



Architects Registration Board

Consultation on proposed amendments to the Investigations Rules and Professional Conduct Committee Rules

Responders:

- | | | |
|-----------|---|---|
| A. | Paul Housego | PCC Chairman |
| B. | Christine Mogridge | Former PCC member |
| C. | Stephen Battersby | Clerk to the PCC |
| D. | Mike Williams | Former PCC Chairman |
| E. | Simon Howard | ARB - Professional Standards Manager |
| F. | Catherine McDonald | Partner at McDonald & Berridge |
| G. | Royal Society of Ulster Architects | |
| H. | Nicola Hill | Solicitor, Clerk to the PCC |
| I. | Michael Wilkey | Worshipful Company of Chartered Architects |
| J. | Ruth Reed | President, RIBA |
| K. | Anonymous | Member of Public and existing complainant |
| L. | Timothy John Beach | RSAW Council Member |
| M. | Robert Johnston | Principal, Robert Johnston Chartered Architect |

Original version	Draft suggested document	Comments Received
<p>The Board shall establish an Investigations Committee to be constituted by any three Board members who are not members of the Professional Conduct Committee and two of whom are Appointed members.</p>	<p>For the purpose of Section 14(1) of the Act the Board shall establish an Investigations Committee constituted of three Board Members and two co-opted members (who need not be Board Members). No member of the Investigations Committee may be a member of the Professional Conduct Committee. Only one of the three Board Members and one of the co-opted members may be Registered Persons.</p>	<ul style="list-style-type: none"> A. No comment made B. No comment made C. Sensible D. No comment made E. No comment made F. No comment made G. Amendment appears reasonable H. Whilst bearing in mind the need for consistency should you take the opportunity to appoint even more so matter move more quickly? <i>(It was considered that an additional two members would suffice)</i> I. No comment made J. None K. No comment made L. We would prefer that Investigations Committee members be Registered Persons in order that the person being investigated is looked at by peers <i>(The lay majority of the Committee</i>

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		<p><i>reflects the make-up of the Board. Lay membership exists to protect the public interest and to remove any public perception of bias)</i></p> <p>M. No comment</p>
New Rule	<p>For the purpose of taking decisions under these Rules the members of the Investigations Committee shall be able to operate as separate Panels provided that any panel of the Investigations Committee shall be made up of a minimum of three members of the Investigations Committee and a majority of members who are not Registered Persons.</p>	<p>A. No comment made</p> <p>B. No comment made</p> <p>C. Sensible</p> <p>D. No comment made</p> <p>E. It is not clear whether decisions of the panel can be reached by majority, or whether the majority decision of the entire Committee is required.</p> <p><i>(Subsequent Rule amended to confirm that decisions can be reached by the majority of the panel)</i></p> <p>F. Not happy about subdividing. There needs to be an overall view <i>(This is believed to be the most expeditious way of dealing with complaints efficiently. The establishment of more flexible panels will assist in the throughput of work)</i></p> <p>G. New rule appears consistent with the structure outlined above</p> <p>H. Agree</p> <p>I. There is no suggested period or</p>

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		<p>time limit for the Committee to make a decision/recommendation <i>(The Committee has time limits to meet as approved by the Board and as set out to all parties to a complaint, it is not believed necessary to detail such time limits in the Rules)</i></p> <p>J. None</p> <p>K. The use of the term ‘Panel’ may cause some ambiguity given the references to an Inquiry Panel in the rules. It may be better to say that” the Investigations Committee shall be quorate in taking a decision under these rules where a minimum of three members are present, a majority of whom are not Registered Persons.” <i>(Proposal considered; however on balance original wording thought to provide greater clarity)</i></p> <p>L. We would be opposed to a Panel that had a majority of members who are not Registered Persons <i>(Dealt with previously)</i></p> <p>M. No comment</p>

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<p>The Committee constituted under paragraph 4 of these Rules considers documentary information in private. Its decisions are by majority.</p>	<p>The Investigations Committee will meet in private and will not receive oral evidence or representations unless it considers that the interests of justice require an exception to made.</p>	<p>A. No comment made B. No comment made C. Gives the opportunity to hear evidence – which I imagine would be very rarely exercised D. No comment made E. No comment made F. Please check your PDF version. This OMITS the word ‘not’. I have not check [sic] the entire PDF. I suggest you do so. <i>(Existing text is correct)</i> G. Amendment appears reasonable H. Should be allowed to hear oral evidence on the rare occasions this would be in the interests of justice I. There is no opportunity for the Committee to inquire of either party as to facts and evidence in the complaint. <i>(The opportunity is provided to the Committee prior to this stage in the Rules)</i> J. None K. It is important in the interests of justice that complainants should have the opportunity to put their case to the Committee in person to ensure that their complaints have been fully understood. There is a</p>

