

Board paper

for Open session

Subject:

Consultation on changes to ARB's Investigations Rules

Board meeting:

19 March 2026

Agenda item:

11

Action:

- For noting
- For discussion
- For decision

Purpose

To seek the Board's agreement to issue revised Investigation Rules for public consultation, as part of a wider programme of reform to improve the quality, timeliness and efficiency of ARB's investigations process.

Recommendations

That ARB issues the draft Investigation Rules at Annexe A for public consultation.

Annexes

Annexe A – Draft Investigation Rules

Annexe B – Draft Professional Conduct Committee Rules

Author/Key Contact

Helen Ransome, Interim Director of Professional Standards

1. Open Session

- 1.1. This item will be taken under the open session.
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2. Background and Key points

Our current investigation model

- 2.1. Section 14 of the Architects Act 1997 (the Act) forms the statutory basis for the work we do in Professional Standards. It requires that allegations of unacceptable professional conduct (UPC) or serious professional incompetence (SPI) against architects be investigated by persons appointed by the Board. If an architect is found to have a case to answer, the allegation must be referred to the Professional Conduct Committee (PCC) for it to decide whether they are guilty.
- 2.2. Section 14 also provides that we make rules as to the procedures to be followed in disciplinary investigations; these rules are laid down in our 'Investigations and PCC Rules'. We review our processes under the Investigations and PCC Rules periodically, to ensure we stay aligned with regulatory good practice. We also routinely monitor the quality and timeliness of casework so that we identify and address any emerging issues with our performance or processes.
- 2.3. Over the past year we have identified growing challenges affecting our ability to deliver expeditious and cost-effective investigations. In particular:
 - 2.3.1. Complex cases are taking longer to reach the PCC, delaying their resolution;
 - 2.3.2. several cases are requiring reconsideration by the Investigations Panel (IP);
 - 2.3.3. the IP decision stage is subject to delay;
 - 2.3.4. the third-party review process is rarely used and providing minimal regulatory value.
- 2.4. We recognise the need to address these issues promptly and effectively. Taking swift, decisive action when concerns are raised about those on the Register is essential to maintaining public confidence in both the profession and our role as a regulator. We therefore set about exploring solutions, with the aim of developing a more efficient investigations model, with improved quality of decision making.
- 2.5. We started by consulting several regulators to understand their models, including what works well and what challenges they face. We also analysed the cost, resources, and timeliness of our current processes compared with alternatives. In

addition, we drew on the experience of staff who have worked at other regulators through detailed discussions at a departmental away-day.

- 2.6. Our preliminary conclusions were considered by the Board at its September 2025 workshop. We have taken account of the feedback received before finalising the proposed approach.

The new model

- 2.7. Summarised below are the proposed changes to our investigations model.

- 2.7.1. Some of the changes require amendment to the Investigations Rules (the Rules). Amendment to the Rules requires Board approval following consultation. The Board is asked to consider the changes summarised and laid out in the revised Rules at Annexe A.

- 2.7.2. The remaining changes do not affect the Rules and can be implemented by the executive without consultation. While Board approval is not required, they are included for completeness as part of an integrated package of changes. The Board's feedback is welcomed. These changes will be reflected in updated operational guidance.

- 2.8. The new model will see Investigation Officers (IOs) take a more active, critical approach in each investigation, seeking expert input as required. They will use their knowledge and experience to make recommendations, and the case to answer decision will be administered more quickly and efficiently. When stakeholders raise concerns about the process followed in our investigations, these will be dealt with more efficiently, managing their expectations more carefully.

Securing architectural advice at the early stages

- 2.9. Under the current process, architectural advice is not routinely sought prior to a case-to-answer decision. Instead, allegations are framed based on in-house knowledge and experience, with significant reliance placed on the architect member of the IP. In recent years, this approach has led to several cases requiring reconsideration by the IP following receipt of expert evidence at the PCC stage. While we are confident the right decisions and outcomes are ultimately reached, the lack of early architectural input creates inefficiencies and misses opportunities to identify key issues sooner.

- 2.10. Under the proposed model, routine architectural input will be obtained in cases involving technical matters. Dedicated 'architect advisors' will support staff,

assisting in framing allegations, advising on evidence required, and providing an initial technical assessment of the complaint. This will enhance the quality and accuracy of allegations, support more informed case-to-answer decisions, and reduce the likelihood of cases requiring reconsideration on architectural grounds.

