



# Draft ARB's Acceptance Criteria

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## Introduction

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

## The Purpose of the acceptance criteria

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

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

4. When a client or member of the public contacts us to raise concerns about an architect we refer to this as a 'complaint'. As part of 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.
6. If it is clear at the screening stage that the complaint is not sufficiently serious that it could amount to an allegation as recognised under the Act, then it does not fall within our remit and must be closed. If we consider it may be sufficiently serious then it becomes an 'allegation' of either unacceptable professional conduct, serious professional incompetence or that the architect has committed a relevant criminal offence.

## The acceptance criteria

### *The complaint must identify the architect*

7. We can only consider allegations against architects who are 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*

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. 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. If you raise a concern with us over the phone, we will ask you to put your concerns in writing. The requirement that complaints be made in writing is so we can be sure that we have all of the relevant information from the person making the complaint, in their own words, without risk of error or misunderstanding. It is not to act as an obstacle to raising a complaint.

15. If you need assistance putting the information in writing, we will provide you with the help you need. This may be achieved by:

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

*The complaint should be no more than six years old*

18. 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. There is also 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.
19. 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):
  - the allegation is so serious that the public interest demands we investigate, despite the passage of time;

- it is clear the complaint could not have been made earlier (for example, where problems with a building have only recently come to light);
- the quality of the evidence available has not been diminished by the passing of time.

20. 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. 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. 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. The requirement that evidence is "credible" does not require someone to prove at the outset that it is true. The test is that the information provided is sufficient to cause a reasonable person to consider that it is worthy of belief. What constitutes credible evidence will vary from case to case, but evidence is more likely to be regarded as credible if it provides a coherent, logical, and reasonable explanation of the events in question, particularly if it is either supported by other evidence (e.g. notes, emails or documents from the time of the events in question) or is consistent with already known facts.



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

*The complaint must be sufficiently serious*

25. 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 is serious, we will refer to our guidance '[What constitutes unacceptable professional conduct and serious professional incompetence.](#)'

26. 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. 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. 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. 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.



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