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		<p data-bbox="1562 318 1990 451">danger that the Registrar may misrepresent the complaint and fail adequately to take into account all the substance of the complaint.</p> <p data-bbox="1562 459 1961 557"><i>(This is not considered to be proportionate or appropriate for the Investigations Committee)</i></p> <p data-bbox="1514 565 1969 594">L. All evidence should be considered</p> <p data-bbox="1514 602 1717 631">M. No comment</p>
<p data-bbox="186 711 695 951">The Board shall appoint an Inquiry Panel consisting of not fewer than twelve and not more than twenty Registered Persons. The Registered Persons shall, so far as is practicable, include persons who between them have experience of a wide range of architectural practice and skills.</p>	<p data-bbox="726 711 1409 914">The Board shall appoint an Inquiry Panel consisting of not fewer than six and not more than twelve Registered Persons. The Registered Persons shall, so far as is practicable, include persons who between them have experience of a wide range of architectural practice and skills.</p>	<p data-bbox="1514 711 1703 740">A. Old 12 – 20</p> <p data-bbox="1562 748 1871 846">New 6 – 12 Why smaller if substantial workload?</p> <p data-bbox="1514 854 1793 883">B. No comment made</p> <p data-bbox="1514 891 1969 989">C. I assume that this will be enough. It is not at this stage that hold-ups occur</p> <p data-bbox="1514 997 1793 1026">D. No comment made</p> <p data-bbox="1514 1034 1793 1063">E. No comment made</p> <p data-bbox="1514 1071 1793 1101">F. No comment made</p> <p data-bbox="1514 1109 1990 1373">G. Amendment appears reasonable and more Practical. Inquiry Panel should be sufficiently Robust with a minimum of 6 Register Persons. It might be important that at least 2 have relevant experience in the scale, scope and complexity of the issues being reviewed. This is</p>

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		<p>relevant to the term “wide range of architectural practice & skills”</p> <p>H. Agree. Easier to control</p> <p>I. There is no definition as to the purpose or duties of the Inquiry Panel and to whom they, individually or as a panel, report to, and how long they are permitted to inquire for</p> <p>J. Is there any particular reason why a limit of 12 has been decided?</p> <p>K. The role of the Inquiry Panel needs to be made explicit, as does the trigger for their involvement. The Panel should include those with experience and skills in formal architectural education.</p> <p>L. No comment</p> <p>M. Is a maximum of twelve registered persons sufficient to ensure adequate cover countrywide, taking account of possible local conflicts of interest?</p> <p><i>(After assessing historic workloads it is felt that between 6 and 12 and 12 Inquirers is the appropriate number and would allow for appropriate geographical coverage. The role of the Inquirer</i></p>

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		<p><i>is also mentioned elsewhere in the Rules and further information and instructions are given on a case by case basis.)</i></p>
<p>The members of the Inquiry Panel shall hold office for up to three years, which term may be renewed by the Board.</p>	<p>The members of the Inquiry Panel shall be appointed for up to three years and may thereafter be re-appointed. Any member of the Inquiry Panel whose name ceases to be on the Register of Architects shall thereupon cease to be a member of the Panel.</p>	<p>A. No comment made B. No comment made C. Sensible change D. No comment made E. No comment made F. No comment made G. Amendment appears reasonable. Only members currently on the Register can participate in the Inquiry Panel H. Agree. Sensible I. There is no opportunity for the Committee to inquire of either party as to facts and evidence in the complaint (<i>Inquiries as to facts and evidence take place under Rules 6 and 9</i>) J. None K. No comment made L. No comment M. No comment</p>
<p>New Rule</p>	<p>The appointment of any member of the Inquiry Panel may be terminated by the Board at any time.</p>	<p>A. No comment made B. No comment made C. Useful power to have</p>

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		<p>D. No comment made E. No comment made F. Not happy. Terminated for good reason, and the reason made public G. Termination from the Inquiry Panel must provide written explanation and be subject to appeals process H. Useful I. No comment made J. None K. No comment made L. On what grounds can the appointment of any member of the Inquiry Panel may be terminated by the Board? M. No comment</p> <p><i>(Comments considered and amendment made – will now read “terminated (with reasons given) by the Board at any time”)</i></p>
<p>If it appears to the Registrar, whether as a result of a complaint or otherwise, that a Registered Person may be guilty of unacceptable professional conduct or serious professional incompetence the Registrar shall cause such investigations to be undertaken and such advice to be obtained as the Registrar sees fit and a</p>	<p>Where an allegation is made that a Registered Person is guilty of:</p> <p>a. Unacceptable professional conduct (that is, conduct which falls short of the standard required of a Registered Person); or</p> <p>b. Serious professional incompetence; or it appears to the Registrar that a Registered Person may be so guilty, the Registrar may carry out such</p>	<p>A. No comment made B. No comment made C. Gives useful extra scope to the ARB at the preliminary stage D. No comment made E. No comment made F. No comment made G. Amendment appears reasonable</p>