Making recommendations

- 2.11. Under the current model, IOs adopt a predominantly administrative role in investigations. They gather evidence and forward it to the IP without expressing a view on the case. Despite this, IOs frequently anticipate whether a case will be referred to the PCC and identify issues that later require reconsideration. The existing process does not empower staff to contribute, despite their extensive experience reviewing complaints.
- 2.12. Under the proposed process, IOs will prepare case summaries and recommendations for Case Examiners (CEs) on whether there is a case to answer. While CEs will remain independent decision-makers and will not be bound by the recommendations, the IO's reasoning will inform and assist their deliberations. Where recommendations are accepted, this will expedite decisions. The change should also reduce case reconsiderations; it will ensure issues affecting prospects of success at the PCC are identified and addressed more thoroughly prior to referral.
- 2.13. IOs provide recommendations in other stages of the process, and those arrangements have operated effectively for several years. Recommendations are frequently accepted but are not invariably followed, demonstrating that they do not compromise independent judgment or become a mere formality.

Changes to the case to answer decision stage (see rule 4 in Annexe A)

- 2.14. Under the current model, case-to-answer decisions are made by the IP, comprising three decision makers (one architect and two lay members). The IP has twelve weeks to reach a decision. The process is carried out remotely, and involves several protracted administrative stages. In most cases, the IP issues a preliminary decision, inviting comments from the parties. Evidence shows that such responses rarely alter the Panel's view.
- 2.15. Under the proposed model, each case will be decided by two CEs: one lay and one architect. The administrative inefficiencies will be reduced by removing the need for individual written views and preliminary decisions, enabling CEs to work collaboratively towards a final view. This approach, used by several other regulators, will shorten decision times and better manage stakeholder expectations. Regulators we spoke to reported that CEs typically reach unanimous

decisions, but where this is not possible, our new Rules permit the appointment of a third CE to enable a majority decision. The default position is that the third member will be lay, but the Rules allow flexibility.

Replacing Third Party Review with internal review mechanisms (see rules 6 and 7 in Annex A)

- 2.16. Under the current process, complainants and architects may request a ‘third party review’ (TPR) when a case is closed without referral to the PCC. A TPR considers whether proper process was followed in an investigation and in the IP’s decision-making. It may refer a case back if a procedural flaw is identified. As IP decisions are made under the Act, TPR cannot comment on or overturn any decision. The Registrar (or those under the Scheme of Delegation) assesses whether an application meets the criteria for a review and reviews are then conducted by external legal providers (currently Weightmans LLP).
- 2.17. Although requests for review are received relatively frequently, few meet the acceptance criteria; on average, only one review proceeds each year. Most applicants seek to challenge the IP’s substantive findings rather than identify procedural irregularities that compromised the decision’s integrity. Referring reviews to external legal providers is costly, delays resolution, and has historically created unrealistic stakeholder expectations. No comparable model was identified among other regulators consulted.
- 2.18. The proposed model aligns with practice at other regulators. The review process will now be conducted internally by the Registrar (or those under the Scheme of Delegation). The Registrar will retain the power to refer a case back to the CEs where a procedural issue is identified and they may seek legal advice if needed. The new model also introduces a secondary review mechanism enabling cases to be reopened because of new evidence or information and where it is in the public interest to do so. A two-year time limit has been imposed on this rule (save in exceptional circumstances) to ensure fairness to registrants and finality in disciplinary investigations.
- 2.19. These changes will speed up the review process, improve the management of stakeholder expectations, and enhance our powers to protect the public.

Timeliness of investigations under the new model

- 2.20. Our objective is to enhance both the quality and speed of investigations, but we acknowledge that in some areas those two aims conflict. For example, early architectural input will improve allegation drafting but may extend the length of

initial investigations. Overall, however, the improvements early on will accelerate case progression later in the process and we anticipate an average reduction of 18% in the case lifecycle to the PCC once the new processes have been embedded.

2.21. We will adjust our operational KPIs to reflect changes to the model. Our revised KPIs and projected timescales have been informed by:

- 2.21.1. benchmarking against other regulators with comparable procedures;
- 2.21.2. retrospective mapping of past cases against the proposed model;
- 2.21.3. staff feedback on current KPI challenges and potential mitigations; and
- 2.21.4. anticipated efficiencies from development of our case management system.

2.22. As part of the changes to our KPIs we will also begin tracking cases based on complexity; this will ensure simpler matters continue to be progressed quickly under the new model. We will pilot the KPIs for nine months before checking if they are both ambitious and achievable for staff.

