

## **Third Party Review - Terms of Reference**

### **Introduction**

The Architects Registration Board (ARB) has identified a number of situations where a third party review (a 'Review') of a procedure can be requested.

A third party reviewer ('the Reviewer') conducts the Review – the Reviewer is a person or firm independent of ARB.

A Review does not affect an individual's rights to seek judicial review or appeal to the courts.

A Review does not reconsider the substance of ARB's decisions but looks at whether procedures have been followed, and whether they were lawful and fair. The Reviewer will also consider whether there were any unreasonable delays in reaching the decision.

There is no charge for a Review.

### **Applying for third party review**

There are two specific procedures where a Review may be possible. These are:

#### **a) Examination Appeals Panel**

Where an individual appeals to the examination appeals panel on the basis that:

- defects or irregularities in the examination process or its procedures adversely affected a candidate's performance at the interview;
- the examiners were not aware of particular circumstances (eg. Family bereavement, illness, etc.) when the interview took place, but the candidate can subsequently demonstrate good reason why those circumstances were not known;
- the examinations appeals panel either failed to follow the procedures in Appendix 2 of ARB's examination procedures, or that the procedure itself was inappropriate or inefficient.

#### **b) Investigations Panel (IP)**

The role of the IP is to decide whether, following an allegation of unacceptable professional conduct or serious professional incompetence, an architect has a case to answer at the Professional Conduct Committee (PCC). Where the IP decides not to refer a case to the PCC, the architect or the referrer can request a Review on the grounds that the IP's rules were not followed, or that the procedure by which the decision was reached was unlawful or unfair.

### **Requesting a third party review**

A Review must be requested within 30 days of being notified of the panel's final decision. There is a legitimate expectation of finality to decisions being made. The Registrar can consider requests received outside that timescale if the applicant can show that they sent the request within the given timescale, or the Registrar considers that it would be in the interests of justice to do so.

The applicant requesting a Review must clearly identify instance(s) in the procedure (by which the decision was reached) which were unlawful, unfair, and/or contrary to ARB's rules or published guidance. Upon receipt of a request for Review, the Registrar will decide whether it meets the criteria for acceptance. The request may be declined if, in the Registrar's view, it:

- i) fails to identify a flaw in the process or procedure by which a decision was made;
- ii) is not made within 30 days of the receipt of the decision it relates to;
- iii) has no reasonable prospects of being upheld;
- iv) has the potential for interfering with legal proceedings;
- v) would be contrary to the interests of justice.

The Registrar's decision is final.

When a valid request for third party review is received, the Registrar will instruct a Reviewer to conduct the review. The Reviewer will have no prior knowledge of the case or the parties before considering the case.

The Review will be conducted on the basis of written material only, and the Reviewer will have access to the relevant case file. If the Reviewer considers it necessary then he or she can ask the parties, the Panel, or ARB for further information or clarification.

When the applicant requests a third party review, the applicant agrees to the Reviewer having access to all information held by ARB that relates to the relevant case. There is no legal right to a Third Party Review, and the Reviewer is not liable to any party for any act or omission connected with this procedure.

## **Outcomes**

The Reviewer will consider whether the procedure by which a decision was made was lawful and fair, and make a report on their findings within four weeks. The Reviewer will address their report to the Registrar, who will send a copy to the IP. The parties involved will also be sent a copy of the report.

The Reviewer will confine their comments to whether the procedure by which the decision was made was lawful and fair. They will not comment on the substance of the decision. The IP will consider the content of the Reviewer's report and give further consideration to its decision on case to answer. It may then decide to finalise the decision it has previously made or change its decision and refer the matter to the PCC. It will provide written reasons for its final decision.