



## Indicative Sanctions Guidance

### Introduction

This guidance has been developed by the Architects Registration Board (ARB) for use by its Professional Conduct Committee (PCC). The guidance is for use when the PCC is considering what sanction, if any, to impose on an architect following a finding of unacceptable professional conduct or serious professional incompetence; or a conviction of a criminal offence which has material relevance to the fitness of that person to practise.

It outlines the decision-making process and draws from an analysis of previous PCC cases. A number of the more recent cases are available on the ARB's website at [www.arb.org.uk](http://www.arb.org.uk)

PCC members are expected to exercise their own judgment in making decisions and each case will turn on its own facts. Nonetheless, this guidance will be relied on for purposes of consistency.

It was adopted by the Committee on 20 October 2011.

### The purpose of sanctions

The primary purpose of sanctions is not to be punitive but to protect members of the public, to maintain the collective reputation of the profession, and to declare and uphold proper standards of conduct and competence.

### Sanctions

If an architect is found guilty of unacceptable professional conduct, serious professional incompetence or convicted of a relevant criminal offence then 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 (up to £2500 per charge, with a maximum of 2 charges)
- Suspension (to a maximum of 2 years)
- Erasure

There is judicial guidance as to the method of imposing sanctions.

'It is necessary for a Panel, when considering the appropriate sanction, to work from the bottom up, if I may put it that way, that is to say 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.'

*Raschid v General Medical Council [2006] EWHC 886 (Admin) Collins, J.*

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.

### Reprimands

Where the PCC decides that it is appropriate to impose a sanction in relation to a guilty finding, a reprimand is the lowest sanction that can be applied. It may be used in relation to those offences at the lower end of the scale of seriousness, where and where it would be appropriate to mark the conduct or competence as being unacceptable.

This sanction may be considered where the following factors are present (this list is not exhaustive):

- Evidence that the conduct or competence has not seriously affected clients/the public
- Insight into failings
- Genuine expression of regret
- Corrective steps taken
- Previous good disciplinary history

Like all disciplinary orders a reprimand will remain permanently on an architect's record, but only published for one year after the date of sanction.

### Penalty orders

Penalty orders are fines of up to level 4 on the standard scale of fines for summary offences, currently set at £2,500. Only one penalty order can be issued per charge, and under the Act only two charges can be brought (unacceptable professional conduct and/or serious professional incompetence). It may be used in relation to those offences too serious to warrant a reprimand, or where a lack of remorse or understanding is displayed.

This sanction may be considered where the following factors are present (this list is not exhaustive):

- Offence is too serious to warrant a reprimand
- Limited or lack of remorse
- Architect has benefitted financially from the offence

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. A penalty order is published for two years after the date of sanction.

### Suspension orders

A suspension order may be imposed by the PCC for serious offences, but not so grave as to warrant erasure from the Register. 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.

This sanction may be considered where the following factors are present (this list is not exhaustive):

- An offence so serious that a reprimand or penalty order would be insufficient to protect the public or the reputation of the profession
- Behaviour that is not fundamentally incompatible with continuing to be an architect
- No evidence of entrenched integrity issues
- The PCC is satisfied that the behaviour is unlikely to be repeated
- Conduct capable of being rectified
- Non-payment of a previously imposed penalty order

A suspension order is publicised for the period of suspension and a subsequent two years from the date of reinstatement.

#### Erasure orders

An erasure order may be imposed by the PCC for those offences that are so serious that only a permanent removal from the Register will protect the public and/or the reputation of the profession. Erasure from the Register is permanent, though an application may be made to the ARB for re-entry after no less than two years. The PCC may make a recommendation as to a minimum period of time before such an application should be considered.

This sanction may be considered where the following factors are present (this list is not exhaustive):

- A serious criminal offence
- Behaviour that is fundamentally incompatible with continuing to be an architect
- The PCC lacking confidence that a repeat offence will not occur
- Dishonesty or a severe lack of integrity
- A persistent lack of insight into the seriousness of actions or consequences
- Non-payment of a previously imposed penalty order

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 RIBA.] An erasure order is publicised for a period of five years after the date of sanction.

#### Criminal convictions

Architects will be referred to the PCC when they have been convicted of a criminal offence that is relevant to their fitness to practise as an architect. The architect cannot argue the facts of the matter

that led to the conviction, but can make submissions as to why no further or a more lenient sanction should be made by the PCC.

The purpose of a hearing in relation to a conviction is not to punish the architect a second time for the same offence, but to protect the public and maintain the collective reputation of the profession.

‘The reputation of the profession is more important than the fortunes of any individual member’.  
*(Bingham L.R) Bolton v Law Society [1994]*

### Mitigation

The PCC shall have due regard to any evidence presented by way of mitigation by or on behalf of the architect. This could include evidence of a good disciplinary history, remedial steps to prevent the offence reoccurring and an acknowledgement of, and remorse for, his/her behaviour. Testimonials and references should be weighed appropriately against the nature of the offence, and the Committee will give due consideration as to the availability of references.

<b>Mitigating Factors</b>	<b>Aggravating Factors</b>
Isolated incident	Pattern of poor conduct/competence
Little or no damage to others	Substantial loss to clients
Insight into behaviour	Refusal or inability to acknowledge failings
Acted under duress	Failure to engage with the disciplinary process constructively
Contrition and remorse	