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<p>report made to the Investigations Committee.</p>	<p>investigations and obtain such advice as the Registrar sees fit and if it then appears to the Registrar that a Registered Person may be so guilty the Registrar shall make a Report to the Investigations Committee.</p>	<p>H. Changing 'shall' to 'may' gives a helpful discretion</p> <p>I. It appears that <u>only</u> the Registrar can make investigations or seek advice whereas this may be thought to be relevant to the Investigations Committee (<i>this is the stage prior to referral to the Committee</i>)</p> <p>J. None</p> <p>K. Where an allegation is made that a Registered Person is guilty of:</p> <ul style="list-style-type: none"> a. Unacceptable professional conduct (that is, conduct which falls short of the standard required of a Registered Person); or b. Serious professional incompetence; <p>or it appears to the Registrar that a Registered Person may be so guilty, the Registrar shall carry out such investigations and obtain such advice as the Registrar reasonably sees fit and if it then appears to the Registrar that a Registered Person may be so guilty the Registrar shall make a Report of the investigations and finding to the Investigations Committee</p>

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		<p>L. No comment</p> <p>M. In my opinion the wording in the original version is better. The statement “a Registered Person <u>may</u> be guilty” in the original version confirms the Investigations Committee’s role in investigating complaints. The revised version may say the same thing by virtue of the wording “or it appears to the Registrar that ...”. Also in the new version the wording “<u>the Registrar may</u> carry out such investigations..” removes the obligation implied in the in the original version in the wording “the Registrar <u>shall</u> cause such investigations...”. <i>(The amended Rule deliberately gives the discretion to the Registrar to reject inappropriate complaints which could not amount to UPC or SPI)</i></p>
<p>The role of the Committee is to decide whether cases referred to it by the Registrar under Rule 6 of these Rules:</p> <ol style="list-style-type: none"> a. require further investigations or advice; or b. require cautionary advice or a recommendation, if appropriate, as to the Registered Person’s 	<p>The Role of the Committee is to decide whether cases referred to it by the Registrar under Rule 6 of these Rules:</p> <ol style="list-style-type: none"> a. shall be referred to the Professional Conduct Committee by way of a Report by the Board’s solicitor; or b. require cautionary advice, if appropriate, as to the Registered Person’s future conduct and/or competence; or 	<p>A. No comment made</p> <p>B. No comment made</p> <p>C. Function of obtaining investigations / advice shifted to the Registrar</p> <p>D. No comment made</p> <p>E. No comment made</p> <p>F. No comment made</p> <p>G. The removal of item A from the original</p>

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<p>future conduct and/or competence;</p> <p>c. should proceed to the Professional Conduct Committee by way of a report by the Board's Solicitor; or</p> <p>d. require no further action</p>	<p>c. require no further action</p>	<p>assumes the information placed in front of the Committee is clear, concise & complete in order that the Committee may decide on a course of action. It might be appropriate to request further information or investigations. The purpose of this amendment appears unclear</p> <p>H. No comment made</p> <p>I. Consideration may be given to an additional opportunity for the investigations committee to obtain initial response from the accused architect based on the alleged misconduct, which opportunity appears only to be available to the accused when advised of a hearing date. Where in the procedure is the accused able to adduce evidence on the case made against him/her where it is referred to the PCC?</p> <p>J. None</p> <p>K. The Role of the Committee is to decide whether cases referred to it by the Registrar under Rule 6 of these Rules:</p> <ul style="list-style-type: none"> a. require further investigation; b. shall be referred to the Professional Conduct Committee by way of a Report by the Board's solicitor; c. require cautionary advice, if appropriate, as to the

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		<p>Registered Person's future conduct and/or competence; or d. require no further action</p> <p>L. No comment</p> <p>M. The omission of the original version subparagraph a. from the draft version appears to remove the obligation of the Investigations Committee to investigate, where appropriate. The draft version appears to allow for a direct route from referral under Rule 6 to referral to the P.C.C. Surely these changes undermine the authority of the Investigations Committee to investigate?</p> <p><i>(Responses agreed and reinstatement made to reinstate "Require further investigations or advice")</i></p>
<p>The Committee will notify the parties in writing of the reasons for a decision that a case should either proceed to the Professional Conduct Committee or requires no further action. Where the Committee has decided that no report should be made to the Professional Conduct Committee it will only reconsider its decision in exceptional cases where it receives substantial and material new evidence.</p>	<p>The Committee will notify the parties in writing of the reasons for a decision reached under Rule 7 of these Rules</p>	<p>A. No comment made</p> <p>B. No comment made</p> <p>C. Loses nothing by becoming more succinct</p> <p>D. No comment made</p> <p>E. No comment made</p> <p>F. No comment made</p> <p>G. This Amendment clarifies the application of Rule 7. However the rule regarding only reconsidering decisions in exceptional</p>

