

## Investigations Rules

1. These Rules were made by the Board on DATE 2011 under Section 23 and Part I of the First Schedule to the Architects Act 1997. They came into force on DATE 2011 and replace the Rules made by the Board on 12 February 2004.

### Interpretation

2. In these Rules the following words and phrases shall, except where the contrary intention appears, have the meanings assigned to them below:

Act

The Architects Act 1997;

Appointed Members

Members of the Board appointed pursuant to paragraph 3 of Schedule 1 to the Act;

Board

The Architects Registration Board;

Investigations Committee

The Committee of that name established by the Board;

Inquiry Panel

The Panel of that name appointed under Rule 5;

Inquirer

A member or members of the Inquiry Panel appointed under Rule 5;

Register

The Register of Architects maintained by the Registrar under Section 3 of the Act;

Reviewer

A person appointed by the Registrar, who is independent of the Board, to conduct a third party review of process.

Registered Person

A person whose name is on Part 1 of the Register;

Registrar  
The Registrar of Architects;

Board's Solicitor  
A barrister, advocate or solicitor of that title appointed by the Registrar.

3. The Interpretation Act 1978 applies to these Rules as if they were an Act of Parliament.

### **The Investigations Committee**

4.
  - a. 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.
  - b. The Chairman of the Investigations Committee shall be an Appointed Member of the Board.
  - c. 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.
  - d. 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 be made.
  - e. The Investigations Committee's decisions shall be by majority.

### **The Inquiry Panel**

5.
  - a. 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.
  - b. 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.
  - c. The Board may, in accordance with such rates as it may from time to time fix, pay attendance fees and reimburse the members of the Inquiry Panel for any reasonable travelling and subsistence expenses they have incurred in respect of their duties under these Rules.

- d. The appointment of any member of the Inquiry Panel may be terminated by the Board at any time.

### **Action by the Registrar**

6. Where an allegation is made that a Registered Person is guilty of:
  - a. Unacceptable professional conduct (that is, conduct which falls short of the standard required of a Registered Person); or
  - b. Serious professional incompetence;  
or it appears to the Registrar that a Registered Person may be so guilty, the Registrar may carry out such 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.

### **Action by the Investigations Committee**

7. The role of the Committee is to decide whether cases referred to it by the Registrar under Rule 6 of these Rules:
  - 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
  - c. require no further action.
8. If the Committee, before it reaches a decision, considers that further investigation or advice is required it will give appropriate directions to the Registrar including, where appropriate, instructions to be given on its behalf to a member of the Inquiry Panel or the Board's Solicitor.
9. Before deciding that a case should be referred to the Professional Conduct Committee, or that it requires no further action, the Investigations Committee will, as appropriate, invite written representations from the Registered Person in relation to whom a case is being considered and any complainant (the parties).
10. The Committee will notify the parties in writing of the reasons for a decision reached under Rule 7 of these Rules.
11. 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.

### **Action in respect of a criminal conviction**

12. If it appears to the Registrar that a Registered Person has been convicted of a criminal offence, which has a material relevance to the fitness of that Person to practise as an architect, the Registrar shall (if necessary) cause the facts to be investigated, and a report made to the Professional Conduct Committee.

### **Investigation Rules**

13. 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.
14. On a reconsideration the Investigations Committee is to decide whether to:
  - 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.
15. Where a case is reconsidered after a report has been made to the Professional Conduct Committee no decision of the Investigations Committee shall bind the Professional Conduct Committee.

### **Third Party Review**

16. 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 consider its content and decide whether to:
  - 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

### **Powers of the Registrar and of an Inquirer and of the Board's Solicitor**

- 17. Under these Rules the Registrar, an Inquirer or the Board's Solicitor shall each have power to call upon any Registered Person to produce such information, books, papers, records and plans as they consider necessary for discharging their functions under these Rules and to permit the inspection of such information, books, papers, records and plans at the business premises of the Registered Person and, where necessary to permit any copying (at the Board's expense); and every Registered Person must promptly, fully and frankly comply with any requirement made upon him or her under this Rule. This requirement shall not apply to any information in relation to which the Registered Person is entitled to legal professional privilege or the disclosure of which would constitute an offence.

