

## Investigations Rules

1. These Rules were made by the Board on ~~[20 July 2012]~~ under Section 23 and Part III of the First Schedule to the Architects Act 1997. They came into force on ~~[1 January 2013]~~ and replace the Rules made by the Board on ~~20 July 2012~~ ~~20 January 2011~~.

### Interpretation

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

“the Act” means the Architects Act 1997;

“Appointed Members” are non-architect members of the Board appointed pursuant to paragraph 3 of Schedule 1 to the Act;

“Board” means the Architects Registration Board;

“Expert Advisor” means a person instructed pursuant to Rule 8 to provide expert advice considered relevant to any investigation

“Investigations Panel ” means the Panel of that name appointed under Rule 4(c);

~~“Inquiry Panel” means the Panel of that name appointed under Rule 5;~~

“Inquirer” means a person ~~member or members of the Inquiry Panel~~ appointed under Rule 5;

“Register” means Part 1 of the Register of Architects established under the Act. It excludes any architect who is registered in Part 2 of the Register or on the list of visiting EEA architects;

“the Reviewer” is a person appointed by the Registrar, who is independent of the Board, to conduct a third party review of process;

“Registered Person” is a person whose name is on Part 1 of the Register;

“the Registrar” is the person appointed by the Board as the Registrar of Architects;

“the Investigations Secretary” is the employee of the Board appointed by the Registrar to act in that role from time to time

~~“the Presenterthe Board’s Solicitor”~~ is a person (who need not be legally qualified) ~~barrister, advocate or solicitor~~ of that title appointed by the Registrar including a person appointed in substitution for a person previously appointed.

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

### Persons appointed to investigate under section 14(1) of the Act

4.
  - (a) The Board will appoint a minimum of six persons (“Investigations Pool Members”) from time to time as eligible to be persons appointed to Investigations Panels for the purpose of section 14(1) of the Act.
  - (b) Investigations Pool Members shall include both persons who are Registered and persons who are not. No person who is a member of the Board or the Professional Conduct Committee may be an Investigations Pool Member.
  - (c) Subject to Rule 6 the Investigations Secretary will appoint either three or five Investigations Pool Members to form an Investigations Panel in respect of each case in relation to which investigation is required under Section 14(1) of the Act. The Investigations Secretary may appoint additional or replacement Investigations Pool Members to any Panel at any time but not so that the number of Panel members exceeds five.
  - (d) Each Investigations Panel will contain at least one Investigations Pool Member who is a Registered Person and a majority of Investigations Pool Members who are not Registered Persons. The Investigations Secretary will designate for each Panel one of its number to serve as its Chairman.
  - (e) Each Investigations Panel will meet in private and not receive oral representations or evidence unless exceptionally it is necessary in the interests of justice to do so.
  - (f) The decisions of each Investigations Panel will be by majority and it will not be required for members of the Panel to deliberate in each other’s presence unless Panel members consider it necessary to do so.

### Inquirers~~The Inquiry Panel~~

5.
  - a.—~~The Registrar may (in consultation with the Investigations Panel) appoint an Inquirer drawn from a Panel of persons constituted for that purpose. 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 (with reasons given) 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 pursuant to section 14(1) of the Act 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 refer the matter to an Investigations Panel.

### Action by the Investigations Panel

7. The role of the Investigations Panel is to decide whether cases referred to it by the Registrar under Rule 6 of these Rules:
  - a. require further investigation or advice; or
  - b. shall be referred to the Professional Conduct Committee by way of a report by the ~~Board's Solicitor~~Presenter; or
  - c. require cautionary advice, if appropriate, as to the Registered Person's future conduct and/or competence; or
  - d. require no further action.
8. If the Investigations Panel, before it reaches a decision, considers that further investigation or advice is required it will give appropriate directions to the Registrar including, where appropriate, for instructions to be given on its behalf to an Inquirer, a member of the Inquiry Panel or the Board's Solicitor~~Presenter~~, or to an Expert Advisor.
9. Before finalising its decision under Rule 7, the Investigations Panel will, as appropriate, invite written representations from the Registered Person in relation to whom a case is being considered and any complainant (the parties). Where it considers it appropriate to do so, the Investigations Panel may (in accordance with criteria set out in guidance published by the

Board) make a preliminary decision in relation to the matter set out in Rule 7. Any preliminary decision shall be provided to the Registered Person and any complainant with an invitation to submit written representations or further representations to be taken into account before a final decision is made.