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		<p>circumstances based on substantial new evidence should remain (<i>This has been dealt with previously</i>)</p> <p>H. Agree. Clearer</p> <p>I. Consideration should be given to providing an indication of a time period for this decision to be made within. When are the parties notified of the charge brought against the accused?</p> <p>J. None</p> <p>K. No comment made</p> <p>L. We prefer the additional new material to be allowed</p> <p>M. No comment</p>
<p>In deciding whether or not a case should proceed, the Investigations Committee shall consider whether there is sufficient prospect of a finding of unacceptable professional conduct and/or serious professional incompetence to justify it coming before the Professional Conduct Committee.</p>	<p>In deciding whether or not a case should be referred to the Professional Conduct Committee, the Investigations Committee shall consider whether there is a case to answer taking into account whether the evidence provides a realistic prospect of a finding of unacceptable professional conduct and/or serious professional incompetence and whether it is in the public interest for the case to proceed and a Registered Person's previous conduct.</p>	<p>A. (ref: 'whether it is in the public interest') – Very important addition. Humanity is essential</p> <p>B. No comment made</p> <p>C. Inclusion of "public interest" consideration and antecedents is useful</p> <p>D. No comment made</p> <p>E. No comment made</p> <p>F. No comment made</p> <p>G. The previous conduct of a Registered Person should have no bearing on the case in hand. The original wording is acceptable and should not be changed</p>

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		<p>H. Brings ARB in line with other regulators.</p> <p>I. This is not clear! Is the person's previous conduct to be taken into account by the Investigations Committee? What is the definition or meaning of previous conduct?</p> <p>J. None</p> <p>K. In deciding whether or not a case should be referred to the Professional Conduct Committee, the Investigations Committee shall consider whether there is a case to answer taking into account whether the evidence provides a realistic prospect of a finding of unacceptable professional conduct and/or serious professional incompetence and whether it is in the public interest for the case to proceed and a Registered Person's previous conduct.</p> <p>L. No comment</p> <p>M. Again the draft appears to give the Investigations Committee discretion to determine whether there is evidence of u.p.c and/ or s.p.i. The wording of the original version is better and could be amended to include reference to</p>

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		<p>the 'public interest' and a 'Registered Person's previous conduct'.</p> <p><i>(The varying and contrasting responses to this change were considered; however the new Rule is thought to be the most appropriate)</i></p>
<p>After the Committee has decided that a case should proceed to the Professional Conduct Committee but before the conclusion of the hearing before the Professional Conduct Committee the Registrar, having obtained any necessary permission or direction from the Professional Conduct Committee, may refer the matter back to the Investigations Committee for reconsideration if, on the basis of the advice by the Board's Solicitor or the availability of new evidence or otherwise, the Registrar considers that it is appropriate to do so.</p>	<p>After the Investigations Committee has made a decision under Rule 7 the Registrar may request the Investigations Committee to reconsider its decision if, on the basis of the advice by the Board's Solicitor or the availability of new evidence or otherwise, the Registrar considers that it is appropriate to do so.</p>	<p>A. No comment made</p> <p>B. No comment made</p> <p>C. Again, the tidying up loses nothing</p> <p>D. No comment made</p> <p>E. No comment made</p> <p>F. No comment made</p> <p>G. Amendment appears reasonable</p> <p>H. Easier system, removes need for PCC involvement, gives Registrar greater flexibility which is needed in practice</p> <p><i>I. Is this only on the basis of the Solicitor's advice and or new evidence, or can it be at the sole discretion of the Registrar? (As the words 'or otherwise' indicate, it can be at the sole discretion of the Registrar)</i></p> <p>J. None</p> <p>K. No comment made</p> <p>L. No comment</p> <p>M. No comment</p>

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<p>On a reconsideration the Committee is to decide whether to:</p> <ol style="list-style-type: none"> a. require further investigation or advice; or b. instruct the Board’s Solicitor to proceed on the basis of the report already made; or c. instruct the Board’s Solicitor to apply to the Professional Conduct Committee for such directions as the Investigations Committee considers appropriate in the circumstances 	<p>On a reconsideration the Investigations Committee is to decide whether to:</p> <ol style="list-style-type: none"> a. require further investigation or advice; or b. instruct the Board’s Solicitor to proceed on the basis of the report already made; or c. make a new decision under Rule 7 of these Rules, having instructed the Board’s Solicitor to apply for any necessary permission from the Professional Conduct Committee to amend or withdraw any report previously made. 	<ol style="list-style-type: none"> A. No comment made B. No comment made C. Express reference to power to withdraw is helpful D. No comment made E. No comment made F. No comment made G. Amendment appears reasonable H. Agree I. No comment made J. None K. No comment made L. No comment M. No comment
<p>New Rule to replace insert</p>	<p>Where the Investigations Committee has decided that a case should not be referred to the Professional Conduct Committee, and the complainant or architect is dissatisfied with the process by which that decision has been reached, that person may request a third party review of that process. A request for an independent third party review of process must be made within thirty days of the date of the written notification of the Committee’s decision not to proceed to the Professional Conduct Committee. Upon receipt of a request for a review, the Registrar will appoint an independent third party (“the Reviewer”), who will conduct a review of the process in accordance within the Terms of Reference published by the Board from time to time. The Reviewer will submit a report to the Registrar, who will send it to the Committee and to the relevant parties within the timescale specified. The Committee may</p>	<ol style="list-style-type: none"> A. No comment made B. No comment made C. A useful extra safeguard to protect the consumer D. No comment made E. No comment made F. If a review is requested, but proves in the end no different to the original finding, who pays? Is it right to give people a free ‘second go’. If the requester is not to pay, you should set out the legitimate reasons for having a second go, and refuse those that don’t comply. (Costs are borne by the Board) G. Amendment appears in line with