### **Reports to the Professional Conduct Committee**

- 18. A report to the Professional Conduct Committee under Rule 7 shall set out the relevant facts and incorporate:
  - i. a charge that a Registered Person is guilty of unacceptable professional conduct and/or serious professional incompetence, accompanied by a copy of any written statement or other document or plan that it is intended to adduce against him or her, together with the name and address of any witness whom it is intended to call in person before the Committee and a summary of what that witness is expected to say; or, as the case may be;
  - ii. a charge that a Registered Person has been convicted of a criminal offence, other than an offence which has no material relevance to his or her fitness to practise as an architect, accompanied by a certificate or other evidence of the conviction.

Unless specified otherwise, the General Rules of the Board shall apply to the Investigations Committee

# Professional Conduct Committee Rules

These Rules were made by the Board on DATE under Section 23 and Part I of the First Schedule to the Architects Act 1997. They came into force on 1 January 2011 and replace the Rules made by the Board on 12 February 2004.

## Interpretation

1. In these Rules the following words and phrases shall, except where the contrary intention appears, have the meanings assigned to them below:

Act

The Architects Act 1997;

Board

The Architects Registration Board;

Charge

The Charge in a report;

Clerk to the Professional Conduct Committee

A barrister or solicitor of that title appointed by the Registrar;

Respondent

A Registered Person charged before the Professional Conduct Committee of being guilty of unacceptable professional conduct and/or serious professional incompetence or with having been convicted of a criminal offence other than an offence which has no material relevance to his or her fitness to practise as an architect, or his or her legal representative;

Investigations Committee

The Committee of that name appointed under the Investigations Rules;

Professional Conduct Committee

The Committee of that name appointed under Part II of the First Schedule to the Act or the members of that Committee designated under Rule 5 of these Rules;

Register

The Register of Architects maintained by the Registrar under Section 3 of the Act;

Registered Person

A person whose name is on Part 1 of the Register;

Registrar  
The Registrar of Architects;

Board's Solicitor  
A barrister, advocate or solicitor of that title appointed by the Registrar;

Working Day  
Any day except Saturday and Sunday and any day on which the offices of the Board are closed to normal business.

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

### **The Professional Conduct Committee**

3.
  - a. Members of the Professional Conduct Committee shall hold office for three years, which term may be renewed. Any Board member of the Professional Conduct Committee who ceases to be a member of the Board shall thereupon cease to be a member of the Committee.
  - b. The Board may, in accordance with such rates of allowances as it may from time to time fix, pay attendance fees to and reimburse the members of the Professional Conduct Committee for any travelling and subsistence expenses they have incurred in respect of attendance at meetings of the Committee.

### **Action upon receiving a report**

4.
  - a. Upon receiving a report the Chairman of the Professional Conduct Committee shall designate three or more members of the Committee to hear the Charge. If the Chairman of the Committee does not designate himself or herself, he or she shall appoint one of the members to act as the Chairman for the purpose of the hearing.
  - b. No member of the Professional Conduct Committee who was a member of the Investigations Committee when it considered the conduct of a Registered Person shall be designated to hear a Charge against that person arising out of that consideration.
  - c. If at any time the Chairman of the Professional Conduct Committee is of opinion that it is for any reason impracticable for the hearing of a Charge to be completed by the members designated the Chairman may designate further members to hear that Charge afresh.
  - d. If a Charge is re-heard pursuant to the previous paragraph, any of the members originally designated may be designated again.

- e. 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.

### **Notice of the hearing**

- 5.
  - a. 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:
    - i. a copy of the report; and
    - ii. a copy of these Rules
  - b. In the case of a Charge arising out of a complaint a copy of the notice shall be sent to the person who made the complaint informing him that he or she may attend the hearing.