10. The Investigations Panel 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 Panel 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.

#### **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.

#### **Reconsideration**

13. Any decision ~~or provisional decision~~ of the Investigations Panel either following consideration or reconsideration shall be reconsidered by it if the Registrar requests such a reconsideration. Such a request shall be made in writing on the basis of advice by the ~~Board's solicitor~~ Presenter or the availability of new evidence. A decision of the Investigations Panel shall be deemed provisional and not a decision within section 14(2) of the Act until a report to the Professional Conduct Committee has been made.

14. On a reconsideration the Investigations Panel is to decide whether the case being reconsidered:

- a. requires further investigation or advice; or
- b. shall be referred to the Professional Conduct Committee by way of a report by the ~~Board's solicitor~~ Presenter; or
- c. (if a report to the Professional Conduct Committee has already been made) a further report to the Professional Conduct Committee should be made by the ~~Board's Solicitor~~ Presenter or that no further report should be made; or
- d. requires cautionary advice, if appropriate, as to the Registered Person's future conduct and/or competence; or
- e. requires no further action

15. Any further report to the Professional Conduct Committee shall indicate the result of the reconsideration and any changes in the Investigations Committee's view of the case to be answered by the Respondent. Following receipt of a further report the ClerkChair to the Professional Conduct Committee may make such directions under Professional Conduct Committee Rule 10 as he or she considers appropriate.

### **Third Party Review**

16. Where the Investigations Panel 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 30 days of the date of the written notification of the Investigations Panel'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 Investigations Panel and to the relevant parties within the timescale specified. The Investigations Panel 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); or
  - 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 SolicitorPresenter**

17. Under these Rules the Registrar, an Inquirer or the Board's SolicitorPresenter 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 them 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:
  - a. 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 them, 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;
  - b. a charge that a Registered Person has been convicted of a criminal offence, other than an offence which has no material relevance to their fitness to practise as an architect, accompanied by a certificate or other evidence of the conviction

**Transitional provision**

19. These Rules shall apply to any business of the Investigations Panels which takes place on or after these rules came into force.

**Professional Conduct Committee Rules**

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

**Interpretation**

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

"the Act" means the Architects Act 1997;

"Board" means the Architects Registration Board;

"Charge" means the charge of unacceptable professional conduct, serious professional incompetence or of conviction of a criminal offence other than an offence which has no material relevance to fitness to practise as an architect, in a report of the ~~Board's~~ Solicitor/Presenter;

~~"Clerk to the Professional Conduct Committee" is a barrister or solicitor of that title appointed by the Registrar;~~

"Consent Order" means the final order made when a Consent Order Panel has decided to approve a Proposed Consent Order.

"Form A" means the form of a Proposed Consent Order and a Consent order, as appended to these Rules.

"Hearing Panel" means the members of the Professional Conduct Committee designated by the Chairman under Rule 5.a.(i) to consider a Charge against a Respondent at a Professional Conduct Committee hearing.

"Proposed Consent Order" means a document in "Form A" which sets out terms upon which the ~~Board's Solicitor/Presenter~~ proposes that a Charge which is the subject of a report to the Professional Conduct Committee may be settled with the consent of the Respondent, and must include:

- (i) a statement as to the facts;
- (ii) a statement as to the act or acts of unacceptable professional conduct or serious professional incompetence, or details of or the conviction which has material relevance to fitness to practise as an architect;
- (iii) the terms of any disciplinary order to be imposed and the reasons therefor
- (iv) confirmation that the Respondent has been offered the opportunity to argue his case at a hearing before a Hearing Panel, but does not wish to do so

**"Consent Order Panel"** means the three members of the Professional Conduct Committee designated by the Chairman under Rule 5.a.(ii) to consider a Proposed Consent Order

"Respondent" is a Registered Person charged before the Professional Conduct Committee with 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 their fitness to practise as an architect, or their legal representative;