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	<p>consider its content and decide whether to:</p> <ul style="list-style-type: none"> a. review its decision in light of any deficiency in its process (where it has the power to do so) b. take no further action, giving reasons to the Registrar and relevant parties 	<p>normal appeals process – however the remit and scope on “the reviewer” must be clearly defined. We would suggest the reviewer is restricted to process & protocols as the Investigations Committee is best placed to decide on the technical aspects of any particular case</p> <ul style="list-style-type: none"> H. Agree, useful I. There is no definition as to the qualification of the “Reviewer”. Is he/she a registered person, a member of the public or a member of the Board? J. None K. Where the Investigations Committee has decided that a case should not be referred to the Professional Conduct Committee, and the complainant or architect is dissatisfied with the process by which that decision has been reached, that person may request a third party review of that process. A request for an independent third party review of process must be made within thirty days of the date of the written notification of the Committee’s decision not to

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		<p>proceed to the Professional Conduct Committee. Upon receipt of a request for a review, the Registrar will appoint an independent third party (“the Reviewer”), who will conduct a review of the process in accordance within the Terms of Reference for Third Party Review published by the Board from time to time. The Reviewer will submit a report to the Registrar, who will send it to the Committee and to the relevant parties within the timescale specified. The Committee may consider its content and decide whether to:</p> <ul style="list-style-type: none"> a. review its decision in light of any deficiency in its process (where it has the power to do so) b. take no further action, giving reasons to the Registrar and relevant parties <p>L. Who will the independent third party ‘Reviewer’? How will the independent third party ‘Reviewer’ be selected?</p> <p>M. No comment.</p>

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		<p><i>(Investigation Committee decisions are not the only function undertaken by Third Party Reviewers. Terms of Reference have previously been agreed by the Board and have been published)</i></p>
<p>The Clerk to the Professional Conduct Committee shall at all times attend upon the Committee when sitting in the presence of the Respondent or his or her legal representative and shall provide the Committee with such advice concerning matters of law, practice and procedure (including the powers of the Committee) as it may request or he or she deems necessary.</p>	<p>The Clerk to the Professional Conduct Committee shall at all times attend upon the Committee when sitting in the presence of the Respondent or his or her legal representative and shall provide the Committee with such advice concerning matters of law, practice and procedure (including the powers of the Committee) as it may request or he or she deems necessary. Any such advice given to the Professional Conduct Committee shall be in public in the presence of the parties or if given not in the presence of all of the parties shall be communicated to all of the parties as soon as practicable thereafter.</p>	<ul style="list-style-type: none"> A. Sensible for transparency B. No comment made C. Gives formality to the position as it now is D. No comment made E. No comment made F. No comment made G. Amendment appears reasonable H. Ensures transparency. I do, do this at the moment but is important to have in writing I. No comment made J. None K. No comment made L. No comment M. No comment
<p>Not less than 40 working days before the date of first hearing of a Charge by the Professional Conduct Committee written notice of the date, time and place of the hearing shall be served upon the Defendant. Such notice shall be</p>	<p>Not less than 42 days before the date of first hearing of a Charge by the Professional Conduct Committee written notice of the date, time and place of the hearing shall be served upon the Respondent. Such notice shall be accompanied by:</p>	<ul style="list-style-type: none"> A. No comment made B. No comment made C. Saves calculating “working days” – good idea D. No comment made E. No comment made F. Is 42 days enough? Projects can

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<p>accompanied by:</p> <ul style="list-style-type: none"> (i) a copy of the report; and (ii) a copy of these Rules 	<ul style="list-style-type: none"> i. a copy of the report; and ii. a copy of these Rules 	<p>last for years and involve thousands of documents. Checking drawings, diary entries, e-mails, files takes a lot of time, and the architect may have other duties as well as self defense at ARB. The complainer may have spent months over his/her file. Perhaps 42 days as the norm, with more time if reasonably requested <i>(The timescales set down are considered appropriate and are in line with other Regulators. Adjournments can be sought from the PCC where required</i></p> <ul style="list-style-type: none"> G. Amendment appears reasonable H. Shortens service time thus speeding up process I. The timetable for the period from the date of the complaint to a hearing date is nit [sic] suggested or defined. It would be reasonable for the accused to be given some idea of the period in which this is to be considered. This appears to be the first opportunity the accused has had of seeing the charge, which may allow inadequate time to deal with the defence of the charge J. None

