

## **Investigations Panel: decision making guidance**

### **Introduction**

The role of the Investigations Panel (IP) is to investigate allegations of unacceptable professional conduct or serious professional incompetence against architects and decide whether there is a case to answer at the Professional Conduct Committee. This guidance explains the role of the Investigations Panel and how it makes its decisions.

### **About the Investigations Panel (IP)**

**The constitution and procedures of the Investigations Panel are set out in ARB's [Investigations Rules](#).**

Each IP is drawn from a wider Investigations Pool made up of architects and non-architects. ARB will appoint a panel of three people from the Investigations Pool to consider each case. One member of the panel is an architect and the remaining two are non-architects.

The IP will usually consider documentation rather than receive live evidence, but it can also instruct that further investigation be carried out. Its deliberations are done privately, and the evidence it considers remains confidential unless and until the case is heard by the Professional Conduct Committee.

The IP will act in the public interest in carrying out its duties, which means that it is not restricted to the allegations that ARB refers to it – its duty is to consider all the evidence and decide whether there is evidence of serious misconduct or incompetence. This means it can amend or add allegations where it considers it appropriate and necessary. The architect will always be given the opportunity to respond to any allegations made against them.

The allegation against the architect will be either unacceptable professional conduct, serious professional incompetence, or both. Each allegation will be supported by one or more particulars which set out the details that support the allegation.

## **The role of the Investigations Panel**

The role of the Investigations Panel is to decide whether the architect has a case to answer at the PCC. It must decide that the architect:

- has a case to answer, and instruct that its finding is reported to the Professional Conduct Committee; or
- has no case to answer. If the IP decides that there is no case to answer it must:
  - Close the case with no further action or
  - Provide advice to the architect as to their future conduct or competence.

## **Making a case to answer decision**

A case to answer means that the evidence against the architect would – if proved – support an appropriate finding of unacceptable professional conduct or serious professional incompetence.

Deciding if there is a case to answer is a two-stage process.

### **Stage 1: The alleged facts**

The IP must consider if there is a real prospect of factually proving the allegations made against the architect. There may be more than one particular in support of the allegation of UPC or SPI. The IP must consider whether there is a real prospect that the PCC will find the facts of each particular proven on the balance of probabilities (more likely than not). A 'real prospect' means that something must be a genuine possibility, not one that is merely remote or far-fetched.

The Investigations Panel will consider the evidence available in support of the allegations but will not reach any conclusions on factual issues that ought properly to be considered by the PCC. The Investigations Panel will not, for example, form any view on the likely reliability of witness evidence that may be called before the PCC or seek to resolve conflicting evidence. The Investigations Panel may give less or no weight to evidence of a tenuous character, for example evidence which is inherently weak, vague or inconsistent with other evidence such as undisputed documents.

## Stage 2: Seriousness

If the IP has decided there is a real prospect of the alleged facts being found proved on the balance of probabilities, it must go on to consider whether they would be sufficiently serious to support a finding of UPC or SPI by the Professional Conduct Committee.

The evidence may suggest that the architect has fallen below the standards expected, but that this is not sufficiently serious to support a disciplinary finding. The IP will take the case at its highest and decide whether a PCC *could* make a finding UPC or SPI.

Although there is no legal definition of 'seriousness', the IP will take into account the factors below:

a) Architects Code: Standards of Conduct and Practice (the Code)

The ARB publishes a Code, setting out the standards of conduct and practice expected of architects. The IP will consider whether the alleged misconduct or incompetence is a breach of the Code, while taking into account that not every breach will be sufficiently serious to result in a disciplinary finding.

b) the public interest;

Public interest factors include:

- the importance of protecting future users of the architect's services from harm,
- maintaining public confidence in the profession, and
- supporting proper standards of conduct and competence within architecture.

c) relevant guidance and case law;

The IP will take into account ARB's published guidance on '[What constitutes unacceptable professional conduct and serious professional incompetence](#)', and relevant case law.

d) previous disciplinary findings (antecedents)

Antecedents may include:

- a previous finding of unacceptable professional conduct or serious professional incompetence by the PCC;
- advice given by a previous Investigations Panel/Committee; or
- a finding of a case to answer by the Investigations Panel which has not yet been determined by the PCC

It will be for the IP to attach what weight it considers appropriate to the antecedent, considering its age and relevance to the allegations under consideration. The architect will be provided with an opportunity to make submissions on the significance of any disciplinary history.

## **IP Decision**

The Investigations Panel will produce a written decision setting out how it has reached a decision in every case. The decision will explain how the IP reached its conclusions on the alleged facts on each particular of the allegation, and then address the test of seriousness in respect of the whole allegation.

Reasons will be clear and intelligible. Reasons do not need to be elaborate or lengthy, but they should tell everyone involved in broad terms why the IP reached its decision. Reasons will be sufficient if they explain to the parties in broad terms why a particular decision has been reached.

If the IP requires further evidence or submissions before reaching a decision, it may decide to issue a preliminary decision and seek submissions from the architect and referrer before reaching a conclusion.

## **PCC referrals**

If the IP decides that the architect has a case to answer, it will instruct ARB's lawyers to prepare a report for the PCC. The approval of that report will represent the IP's final decision in the case.