"Investigations Panel" has the same meaning as under the Investigations Rules;

"Professional Conduct Committee" means 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 4 of these Rules;

"Chairman" is a person elected by the Professional Conduct Committee under Part II of the First Schedule to the Architects Act 1997;

"Register" means Part 1 of the Register of Architects established under the Act. It excludes any architect who is registered in Part 2 of the Register or in the list of visiting EEA architects;

"Registered Person" is a person whose name is on Part 1 of the Register;

"the Registrar" is the person appointed by the Board as the Registrar of Architects;

"the Presenter" is a person (who need not be legally qualified) of that title appointed by the Registrar.

~~"the Board's Solicitor" is a barrister, advocate or solicitor of that title appointed by the Registrar.~~

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

**The Professional Conduct Committee**

4.
  - 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**

5.
  - a. Upon receiving a report the Chair~~man~~ of the Professional Conduct Committee shall designate:
    - (i) three or more members of the Professional Conduct Committee as a Hearing Panel to consider the Charge at a hearing. If the Chair~~man~~ of the Committee does not designate himself or herself, he or she shall appoint one of the members to act as the Chair~~man~~ for the purpose of the hearing. A further report shall be dealt with by the members designated in relation to the previous report;
    - (ii) three further members of the Professional Conduct Committee as a Consent Order Panel to consider any Proposed Consent Order in relation to that Charge
  - b. No member of the Professional Conduct Committee who was a member of the Investigations Pool when it considered the conduct of a Registered Person shall be designated either as a member of a Hearing Panel or as a member of a Consent Order Panel to consider a Charge against that person arising out of the consideration by the Investigations Pool.
  - c. No member of the Professional Conduct Committee appointed to a Consent Order Panel to consider a Proposed Consent Order shall be designated to a Hearing Panel to consider the same matter at a hearing.
  - d. If at any time the Chair~~man~~ 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. This is subject to paragraph c.

- e. If a Charge is re-heard pursuant to the previous paragraph, any of the members originally designated may be designated again.

~~The Clerk to the Professional Conduct Committee shall at all times attend upon a Hearing Panel when sitting in the presence of the Respondent or his or her legal representative and shall provide the Hearing Panel with such advice concerning matters of law, practice and procedure (including the powers of the Hearing Panel) as it may request or he or she deems necessary. Any such advice given to the a Hearing Panel 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

6.
  - a. Not less than 492 days before the date of first hearing of a Charge by the Hearing Panel 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.
  - c. The provision of any further report shall be in accordance with directions made under Rule 10

#### Respondent's response

7. Within 2114 days of receipt of the notice referred to in the previous Rule the Respondent shall give to the ~~Board's Solicitor~~ Presenter 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.

[8] The Presenter shall not less than 35 days before the date set for the hearing serve upon the Respondent or his or her legal representative:

- a. a copy of any written statement or other document or plan (which has not previously been provided) that he or she intends to adduce in evidence at the hearing;
- b. the name and address of any witness whom he or she intends to call in person before the Hearing Panel and a summary of what that witness is expected to say.

8. If the Respondent intends to plead not guilty then not less than 21 days before the date set for the hearing the Respondent shall serve upon the ~~Board's Solicitor~~Presenter:
- 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 Hearing Panel 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~~Presenter 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

- 9.
- a. The Hearing Panel (or the ~~Clerk~~Chair ~~to of the Hearing Panel or of the Professional Conduct Committee~~ ~~the Professional Conduct Committee~~ on a day prior to the relevant hearing) may adjourn any hearing at any time if they consider that it is appropriate 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

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

11. The Chair may direct that the parties partake in a case-management meeting, each party having previously given such written notice as may be directed of any applications a party wishes to make or directions proposed including directions which are proposed by agreement between the parties.

12. Either party may apply to the Chair of the Hearing Panel for permission to adduce expert evidence but expert evidence shall be restricted to that which is reasonably required to resolve the proceedings. No expert evidence may be adduced without permission. Any expert shall have an overriding duty to the Hearing Panel and it will be their duty to help the

Panel on matters within their expertise. This duty overrides any obligation to the person from whom experts have received instructions or by whom they are paid. The Chair shall give directions as to the provision of a written report to the other party, any evidence in reply and the giving of oral evidence.