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		K. No comment made L. No comment M. No comment
<p>Within 20 working days of receipt of the notice of hearing referred to in the previous Rule the Defendant shall give to the Board's Solicitor written notice of whether he or she intends to appear at the hearing and, if he or she is to be legally represented, the name and address of his or her legal representative.</p>	<p>Within 14 days of receipt of the notice referred to in the previous Rule the Respondent shall give to the Board's Solicitor written notice of whether he or she intends to appear at the hearing and, if he or she is to be legally represented, the name and address of his or her legal representative and brief particulars of any defence.</p>	A. 21 days would be better B. No comment made C. Puts a bit more pressure on Respondents – but not at all unreasonable D. No comment made E. No comment made F. Why the change from 20 days. People go on holiday, go to hospital etc. G. The Respondents time time [sic] for response has been shortened from 20 days to 14 days yet they must provide additional information in the way of brief particulars of any defence. The original timescale of 20 days should remain unchanged (<i>The details requested within 14 days are the bare minimum necessary to organise the logistics of a hearing</i>) H. Timescale halved but only information is required not full papers so is not unfair to respondent. (<i>In reference to 'brief particulars of any defence'</i>) : What does this mean/involve? What

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		<p>happens if Respondent does not do it?</p> <ul style="list-style-type: none"> I. No comment made J. None K. No comment made L. No comment M. The 14 day requirement, coupled with the requirement to provide brief particulars of defence may be less than fair taking account of a typical Registered Person's workload, holiday commitments and so on.
New Rule	If the Professional Conduct Committee considers the charge(s) proved in the Respondent's absence it may exercise its powers under Section 15 of the Act	<ul style="list-style-type: none"> A. No comment made B. No comment made C. I would use the work 'finds' rather than 'considers' (Amendment made) D. No comment made E. No comment made F. No comment made G. If the Respondent does not appear then a written defense should be considered before exercising powers under Section 15 of the Act H. Good. Allows erasure without adjournments. Good to have in rules I. No comment made J. None

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		K. No comment made L. No comment M. No comment
<p>The burden of proving a charge shall lie upon the Board's Solicitor.</p>	<p>The burden of proving a charge shall lie upon the Board's Solicitor. The Committee shall apply the civil standard of proof.</p>	A. Yes – helpful clarification. Keep the oath. Are you certain it should be balance of probabilities and not beyond reasonable doubt? B. No comment made C. Good to state what the Standard is D. No comment made E. No comment made F. Civil standard? A large change to slip through without discussion. The GMC is still with the criminal standard, as are the lawyers (<i>The PCC adopted the civil standard of proof some time ago to remain in line with both other regulators and High Court guidance</i>) G. Amendment appears reasonable H. Agree. Good I. No comment made J. None K. No comment made L. No comment M. No comment
<p>Upon a finding of guilt or a plea of guilty the Board's Solicitor shall inform the Professional Conduct Committee of any circumstances known, whether adverse or</p>	<p>Upon a finding of guilt of a plea of guilty the Board's Solicitor shall inform the Professional Conduct Committee and the Respondent of any circumstances known, whether adverse or favourable to the Respondent, that might be</p>	A. Helpful B. No comment made C. Sensible D. No comment made

Original version	Draft suggested document	Comments Received
favourable to the Defendant, that might be relevant to any order which the Committee might make under the Act.	relevant to any order which the Committee might make under the Act or if appropriate that there are no such circumstances.	<ul style="list-style-type: none"> E. No comment made F. No comment made G. Amendment appears reasonable H. Agree I. No comment made J. None K. No comment made L. No comment M. No comment
New Rule	The Committee may at any time prior to the provision of the information referred to in sub-paragraph 16(b) above (but not subsequently) permit further representations to be made in relation to its findings and may thereafter reconsider its findings if exceptionally the Committee considers that such representations could not have been made earlier and that it is necessary and appropriate to do so in the interests of justice.	<ul style="list-style-type: none"> A. Review process – sensible B. No comment made C. No comment made D. No comment made E. No comment made F. No comment made G. Amendment appears reasonable H. Agree. I. No comment made J. None K. No comment made L. No comment M. No comment
The Professional Conduct Committee shall, upon the Defendant’s written request, provide the Defendant as soon as practicable after the hearing with written reasons for its decision.	The Professional Conduct Committee shall provide the Respondent with written reasons for its decisions as soon as practicable after the hearing.	<ul style="list-style-type: none"> A. Get reasons every time – yes: for edification of profession B. No comment made C. Which makes it important to get it right and keep it as succinct as possible D. No comment made E. No comment made

Original version	Draft suggested document	Comments Received
		<p>F. Surely if its 42 days for the defendant to prepare his case it should b [sic] 42 days max for the decision</p> <p>G. Amendment appears reasonable</p> <p>H. Good. Duty is on PCC not Respondent as it should be</p> <p>I. No comment made</p> <p>J. None</p> <p>K. No comment made</p> <p>L. No comment</p> <p>M. No comment</p>
New Statement	<p>The Architects Registration Board (ARB) is an inclusive organisation. We actively promote equality of opportunity for everybody who has dealings with us.</p> <p>Any of the Investigations Rules and Professional Conduct Committee Rules may be varied if one of the parties is unable to comply with it due to their race, gender, disability, religion, belief system, sexual orientation or age, and it is in the interests of justice to do so.</p>	<p>A. Nonsense. Just say “we treat everyone fairly”.</p> <p>B. No comment made</p> <p>C. Hard to imagine how parties may be unable to comply with any of the Rules, but I suppose this does need to be added</p> <p>D. No comment made</p> <p>E. No comment made</p> <p>F. No comment made</p> <p>G. Amendment appears reasonable</p> <p>H. Is important to have an equality statement however how would this work in practice? Seems unlikely that an individual would be able to adhere to rules because of reasons listed. May lead to difficulties for ARB.</p>