### **Respondent's response**

- 6. 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.
- 7. If the Respondent intends to plead not guilty then not less than 14 days before the date set for the hearing the Respondent shall serve upon the Board's Solicitor:
  - a. particulars of the defence;
  - b. a copy of any written statement or other document or plan that he or she intends to adduce in evidence at the hearing;
  - c. the name and address of any witness whom he or she intends to call in person before the Committee and a summary of what that witness is expected to say.

Such notice may be given by being sent by letter addressed to the Board's Solicitor at the registered offices of the Board or at any other address given for this purpose in the notice served under Rule 6 of these Rules.



## Adjournment

8.
  - a. At the request of the Respondent or the Board's Solicitor or at his or her own volition the Clerk to the Professional Conduct Committee may at any time before or during proceedings adjourn the hearing of a Charge, if the Clerk is of opinion that it is in the interests of justice to do so. Written notice of the date, time and place of the adjourned hearing shall be served upon the Respondent.
  - b. If a copy of the notice of the original hearing was sent to a person who made a complaint a copy of the notice of the adjourned hearing shall be sent to that person also.

## Pre-trial directions

9. At the request of the Board's Solicitor or a Respondent or at his or her own volition the Clerk to the Professional Conduct Committee may give such interlocutory directions for the just, expeditious and economical disposal of the case as the Clerk sees fit, so, however, that the effects of the directions are not contrary to the Act or unfair to the Respondent.

## Non-appearance of the Respondent

10.
  - a. If the Respondent fails to appear in person or by his or her legal representative at a hearing or adjourned hearing of a Charge the Professional Conduct Committee may, if satisfied that the Respondent has been given an adequate opportunity to appear before the Committee to argue his or her case and has provided no sufficient reason for non attendance, hear the case in the Respondent's absence.
  - b. 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
  - c. A notice under this Rule or under Rules 6 or 8 of these Rules may be served by being sent by post to the Respondent's regular business address (that is, to the address entered in the Register in accordance with Section 3 of the Act), or to the address of his or her legal representative.
  - d. At any time within 28 days of the sending of notice of the decision of the Professional Conduct Committee a Respondent who has neither attended nor been represented at the hearing of his or her case may apply to the Professional Conduct Committee for a rehearing by a sworn statement or affirmation setting out the facts and exhibiting medical or other evidence upon which he or she wishes to rely. If the Professional Conduct Committee is satisfied that the Registered Person has not had

in the circumstances an adequate opportunity to appear before the Committee to argue his or her case and that it is just to do so, it may direct a re-hearing upon such terms as it thinks appropriate. The Chairman of the Committee shall designate three members to hear the Charge(s) none of whom had conducted the previous hearing.

### **Evidence and proof**

11.
  - a. The Professional Conduct Committee shall not be bound by the judicial rules of evidence but may receive such oral, documentary and other evidence as appears to it to be relevant to the case, provided that the Committee shall not receive evidence that would not be admissible in a court of law if it would be unjust to the Respondent so to do.
  - b. Neither party shall, without the consent of the other or the permission of the Professional Conduct Committee, 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.
  - c. Subject to the provisions of any enactment or rule of law, the evidence of a witness in person shall be given on oath.
  - d. In determining whether a charge of unacceptable professional conduct or serious professional incompetence has been proved the Professional Conduct Committee shall take into account any failure by the Respondent to comply with any provision of the Code of Professional Conduct and Practice issued by the Board under Section 13 of the Act.
  - e. The burden of proving a charge shall lie upon the Board's Solicitor. The Committee shall apply the civil standard of proof.

### **Variations of these Rules**

12.
  - a. Provided that the proceedings are fair to the Respondent and not contrary to the Act:
    - i. no objection shall be upheld to any technical fault in the charge or the proceedings; and
    - ii. the Professional Conduct Committee may vary any provision of Rules 14-16 of these Rules.
  - b. The Professional Conduct Committee may permit the amendment of a Charge, but if such an amendment is permitted and the Respondent has been materially misled he or she shall be entitled to an adjournment.