Changes to the Rules

2.23. We instructed ARB's legal firm Fieldfisher LLP to undertake the review of the Rules, considering the changes we wished to make above. This also presented an opportunity to carry out a wholesale review of the Rules, and so we asked Fieldfisher to advise on any wider changes to align with regulatory best practice.

2.24. The proposed changes relate to the investigations stage of the process, so the only changes made to the PCC rules are to ensure consistency of terminology. You will see at Annexe B that the PCC Rules have been subject to minor alteration to align with the revised Investigation Rules. No other substantive changes have been made.

2.25. We tested the draft new Rules with our prosecuting solicitors at Kingsley Napley LLP and Ward Hadaway LLP. Their suggestions have been considered and incorporated into the draft at Annexe A.

2.26. Commentary has been provided in the draft Rules, highlighting the key changes outlined in this paper. Wider, minor amendments have not been indicated through tracked changes as this would make the document difficult to navigate and review. Those changes do not make material or significant changes to our procedures.

Regulatory impact

- 2.27. We have considered carefully the changes we propose making to our disciplinary processes and consider they will have a positive regulatory impact. The changes will improve the quality of decision-making and the overall time taken to investigate complex and technical complaints. Expeditious investigations and sound decision making go to the heart of our duty to protect the public.
- 2.28. We do not anticipate the changes will have any adverse regulatory impact.
- 2.29. We have drafted a series of success measures which we can use to test whether the model has achieved its aim once it is embedded. We will review those measures after twelve months and consider whether any further changes should be considered.
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3. Resource Implications

- 3.1. We do not anticipate any unforeseen resource or cost implications for 2026. Given the Rules will not come into force until later in the year, few complaints would fall to be considered under the new processes before next year.
- 3.2. We anticipate the following costs and resources will be affected in the longer term:
- 3.2.1. We anticipate needing architectural input in up to 40% of cases, costing around £18k each year. We have budgeted for this in 2026.
- 3.2.2. The change to a CE model will save money in operational costs. By using only two panel members we will immediately save a third in each case (around £80k.) The streamlined process will also save on the hours claimed making decisions.
- 3.2.3. We anticipate a small saving of around £3k from the removal of TPR. This is because we will no longer pay external legal services to carry out this work.
- 3.2.4. We have amended the IO job description to reflect the additional expectations of the role under the new model. That job description will be subject to benchmarking, and we have budgeted for this, alongside additional training, in 2026.
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4. Risk Implications

- 4.1. Regulatory investigations are a high-risk area of ARB's business, and procedural fairness and legal robustness are essential to maintaining confidence and withstanding legal challenge.

Perceived independence and fairness

- 4.2. The proposed changes alter elements of how decisions are prepared and reviewed, including the introduction of IOs' recommendations, a revised CE model, and the replacement of TPR with an internal review mechanism. These changes could give rise to perceived risks around independence, fairness, and the concentration of decision-making within the executive.
- 4.3. We consider these risks to be manageable and proportionate. Independent statutory decision makers remain responsible for case to answer decisions and are not bound by staff recommendations.
- 4.4. The revised review mechanism remains limited to procedural issues and external legal advice can still be sought where appropriate. The reviewer will remain independent of the original investigation. The proposed model reflects established practice across comparable regulators and is intended to improve the quality, consistency, and timeliness of decision making without diminishing safeguards.

Implementation

- 4.5. There are also implementation risks associated with introducing new processes and KPIs. The shift to a more analytical role for Investigation Officers represents a significant change in practice and professional culture. There are risks of inconsistency, confirmation bias, or over-reliance on staff recommendations during early implementation. Such risks will be mitigated through training, piloting of revised operational measures, and ongoing monitoring.

Risk of inaction

- 4.6. Failing to address the issues identified in the current model carries its own risks, including continued delay, inefficient use of resources, and technical weaknesses being identified late in the process. Over time, this could undermine confidence in ARB's ability to discharge its statutory functions effectively.
- 4.7. Overall, the proposed changes are considered proportionate and consistent with regulatory good practice. While some implementation risks are unavoidable, they are manageable and outweighed by the anticipated improvements in the quality, consistency and timeliness of investigations.

5. Communication

- 5.1. Consultation on changes to the Investigation Rules is a legal requirement. Given the significance of the proposed reforms to ARB's disciplinary processes, it will also provide an important opportunity to test the fairness, clarity and practical impact of the new model before implementation.

