

Open session

Board meeting: 20 July 2022

Agenda item: 8

Subject: Publication of PCC disciplinary orders

Action: For decision

Purpose

For the Board to decide on the period for which disciplinary orders issued by the Professional Conduct Committee (PCC) will be marked against an architect's entry on the Register of Architects.

Recommendations

It is recommended that the ARB General Rules are amended with the following inclusion:

14.3 For the purposes of Section 3(2)(a) of the Architects Act 1997, the Register shall show disciplinary orders made in relation to a registered person for the following periods:

i) Where a Reprimand has been imposed, the disciplinary order will be published for one year from the date of the decision of the Professional Conduct Committee

ii) Where a Penalty Order has been imposed, the disciplinary order will be published for two years from the date of decision of the Professional Conduct Committee

iii) Where a Suspension Order has been imposed, the disciplinary order will be published for two years following the end of the period of suspension

iv) Where an Erasure Order has been imposed and the registered person is reinstated to the Register, the disciplinary order will be published until five years has passed from the date of the decision of the Professional Conduct Committee



Author/Key Contact

Simon Howard, Director of Standards

1. Background and Key points

1. Royal Assent for the Building Safety Act (BSA) was granted on 28 April 2022.

1.1. Section 156 of the BSA amends the provisions of section 3 of the Architects Act 1997 to read:

“The Register shall show disciplinary orders made in relation to a registered person for such a period as may be prescribed”

1.2. That statutory requirement came into force on 28 June 2022.

1.3. The purpose of this legislative change is to improve the quality of publicly available information on the Register of Architects. Historically the Register has only been able to show the name, address, registration number and dates of registration. This means it has not been possible to see whether an architect has been found guilty of unacceptable professional conduct or serious professional incompetence by looking at the Register. This change brings the Register of Architects in line with comparable professional statutory registers.

Period of Publication

1.4. Section 15(4) Architects Act gives the PCC the power to publish disciplinary orders it makes against architects as it considers appropriate. The PCC has considered it appropriate for its decisions to be displayed on the ARB website, but decided that it would be against the principles of natural justice for this information to be published in perpetuity. It has therefore adopted a policy where findings and sanctions resulting from PCC hearings are subject to a publications ‘tariff’, depending on seriousness. The more serious the sanction, the longer it will remain published. While information about PCC decisions will always remain in the public domain, it is fair that the architects involved do not have their name attached to a disciplinary finding longer than is necessary for the protection of the public.

1.5. It is recommended that the tariff used to now annotate the Register is consistent with the approach that has been long adopted by the PCC. That tariff will be prescribed into the ARB General Rules; it is set out in the Recommendations section of this paper.

Implementation

1.6. The Register of Architects, available at <http://www.architects-register.org.uk> has a separate entry for each registered architect. The relevant entries will be annotated with a statement detailing the finding of unacceptable professional conduct and/or



serious professional incompetence, the date of the decision, and a link to the finding of the PCC.

- 1.7. While it is not a statutory requirement, ARB will continue to publish PCC decisions separately on its website. This is so that information relating to those architects who have been erased or suspended from the Register will be public – those individuals will not be captured by this legislative change, as they will have no entry on the Register of Architects.

2. Consultation

- 2.1. The recommendations for the publication of disciplinary sanctions were issued for consultation for five weeks, ending 5 July 2022. Because the recommendations are limited to the time for which sanctions are published, rather than the decision to publish (which is required by law), it was agreed by the Board that the minimum consultation period of five weeks would be sufficient.
- 2.2. The consultation received nine responses. Seven consultees are architects, one a chartered architectural technologist, and one member of the public.
- 2.3. Seven (78%) of the consultees agreed that the amount of time that the PCC disciplinary order be marked on an architect's registration should be linked to the severity of the sanction imposed.
- 2.4. One consultee (14%) thought that a publication period of one year was too long for a Reprimand, and 28% thought that a period of two years was too long for those architects issued with a Penalty Order.
- 2.5. One consultee said that for an architect issued with a suspension, a publication period of the suspension plus two years was too short.
- 2.6. One consultee said that rather than having fixed tariffs for publication, there should be discretion for a publication period to be within a range, depending on the context of the individual case.
- 2.7. One consultee said that disciplinary sanctions should be permanently recorded against an architect's name on the Register.
- 2.8. The Board can have confidence that among the limited number of consultees, there was overall support for the proposals.

3. Resource Implications

- 3.1. The cost of amending the online Register to allow future changes to be made compliant with the new law will be £14,850. This will be delivered from within our existing IT budget.

4. Risk implications

- 4.1. This is a statutory obligation, and so to comply with the Act ARB must take steps to publish the information as required. ARB must, however, properly consider what is an appropriate amount of time for PCC decisions to be published, weighing up the public interest against the rights of the architects involved to rehabilitation.
- 4.2. The Board can take assurance from the levels of support received as part of the consultation.

5. Equality and Diversity implication

- 5.1. There have been no positive or adverse impacts identified that the policy might have on any groups or those with any particular protected characteristics.

6. Recommendations

- 6.1 It is recommended that the ARB General Rules are amended with the following inclusion:

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iv) Where an Erasure Order has been imposed and the registered person is reinstated to the Register, the disciplinary order will be published until five years has passed from the date of the decision of the Professional Conduct Committee