

## Response Form - Consultation



Architects Registration Board

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

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#### Response from:

(Name)  
(Job Title)  
(Organisation)  
(Postal address)  
(email address)

Please complete and return to Architects Registration Board, 8 Weymouth Street, London W1W 5BU, by 5pm on Wednesday 1 December 2010.

This response form is also available to complete electronically at [www.arb.org.uk](http://www.arb.org.uk) and may be submitted by email to [simonh@arb.org.uk](mailto:simonh@arb.org.uk).

Responses may also be returned by fax to 020 7436 5269

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Architects Registration Board

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<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>	
<p>New Rule</p>	<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>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 be made.</p>	
<p>The Board shall appoint an Inquiry Panel consisting of not fewer than twelve and not more than twenty Registered</p>	<p>Persons. 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</p>	

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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.	practicable, include persons who between them have experience of a wide range of architectural practice and skills.	
The members of the Inquiry Panel shall hold office for up to three years, which term may be renewed by the Board.	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.	
New Rule	The appointment of any member of the Inquiry Panel may be terminated by the Board at any time.	
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 report made to the Investigations Committee.	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.	
The role of the Committee is to decide whether cases referred to it by the Registrar under Rule 6 of these Rules: a. require further investigations or advice; or b. require cautionary advice or a	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	

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<p>recommendation, if appropriate, as to the Registered Person's 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>b. require cautionary advice, if appropriate, as to the Registered Person's future conduct and/or competence; or</p> <p>c. require no further action</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>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>After the Committee has decided that a case should proceed to the Professional</p>	<p>under Rule 7 the Registrar may request the</p>	

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<p>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>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>On a reconsideration the Committee is to decide whether to:</p> <ul style="list-style-type: none"> <li>a. require further investigation or advice; or</li> <li>b. instruct the Board’s Solicitor to proceed on the basis of the report already made; or</li> <li>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</li> </ul>	<p>On a reconsideration the Investigations Committee is to decide whether to:</p> <ul style="list-style-type: none"> <li>a. require further investigation or advice; or</li> <li>b. instruct the Board’s Solicitor to proceed on the basis of the report already made; or</li> <li>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.</li> </ul>	
<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</p>	

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	<p>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:</p> <ul style="list-style-type: none"> <li>a. review its decision in light of any deficiency in its process (where it has the power to do so)</li> <li>b. take no further action, giving reasons to the Registrar and relevant parties</li> </ul>	
<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>	

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<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 accompanied by:</p> <p>(i) a copy of the report; and (ii) a copy of these Rules</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> <p>i. a copy of the report; and ii. a copy of these Rules</p>	
<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>	
<p>New Rule</p>	<p>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</p>	
<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>	
<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</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</p>	

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or favourable to the Defendant, that might be relevant to any order which the Committee might make under the Act.	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.	
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.	
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.	
New 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.	



Architects Registration Board

## Consultation Questions

We would welcome your general views, specifically in response to the following questions:

<b>1. Is the proposed Investigations &amp; Professional Conduct Committee Rules a clear document?</b>
<b>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?</b>

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

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

**5. Any further comments**