Original version	Draft suggested document	Comments Received
		I. No comment made J. None K. No comment made L. No comment M. No comment

Responders:

- | | |
|--|---|
| A. Paul Housego | PCC Chairman |
| B. Christine Mogridge | Former PCC member |
| C. Stephen Battersby | Clerk to the PCC |
| D. Mike Williams | Former PCC Chairman |
| E. Simon Howard | ARB - Professional Standards Manager |
| F. Catherine Mcdonald | Partner at Mcdonald & Berridge |
| G. Royal Society of Ulster Architects | |
| H. Nicola Hill | Solicitor, Clerk to the PCC |
| I. Michael Wilkey | Worshipful Company of Chartered Architects |
| J. Ruth Reed | President, RIBA |
| K. Anonymous | Member of Public and existing complainant |
| L. Timothy John Beach | RSAW Council Member |
| M. Robert Johnston | Principal, Robert Johnston Chartered Architect |

1. Is the proposed Investigations & Professional Conduct Committee Rules a clear document?
A. Yes
B. No comment made
C. Yes, certainly clearer than it was before.

D. No comment made

E. No comment made

F. NO. As above, your PDF version is badly presently [sic] and consequently misleading.

G. The proposed Amendments help clarify the document and are welcomed

H. Yes

I. It is not clear of the duties of the Inquiry Panel and of the Reviewer. It is not clear on the timetable of the inquiry period.

J. Yes

K. The role of the Inquiry Panel and triggers for its involvement are not clear. Can it be called upon by the Registrar during the preliminary investigation of a complaint or only if the Investigations Committee sanctions its involvement which appears now to be precluded as the Investigations Committee cannot ask for more evidence. Why is the Registrar the arbiter of certain actions if the Professional Conduct Committee has made a direction?
(Amendment made to proposed Rule)

L. Yes

M. Yes

2. Do you think the Rules are fair and equitable to those involved in the disciplinary process? If not, where would you identify the unfairness as being?

A. Yes: but there is no sanction – some adjournment if Respondent fails to do anything until the last minute.

B. No comment made

C. The thread of fairness to Respondents, very properly, runs through the Rules. The PCC, in any event, is allowed to regulate its own procedures if circumstances demand this.

D. No comment made

E. The current Investigations Rule 10 should be amended. It is not equitable that parties should be given the opportunity to comment on Investigations Committee decision to refer to the PCC or take no further action, but not on a decision to issue cautionary advice. The Rule should allow parties to comment on any ‘preliminary’ decision of the Investigations Committee.

(Amendment made)

F. I find it unfair and inequitable to have an architect without legal representation set against a professional lawyer, and in

particular a Solicitor Advocate. I have seen lawyers make a monkey of defendants and witnesses at the Old Bailey, at a Public Inquiry and at an Arbitration.

I would like to see an open discussion about this, with the possibility of the ARB (via the annual fee) providing funding for such representation. I would like the ARB to provide information on how many cases come up per year, how much would it cost in total to provide this representation, and by how much would this increase the retention fee.

I think the 42 day time limit will in some cases be unfair, and needs reconsideration.

I think the change to the civil standard of proof is unfair and inequitable, as it significantly increases the architect's chances of being found at fault.

I think allowing a free and unrestricted second go to the claimant is unfair and inequitable, as allows the claimant to try again without justified cause. Despite the wording in your document this advantages the claimant only, as no architect will ask for a review if found not to have done anything wrong worthy of scrutiny by the PCC.

I think in principal the ARB should apply the same standards to its own behavior as it does to the parties, and consequently should set a time limit for its decision.

(The Rules cannot provide the answer to whether or not an architect has legal representation. The PCC adopted the civil standard of proof some time ago to remain in line with both other regulators and High Court law. Third party review is available to both architects and complainants)

G. The Rules are fair & equitable however the timetable of responses should not be shortened from 20 days to 14 days considering the requirement to also provide a brief statement of defense. The inclusion of a 3rd party reviewer is welcomed although their remit and powers require further definition and explanation and should be restricted to process and procedure.

(Dealt with previously)

H. Yes. I especially like the change from Defendant to Respondent. Defendant has always felt too 'criminal'.

I. It appears to be unfair on the failure to advise of a timetable and the time for the accused to consider the case against him/her
(Timescales are advised outwith of these Rules)

J. Yes

K. In my experience as a complainant there has been what I consider to be inappropriate and *ultra vires* decision making by Officers of the Board without proper reference to the Investigations Committee. There have also been inappropriate delays with a complaint made in April of 2010 still not having been presented to the Investigations Committee eight months later. In the conduct of the preliminary investigation on behalf of the Registrar, before the requisite report to the Investigations Committee there appears to have been unfair allegiance to the Registered Person against whom the complaint was made, without an impartial evaluation of all the evidence available in the case.