### **Non-appearance of the Respondent**

131.

- 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 Hearing Panel may, if satisfied that the Respondent has been given an adequate opportunity to appear before the Hearing Panel 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 Hearing Panel 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 Hearing Panel 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 Hearing Panel 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 Professional Conduct Committee shall designate three members to hear the Charge(s) none of whom had conducted the previous hearing, or been part of a Review Panel in relation to the case. Any decision of the Hearing Panel shall stand until a new hearing is convened.

### **Evidence and proof**

142.

- a. The Hearing Panel 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 Hearing Panel 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 Hearing Panel, 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.

~~e.d.~~ In determining whether a charge of unacceptable professional conduct or serious professional incompetence has been proved the Hearing Panel 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.e.~~ The burden of proving a charge shall lie upon the ~~Board's Solicitor~~ Presenter. The Hearing Panel shall apply the civil standard of proof.

### Variations of these Rules

~~153.~~

- 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 Hearing Panel may vary any provision of Rules 14-16 of these Rules.
- b. The Hearing Panel may permit the amendment of a Charge, but if such an amendment is permitted and the Respondent has been materially ~~mised-prejudiced~~ he or she shall be entitled to an adjournment.

### Joinder

~~164.~~ Except where it appears to it that it would not be in the interests of justice to do so, the Hearing Panel 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

~~175.~~

- 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.

~~186.~~

- a. This Rule prescribes the order of proceedings upon a plea of not guilty or if the Hearing Panel 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~~Presenter 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~~Presenter shall be entitled to respond to such a submission. If such a submission is upheld the Professional Conduct Committee Hearing Panel 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~~Presenter shall then be entitled to call witnesses and adduce evidence in rebuttal of any part of the defence case.

~~After calling any witness in person and adducing any evidence the Respondent may address the Hearing Panel.~~

- f. 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.

g. Following the conclusion of the evidence the Presenter followed by the Respondent shall be invited to make closing submissions

- ~~g-h.~~\_\_\_\_\_ The Hearing Panel 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**

197.

- a. Upon a plea of guilty the ~~Board's Solicitor~~Presenter shall inform the Hearing Panel 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~~Presenter shall inform the Hearing Panel and the Respondent of any circumstances known, whether adverse or favourable to the Respondent, that might be relevant to any order which the Hearing Panel 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 Hearing Panel significantly different from that presented by the ~~Board's Solicitor~~Presenter the Chair~~man~~ shall invite the parties to call evidence to resolve the issue.

- d. The Respondent shall be entitled to address the Hearing Panel in mitigation of penalty and for this purpose may call witnesses and adduce evidence.
- e. The ~~Board's Solicitor~~Presenter 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 Hearing Panel;
  - ii. in order to correct any contested statement of fact; or
  - iii. on the subject of the Hearing Panel's powers.
- f. The Hearing Panel 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 Hearing Panel may at any time prior to the provision of the information referred to in sub-paragraph 17(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 Hearing Panel 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

~~2018.~~

- 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 Hearing Panel 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

21. A recording shall be made of the proceedings of a Hearing Panel and a [copy or](#) transcript of such recording shall be provided to the Respondent upon his or her written request and on receipt of the costs thereof.

#### Reasons

~~220.~~The Hearing Panel shall provide the Respondent with written reasons for its decisions as soon as practicable after the hearing.

## Consent Orders

231. At any time after a report has been served upon the Respondent in accordance with Rule 6 but not less than 42 days before the date fixed for the hearing of the Charge, the ~~Board's Solicitor~~Presenter may serve on the Respondent a Proposed Consent Order in Form A setting out terms upon which it is proposed that the case may be concluded with the consent of the Respondent.

242. The Respondent may within 14 days of the date when the Proposed Consent Order was sent to him or her (subject to any extension of time agreed in writing by the ~~Board's Solicitor~~Presenter), confirm in writing to the ~~Board's Solicitor~~Presenter:

(a) that the Respondent accepts the matters set out in the Proposed Consent Order and agrees to the terms of disciplinary order, if any, therein; and

(b) that he or she does not require the opportunity to argue his or her case at a hearing before the Professional Conduct Committee.