5.2. We will invite views on the overall fairness and accessibility of the revised Rules, including the case to answer decision stage, the removal of preliminary decisions, the introduction of the Case Examiner model, and the proposed internal review arrangements. We will also test whether the Rules are clear and understandable, and whether there are any unintended impacts of the proposed changes.

5.3. We anticipate bringing the results of the consultation to the Board for a final decision in September 2026.

6. Equality and Diversity implications

6.1. Changes to disciplinary processes can impact on both complainants and registrants, particularly in relation to accessibility, understanding of procedures, and confidence in regulatory decision making. While we do not currently anticipate adverse equality impacts arising from the proposed changes, it is important that this assumption is tested rather than relied upon.

6.2. The consultation will include a question about accessibility, and an Equality Impact Assessment will be carried out and reported to the Board before it makes its final decision.

7. Recommendations

7.1. That ARB issues the draft Investigation Rules at Annexe A for public consultation.

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Annexe A

Investigation Rules (Draft)

Contents

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5. Request for information from a Registered Person
6. Internal Review
7. Further Review
8. Action in respect of a criminal conviction
9. Reports to the Professional Conduct Committee
10. Transitional Provision

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1. Commencement

- 1.1 These rules shall be known as the 'Architects Registration Board Investigation Rules' and are made under sections 14 and 23 and Part III of Schedule 1 to the Architects Act 1997.
- 1.2 They came into force on [DATE] and subject to rule 10 replace the Investigations Rules made by the Board on 9 February 2022.

2. Interpretation

- 2.1 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 Schedule 1 of the Act;

"Case Examiner" means a Lay or Registrant Case Examiner appointed by the Registrar for the purpose of exercising functions under section 14(1) and (2) of the Act and "Case Examiners" means the Lay and Registrant Case Examiners to whom a matter is referred under rule 3.3(b) and includes any replacement or additional Case Examiner appointed by the Registrar;

“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;

"the former Investigation Rules" means the Investigation Rules made by the Board on 9 February 2022;

“Lay” means a person other than a Registered Person or a person who has ever been a Registered Person;

“Register” means the Register of Architects established under section 3 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;

“referrer” is a person who refers a matter to the Registrar for the purposes of section 14(1) of the Act;

- 2.2 The Interpretation Act 1978 shall apply to these Rules as if they were an Act of Parliament.

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3. Preliminary Investigation

- 3.1 Where matters are brought to the attention of the Registrar that there may be an allegation of unacceptable professional conduct or serious professional incompetence of a Registered Person, the Registrar may:
- (a) carry out such preliminary investigations as are appropriate for the purposes of section 14(1) of the Act;
 - (b) obtain such advice as they see fit.
- 3.2 Unless the Registrar decides to take no further action upon receipt of matters brought to their attention under rule 3.1 they shall inform the Registered Person of the matters brought to their attention and offer them an opportunity to make written representations.
- 3.3 Following the opportunity to provide representations under rule 3.2, the Registrar may:
- (a) take no further action;
 - (b) refer the matter to the Case Examiners.

4. Consideration by Case Examiners

- 4.1 Where the Registrar has referred a matter to the Case Examiners under rule 3.3(b):
- (a) it shall be considered by one Lay Case Examiner and one Registrant Case Examiner; and
 - (b) the Case Examiners shall decide whether there is a case to answer.
- 4.2 In determining whether there is a case to answer, the Case Examiners shall consider whether there is a realistic prospect of:
- (a) such facts as are material being proven on the balance of probabilities; and
 - (b) a finding of unacceptable professional conduct or serious professional incompetence being made by the Professional Conduct Committee.
- 4.3 If the Case Examiners consider that investigation or advice additional to that obtained under rule 3.1 is required, they shall give a direction to that effect to the Registrar.
- 4.4 Before determining whether there is a case to answer, the Case Examiners may invite written representations from:
- (a) the Registered Person;
 - (b) the referrer;
 - (c) the Registrar.