L. An architect being investigated by the Investigations & Professional Conduct Committee should be heard by a majority of fellow Registered Persons, who would have a better understanding of the complaint.
(Dealt with previously)

M. Generally, yes

3. Are any of the proposed amendments to the detriment of the Rules?

A. I don't think so, but.....more expert than I should judge: some 14 days is just not long enough to expect someone to respond.

B. No comment made

C. No

D. No comment made

E. No comment made

F. No comment made

G. The Investigation Committee should still retain the power to request further information/explanation if the case as presented is unclear and therefore difficult to judge
(Amendment made)

H. No.

I. No.

J. None identified

K. Taking away the opportunity for the Investigations Committee to ask for further investigation from the Role of the Committee appears to leave the Inquiry Panel without any trigger to become involved, if it is not specified that the Registrar may call upon them at the earlier preliminary investigation. Clearly the Investigations Committee should have the ability to seek further evidence than that submitted with Registrar's original report, if it deems it necessary.
(Amendment made)

L. No comment

M. I believe that the proposed removal of the obligation to "cause ... investigations to be undertaken" removes an important step in the complaints process
(Amendment made)

4. Are there any omissions which, if included, you feel would be to the benefit of the Rules?

A. Rules do not give any due as to what an Inquirer actually does. IC Rules 8 and 17 are the only reference to the Panel and to an Inquirer.

Shouldn't there be consideration of Respondents paying ARB costs? The Solicitors Disciplinary Tribunal usually orders Solicitors to pay Solicitors Regulatory Authority costs where all charges are found.

(Dealt with previously. Re: Costs, there is nothing in the legislation to allow for this)

B. No comment made

C. PCC Rules 10(b) It may be useful to allow for service upon a Respondent at a home or other address to cover circumstances in which he/she has ceased to practise or otherwise has no business address. If direct service proves impossible to effect, substituted service could be used by advertising the hearing in a suitable publication.

(Noted)

D. No comment made

E. The current PCC Rule 10c should clarify that any decision of the PCC shall stand until a new PCC hearing is convened.

(Amendment made)

F. See above about legal representation for the architect.

G. No further Comment

H. I feel there should be a positive duty on the PCC when passing decision/sanction to advise the Registrant of their right of appeal. This may not need a rule but is worth considering. It could easily be added to the Decision Template.

(Already implemented)

I. Yes. A timetable. Definitions as stated above, inquiry panel, Reviewer etc as outlined above

J. None identified

K. A formal opportunity for a complainant to have a face to face meeting with whomsoever is preparing the Report and an opportunity to review it as a true reflection of the complaint and for its correctness in fact.

(Reports are prepared on a case-by-case basis. It would be inappropriate to include a Rule to prescribe their preparation.)

L. The terms of reference for the independent third party 'Reviewer' need to be included for consideration and comment

M. See 3. above

5. Any further comments

A. Employment Tribunal Rules have provision for a review of decisions. This can be much better than requiring an appeal. The Employment Tribunal (Constitution and Rules of Procedure) Regulations, Schedule 1 might provide a useful precedent. The Judge considers and rejects or orders a review hearing.

PCC Rules 11e and 12 b are both welcome and essential. When I applied to join the PCC, it was not clear to me at all what the standard of proof was to be. Spelling it out is essential.

The equality statement. I really cannot see how someone's sexual orientation has the slightest relevance to the proceedings of the PCC. It is demeaning, in my view, to think it might. I understand entirely that this is a list of prohibited discriminations, but cannot we just say something like 'the procedures may be varied to take account of the circumstances of the individual'?

B. The equality monitoring form; I would say the most important thing was to ensure the monitoring forms were analysed regularly. So often it all went into someone's bottom drawer and stayed there until a crisis arose.

C. No comments made

D. No comment made

E. No comment made

F. No comment made

G. No further Comments

H. No comment made

I. It appears the initial enquiries after a complaint is made in [sic] solely the hands of the Registrar. Consideration may be given to the investigations Committee controlling the inquiries through the inquiry Panel

J. No comment made

K. My personal experience of the current complaints process has not been a happy one and I hope that, before the new Rules are adopted, lessons will be learned to ensure that a Complainant is fairly treated and shown appropriate respect. This needs to be enshrined in the Rules.
I shall be happy to discuss this with you in more detail if you wish to demonstrate your openness and real desire to improve your service to the public.

L. No comment

M. In cases where complaints are vague or unclear (which I suspect may be many of them), it is important that the Investigations Committee decisions in referrals to the P.C.C. should be informed by thorough inquiry. The proposed changes to the rules appear to diminish the obligation to carry out such inquiries and the referral process may then be less transparent than is consistent with good professional governance.