253. Where the Respondent does not confirm within 14 days his or her consent to the Proposed Consent Order in accordance with Rule 22, the Proposed Consent Order will be regarded as withdrawn and the case must proceed to be considered at a hearing in accordance with the procedure in Rules 8-20.

264. Where the Respondent has given the consent referred to in Rule 22, the ~~Board's Solicitor~~Presenter must refer the Proposed Consent Order to the Consent Order Panel.

275. The Consent Order Panel must make such arrangements as it considers appropriate to decide whether to approve or reject the Proposed Consent Order, provided that:

- (i). such arrangements must not involve a hearing in the presence of the parties;
- (ii). such arrangements need not require the members of the Consent Order Panel to deliberate in each other's presence, unless they consider it necessary to do so;

(iii).the Consent Order Panel must consider and reach its decision in relation to the Proposed Consent Order within 21 days of receipt.

~~286~~. In deciding whether to approve or reject the Proposed Consent Order the Consent Order Panel must have regard to its powers under Section 15 of the Act and the public interest.

~~297~~. The decision of the Consent Order Panel is to be by majority vote.

~~3028~~. Where a majority of the Consent Order Panel does not approve the Proposed Consent Order, it will be regarded as rejected and will not be effective.

~~3129~~. As soon as reasonably practicable after reaching its decision the Consent Order Panel must inform the ~~Board's Solicitor~~Presenter and the Respondent of its decision in writing.

~~320~~. Where Rule 23 (Proposed Consent Order not consented to by the Respondent) or Rule 28 (Proposed Consent Order rejected by the Consent Order Panel) apply the Charge must proceed to be considered by a Hearing Panel at a hearing, in accordance with the provisions of Rules 8 to 20 of these Rules.

~~331~~. Where Rule 23 or Rule 28 apply, the terms of the Proposed Consent Order and any discussions relating to it between the ~~Board's Solicitor~~Presenter and the Respondent shall remain confidential and shall not be made known to the Hearing Panel designated to hear the Charge under Rule 5a(i), nor to any subsequent hearing panel appointed to hear the Charge [unless the Respondent chooses to bring it to its attention]

~~342~~. A Consent Order, including any disciplinary order made, will be published in accordance with the Board's usual arrangements for publication, unless the Consent Order Panel expressly determines otherwise.

**Transitional provision**

35. These Rules shall not apply to proceedings in which a Report under Rule 7 is made before the date on which these rules came into force and those proceedings shall be subject to the Professional Conduct Committee Rules which came into force on 1 January 2015 as if they had not been revoked.



## 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.

**Confidential**

**Architects Registration Board**

**Professional Conduct Committee**

**Form A - Proposed Consent Order**

In respect of the charge[s] against **[name of Respondent]**:

**[Name of Respondent]:**

- a. accepts the facts and matters set out below and consents to the Consent Order Panel of the Professional Conduct Committee making a disciplinary order against **[him/her]** in the terms set out below;
- b. confirms that s/he has been offered the opportunity to appear before a Hearing Panel of the Professional Conduct Committee to present **[his/her]** case, but does not wish to do so.

**The Architects Registration Board** accepts the facts and matters set out below and consents to the Professional Conduct Committee making a disciplinary against **[name of Respondent]** in the terms set out below:

1. The Allegation[s]:
2. Statement of agreed facts:
3. Statement as to **[unacceptable professional conduct, professional incompetence, conviction for a criminal offence with material relevance to fitness to practise as an architect]**:

The Consent Order Panel of the Professional Conduct Committee, with the consent of the parties and having taken account of its responsibilities to protect the public and maintain the reputation of the profession, makes the following disciplinary order:

Board Meeting  
19 July 2018  
| Open Session

**[Set out the Disciplinary Order and reason]**

Signed \_\_\_\_\_ (Consent Order Panel Chair)

Date \_\_\_\_\_

Signed \_\_\_\_\_ (Respondent )

Date \_\_\_\_\_

Signed \_\_\_\_\_ (on behalf of the Architects Registration Board)

Date \_\_\_\_\_