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- 4.5 Where the Case Examiners are minded to decide there is a case to answer and to refer the matter to the Professional Conduct Committee they shall:
- (a) direct the Registrar to instruct a Case Presenter to prepare a draft report to the Professional Conduct Committee; and
 - (b) subject to rule 4.6 and any amendments it wishes to make to the draft report, refer the matter to the Professional Conduct Committee.
- 4.6 Where a Case Presenter forms the view that the matter should be considered further by the Case Examiners, whether on account of new evidence or for any other reason, they shall write to the Case Examiners, copying the Registered Person who shall have an opportunity to comment before the Case Examiners consider the matter further.
- 4.7 A copy of the final report to the Professional Conduct Committee shall be provided to the Registered Person.
- 4.8 Where the Case Examiners are minded to decide there is no case to answer they:
- (a) may propose to give advice as to the Registered Person's future conduct or performance; and
 - (b) shall notify the Registered Person and the referrer, if any, including any proposed advice.
- 4.9 Where there is no request for an Internal Review under rule 6, the Case Examiners shall finalise their decision under rule 4.8 and notify:
- (a) the Registered Person; and
 - (b) the referrer.
- 4.10 If the Case Examiners fail to agree on a decision under rule 4, the Registrar shall appoint a third Case Examiner and the decision shall be taken by majority.

5. Request for information from a Registered Person

- 5.1 The Case Examiners or the Registrar may make a request for a Registered Person to supply any information or document which appears relevant, including facilitating inspection of such at the Registered Person's business premises.
- 5.2 The Registered Person shall, subject to rule 5.3, comply with a request under rule 5.1.
- 5.3 Rule 5.2 shall not apply to any information to which the Registered Person is entitled to legal professional privilege or the disclosure of which would be unlawful.

6. Internal Review

- 6.1 Where a referrer or Registered Person receive notice under rule 4.8(b), and they consider there have been deficiencies in the process leading to that notice, they may request an Internal Review of the process leading to the notice.

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- 6.2 Such a request must be made in writing to the Registrar within 28 days of the date of the notice under rule 4.8(b) and upon receipt the Registrar shall consider whether to commence an Internal Review.
- 6.3 The Registrar shall commence an Internal Review where:
- (a) the request clearly identifies the alleged deficiencies in the process; and
 - (b) they consider those alleged deficiencies may, if upheld, reasonably lead the Case Examiners to decide to refer the matter to the Professional Conduct Committee.
- 6.4 Where an internal review is commenced under rule 6.3 and upheld the Registrar shall notify the Case Examiners of the outcome of the Internal Review.
- 6.5 Where upon notification under rule 6.4, the Case Examiners are:
- (a) minded to decide that there is case to answer, they shall direct the Registrar to instruct a Case Presenter to draft a report under rule 4.5(a); or
 - (b) of the view that there is no case to answer, they shall finalise their decision in accordance with rule 4.9.

7. Further Review

- 7.1 Following the finalisation of a decision under rule 4.9, all or part of that decision may be reviewed by the Registrar where they have reason to believe:
- (a) the decision may be materially flawed wholly or partly; or
 - (b) there is new information which may have led, wholly or partly, to a different decision,
- but only where the Registrar considers such a review is necessary in the public interest.
- 7.2 The Registrar shall not, save in exceptional circumstances, commence a review of all or part of a decision specified in rule 7.1 more than two years after it was made.
- 7.3 Where the Registrar decides to conduct a review under rule 7.1, they shall:
- (a) notify the Registered Person and referrer of the decision to review and the reasons for that decision;
 - (b) notify the Registered Person and referrer of any new information and, where appropriate, provide them with that information;
 - (c) invite representations from the Registered Person and referrer.
- 7.4 Where the Registrar concludes that all or part of the decision being reviewed under rule 7.1 was materially flawed or that there is new information which could have led to a different decision, they may refer the matter for reconsideration by the Case Examiners under rule 4.

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7.5 Where the Registrar has reviewed all or part of a decision under rule 7.1, they shall notify the following of the decision under rule 7.4:

- (a) the Registered Person;
- (b) the referrer.

8. Action in respect of a criminal conviction

8.1 If it appears to the Registrar that a Registered Person has been convicted of a relevant criminal offence they shall:

- (a) where necessary, carry out an investigation into the relevant facts;
- (b) refer the matter to the Professional Conduct Committee by way of a report from a Case Presenter, copied to the Registered Person.

9. Reports to the Professional Conduct Committee

9.1 A report to the Professional Conduct Committee shall contain:

- (a) the Charge;
- (b) a copy of any evidence that is intended to be adduced against the Registered Person;
- (c) the name of any witness whom it is intended to call in person before the Committee; and
- (d) where the Charge relates to a relevant criminal offence, a certificate or other evidence of the conviction.