## **Joinder**

13. Except where it appears to it that it would not be in the interests of justice to do so, the Professional Conduct Committee may hear Charges against two or more Respondents at the same time and two or more Charges against a Registered Person at the same time.

## **Plea**

14.
  - a. The proceedings shall begin by the Respondent, if present, being asked whether he or she pleads guilty or not guilty to the Charge.
  - b. If the Respondent is not legally represented he or she may first be asked whether he or she admits all or any of the facts alleged in the report.

## **Order of proceedings on a plea of not guilty etc**

15.
  - a. This Rule prescribes the order of proceedings upon a plea of not guilty or if the Professional Conduct Committee is proceeding under Rule 10 of these Rules in the absence of the Respondent and his or her legal representative.
  - b. The hearing shall begin by the Board's Solicitor outlining the case against the Respondent and calling any witness in person and producing any other evidence.
  - c. After the evidence against the Respondent has been called the Respondent shall be entitled to submit that he or she has no case to answer. The Board's Solicitor shall be entitled to respond to such a submission. If such a submission is upheld the Professional Conduct Committee shall dismiss the Charge. If it is not, the proceedings shall continue as set out below.
  - d. The Respondent shall then be entitled to call any witness, give evidence on his or her own behalf and adduce any other evidence.
  - e. The Board's Solicitor shall then be entitled to call witnesses and adduce evidence in rebuttal of any part of the defence case.
  - f. After calling any witness in person and adducing any evidence the Respondent may address the Committee.
  - g. Any witness called in person by a party may be cross-examined by the other party and, if cross-examined, re-examined by the party calling him.
  - h. The Professional Conduct Committee shall, as soon as practicable after the conclusion of the hearing, announce whether it finds the Respondent guilty or not guilty.

## **Procedures on a plea of guilty and after a finding of guilt**

16.
  - a. Upon a plea of guilty the Board's Solicitor shall inform the Professional Conduct Committee of the case against the Respondent in accordance with his or her instructions.
  - b. Upon a finding of guilt or 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 relevant to any order which the Committee might make under the Act or if appropriate that there are no such circumstances.
  - c. If on a plea of guilty the Respondent's version of the facts is in the opinion of the Professional Conduct Committee significantly different from that presented by the Board's Solicitor the Chairman shall invite the parties to call evidence to resolve the issue.
  - d. The Respondent shall be entitled to address the Professional Conduct Committee in mitigation of penalty and for this purpose may call witnesses and adduce evidence.
  - e. The Board's Solicitor shall be entitled to respond to an address in mitigation and to cross-examine any witness called in person in mitigation only:
    - i. at the request of the Committee;
    - ii. in order to correct any contested statement of fact; or
    - iii. on the subject of the Committee's powers.
  - f. The Committee shall thereupon consider whether and, if so, how to exercise its powers under Section 15 of the Act and shall announce any penalty or other order as soon as practicable thereafter.
  - g. 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.

## **Public hearing**

17.
  - a. A hearing of the Professional Conduct Committee shall be conducted in public unless, in the interests of justice or for other reason specified in Article 6 of the European Convention of Human Rights and Fundamental Freedoms, the Committee directs that all or part of the hearing shall be conducted in private.
  - b. An application that all or part of a hearing shall be conducted in private shall be heard in private.

- c. If the Committee makes a direction that a hearing shall be conducted in private the direction shall be strictly confined to so much of the hearing as is necessary for the reason referred to in paragraph a. of this Rule.

### **Recording**

- 18. A recording shall be made of the proceedings before the Professional Conduct Committee and a transcript of such recording shall be provided to the Respondent upon his or her written request and on receipt of the costs thereof.

### **Reasons**

- 19. The Professional Conduct Committee shall provide the Respondent with written reasons for its decisions as soon as practicable after the hearing.

### **Equality Statement**

The Architects Registration Board (ARB) is an inclusive organisation. We actively promote equality of opportunity for everybody who has dealings with us.

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.