list is not exhaustive):

Commented [HR8]: To improve consistency of language.

- 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.

27-28. 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

28-29. 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 **to the public about what is regarded as** behaviour unbefitting of an architect.

Commented [HR9]: To improve clarity.

29-30. 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 the Royal Institute of British Architects).

30-31. A suspension order may be **considered appropriate where one or more** many of the following factors are present (this list is not exhaustive):

Commented [HR10]: To improve consistency of language.

- 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.

31-32. 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

32-33. 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.

33-34. Erasure may be **considered** appropriate where **one or more of** the following factors are present (this list is not exhaustive):

Commented [HR11]: To improve consistency of language.

- 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.

34-35. 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 Royal Institute of British Architects).

35-36. Erasure from the Register is permanent, ~~though it is open to unless, and until, the architect re-applies to re-join the Register and that application is successful.~~ **Such an application can only be made** 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.

Commented [HR12]: To improve clarity.

Criminal convictions

36-37. 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.

37-38. 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**

38-39. As a general principle, where an architect has been convicted of a serious relevant criminal offence they should not be permitted to resume ~~unrestricted~~ practice until they have completed their sentence.

Commented [HR13]: We have no provision for restricted practice such as conditions of practice.

Dishonesty

39-40. 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.

40-41. 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.

41-42. 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.

42-43. In contrast, incidents of opportunistic or spontaneous dishonesty, and one-off incidents may be considered less serious by the PCC.

Equality Impact Analysis:

Policy / Project / Function:	Investigations and Professional Conduct Committee Rules; accompanying guidance
Date of Analysis:	10 January 2022
Analysis Rating: (See Completion Notes)	Green
Type of Analysis Performed:	Consultation
Please list any other policies that are related to or referred to as part of this analysis	Architects Act 1997, Article 6 European Convention on Human Rights (right to a fair trial)
Who does the policy, project or function affect?	Architects facing allegations of serious misconduct and incompetence; those making allegations against architects; witnesses; Professional Conduct Committee and Investigations Panel members

Equality Impact Analysis:	
What are the aims and intended effects of this policy, project or function ?	To modernise ARB’s Rules and guidance, ensuring it is clear, thorough and that the process is transparent and accessible to all.
Is any Equality Data available relating to the use or implementation of this policy, project or function? (See Completion notes)	Yes
List any Consultation e.g. with employees, service users, Unions or members of the public that has taken place in the development or implementation of this policy, project or function	Targeted communications sent to architects; professional bodies; ARB’s Investigations Panel; ARB’s Professional Conduct Committee; ARB’s disciplinary legal firms; and legal firms which have represented architects. Also available to the wider public on ARB’s website.
Financial Analysis If applicable, state any relevant cost implications (e.g. expenses, returns or savings) as a direct result of the implementation of this policy, project or function	Cost neutral

Equality Impact Assessment Test:

What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	Neutral Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
Gender (Men and Women)	x			
Race (All Racial Groups)	x			
Disability (Mental, Physical and Carers of Disabled people)		x		Proposals to make Rules and Guidance available in alternative formats will aid those with a disability
Religion or Belief	x			
Sexual Orientation (Heterosexual, Homosexual and Bisexual)	x			

Equality Impact Assessment Test:

What impact will the implementation of this policy, project or

function have on employees, service users or other people who share characteristics protected by <i>The Equality Act 2010</i> ?				
Protected Characteristic:	Neutral Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
Pregnancy and Maternity	X			
Marital Status (Married and Civil Partnerships)	X			
Transgender		X		Proposal to remove references to male and female pronouns to improve inclusivity for users.
Age (People of all ages)	X			

This Equality Impact Analysis was completed by: Helen Ransome, Professional Standards

Completion Notes:	
Analysis Ratings:	<p>After completing this document, rate the overall analysis as follows:</p> <p>Red: As a result of performing this analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i>. It is recommended that the use of the activity or policy be suspended further analysis</p> <p>Red Amber: As a result of performing this analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i>. However, a genuine determining reason may exist that could legitimise or justify the use of this activity or policy and further professional advice should be taken.</p> <p>Amber: As a result of performing this analysis, it is evident that a risk of discrimination (as described above) exists and this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.</p> <p>Green: As a result of performing this analysis, the policy or activity does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.</p>
Equality Data:	<p>Equality data is internal or external information that may indicate how the activity or policy being analysed can affect different groups of people who share the nine <i>Protected Characteristics</i> – referred to hereafter as ‘<i>Equality Groups</i>’.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <ol style="list-style-type: none"> 1: Application success rates by <i>Equality Groups</i> 2: Complaints by <i>Equality Groups</i> 3: Service usage and withdrawal of services by <i>Equality Groups</i> 4: Grievances or decisions upheld and dismissed by <i>Equality Groups</i>
Legal Status:	<p>This document is designed to assist organisations in “<i>Identifying and eliminating unlawful Discrimination, Harassment and Victimisation</i>” as required by <i>The Equality Act Public Sector Duty 2011</i>. An Equality Impact Analysis is not, in itself, legally binding and should not be used as a substitute for legal or other professional advice.</p>
Genuine Determining Reason	<p>Certain discrimination may be capable of being justified on the grounds that:</p> <ul style="list-style-type: none"> (i) <i>A genuine determining reason exists</i> (ii) <i>The action is proportionate to the legitimate aims of the organisation</i> <p>Where this is identified, it is recommended that professional and legal advice is sought prior to completing an Equality Impact Analysis.</p>