10. Transitional Provision

10.1 Where a relevant criminal offence, allegation of unaccepted professional conduct or allegation of serious professional incompetence has come to the attention of the Registrar before the date on which these rules come into force:

- (a) the matters shall be investigated under rule 6 or 23 of the former Investigation Rules as if they had not been revoked;
- (b) where the matters have not been referred to an Investigations Panel under rule 6(d) of the former Investigations Rules, they may be referred to the Case Examiners under rule 3.3(b) of these Rules;
- (c) where a relevant criminal offence has not been referred by the Registrar under rule 23(b) of the former Investigation Rules, it may be referred to the Professional Conduct Committee under rule 8.1(b) of these Rules.

Annexe B

Draft Professional Conduct Committee Rules

Professional Conduct Committee Rules

1. These Rules shall be known as the 'Architects Registration Board Professional Conduct Committee Rules' and are made under section 14(6), section 23 and Part II of Schedule 1 to the Architects Act 1997.
2. They came into force on [DATE] and replace the Rules made by the Board on 9 February 2022.

Interpretation

3. 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 Examiners" means a Lay or Registrant Case Examiner appointed by the Registrar for the purpose of exercising functions under section 14(1) and (2) of the Act and "Case Examiners" means the Lay and Registrant Case Examiners to whom a matter is referred under rule 3.3(b) of the Investigations Rules and includes any replacement or additional Case Examiner appointed by the Registrar;

“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;

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Draft Professional Conduct Committee Rules

"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 former Investigations Rules;

"the Investigation Rules" means the Architects Registration Board Investigation Rules made by the Board on [DATE];

"the former Investigation Rules" means the rules made by the Board on 9 February 2022 and in force on 1 April 2022;

"the former Professional Conduct Committee Rules" means the rules made by the Board on 9 February 2022 and in force on 1 April 2022;

"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.

4. The Interpretation Act 1978 shall apply to these Rules as if they were an Act of Parliament.

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Draft Professional Conduct Committee Rules

Action upon receiving a report

5. Upon receiving a report from the **Case Examiners** under Rule 4.5(b) or the Registrar under Rule 8.1(b) of the Investigations Rules, the Chair of the Professional Conduct Committee shall subject to Rule 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 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.



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.

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

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 **Case Examiner's** report 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

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- 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.

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 they intend to appear at the hearing;
- b) if they are to be legally represented, the name and address of their legal representative; and
- c) brief particulars of any defence.

11. If the Registered Person intends to deny the Charge then not less than 21 days before the date set for the hearing they shall serve upon the Case Presenter a notice which contains:

- a) particulars of the defence;
- b) a copy of any written statement or other document or plan that they intend to adduce in evidence at the hearing; and
- c) the name of any witness whom they intend to call in person at the hearing, including any expert witness, and a summary of what that witness is expected to say.

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 their own volition, the Chair of the Hearing Panel or of the Professional Conduct Committee (if different) may

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give such directions as are in the interests of justice and as they see fit. These may include directions as to:

- 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, and a legal representative does not appear on their behalf, 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.

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.

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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.

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- 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 32, witnesses:

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- 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.
31. Any further questioning of the witnesses by the parties shall be at the discretion of the Chair of the Hearing Panel.
32. 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

33. Subject to Rules 34 and 35, hearings of the Professional Conduct Committee shall be held in public.
34. 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.
35. An application that all or part of a hearing should be conducted in private shall be heard in private.

Recording

36. 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

37. The Hearing Panel shall provide the Registered Person with written reasons for its decisions as soon as practicable after the hearing.

Consent Orders

38. 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.

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39. The Registered Person may within 14 days of the date when the proposed Consent Order was sent to 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.
40. Where the Registered Person does not confirm within 14 days their consent to the proposed Consent Order in accordance with Rule 39, the proposed Consent Order will be regarded as withdrawn and the case must proceed to be considered at a hearing.
41. Where the Registered Person has given the consent referred to in Rule 39, the Case Presenter must refer the proposed Consent Order to the Consent Order Panel.
42. 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.

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43. 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.
44. 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.
45. Where a proposed Consent Order has not been agreed or approved, the proposed Consent Order, any reasons given by 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 this information to its attention.

Publicity

46. 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

47. These Rules shall apply to proceedings after the date on which they come into force, save in respect of which:

(a) a report has been made to the Professional Conduct Committee by the Investigations Panel or Registrar under the former Investigation Rules; or

(b) where the Investigations Panel is already seized of the matter under the former Investigations Rules.

48. Proceedings falling within rule 47 shall be subject to the former Professional Conduct Committee Rules as if they had not been revoked.