



Subject Changes to the Investigations and PCC Rules
Purpose For Decision
From Simon Howard, Head of Professional Standards

If you have any enquiries on this paper, please contact Simon Howard at simonh@arb.org.uk or on 020 7580 5861

1. Summary

Section 14 Architects Act 1997 sets out ARB's statutory obligations for dealing with allegations of unacceptable professional conduct and serious professional incompetence against architects. The Investigations and Professional Conduct Rules ("the Rules") detail the how those obligations are to be met.

Following a review of the Rules by the Investigations Oversight Committee (IOC) and the Board, it was provisionally agreed that a number of changes should be made to the procedures, and that these changes should be consulted on.

The Board is now being asked to consider the consultation responses and decide what changes should be made to the Rules.

2. Recommendations

It is recommended that the Board agrees to the revised Investigations and Professional Conduct Committee Rules at [Annex B](#).

3. Open Session

4. Contribution to the Board's Purpose and Objectives

To manage the organisation's finances prudently whilst delivering ARB's statutory requirements and objectives.

5. Background

- i. At its meeting of 19 July 2018 the Board agreed in principle to the following recommendations arising from the Section 14 Review:

- 1. Appoint expert architects to assist with the investigation of complaints about architects at all stages of the investigation process;*

- 2. Investigations Panels should continue in their constitution and practice;*

- 3. Investigations Rules should be amended to give the Investigations Panel the discretion of whether it will issue a preliminary or final decision. Guidance to be written which sets out the criteria that will be applied when using that discretion;*

4. No in-house lawyer should be employed to prepare and/or present PCC reports at this stage, but that further consideration will be given to the appointment of a lawyer to the staff team at a later date;

5. Rules should be amended to allow ARB staff to prepare reports for the PCC;

6. Rules should be amended to remove the requirement for a Clerk, and transfer the necessary powers to the PCC Chair;

7. Rules should be amended to

i) extend the earliest date of hearing from 42 to 49 days

ii) extend the period for receiving the respondent's defence from 14 to 21 days prior to the hearing; and

iii) allow for the PCC Chair to require the parties to engage in a case-management meeting;

8. Rules should be amended to give both the ARB and the architect the opportunity to make closing submissions at the conclusion of the evidence

- ii. The Board instructed that the draft amended rules be consulted on.

Third Party Review

- iii. Subsequent to the July Board meeting it was noted that Investigations Rule 16 contained an error, in that it stated that an application for a Third Party Review will be accepted, regardless of whether it meets the criteria for acceptance. That anomaly has been rectified in the amended rules. The change was included in the consultation.

Consultation

- iv. Consultation documents were sent out to those on our standard consultation list, including the architectural professional bodies. A link to the consultation was also included in the eBulletin sent out to the profession, and on the front page of our website.
- v. There were three responses to the consultation. The consultation responses, together with ARB staff comments, are at [Annex A](#). This level of response is consistent with previous attempts to engage the profession and others in the intricacies of our disciplinary procedures.
- vi. Two responses were from the PCC Clerks, who hold the position which is set to be deleted under the new rules. The remaining response was from the Association of Consultant Architects.
- vii. None of the consultees raised any serious objections to the proposed changes. The two Clerks did however highlight that it may be advantageous to retain the ability to appoint a clerk for a particular hearing.
- viii. This issue has already been considered by the Board and the IOC. The view taken was that if the Clerk was felt to be an important role, then it should be retained in

all cases. It was no longer considered to be a sufficiently important role, given that the Chairs are all legally qualified. To appoint a Clerk only in some cases would increase ambiguity and complexity.

6. Resource implications

It is anticipated that the changes to the Rules may eventually result in an annual saving in the region of £60,000. This would be the saving made as a result of not paying a Clerk to the PCC (and including the offset of additional costs in relation to PCC Chair time and greater use of Inquirers). As the proposed changes will be rolled out through 2019 (depending on the date the case was referred to the PCC), the true extent of the savings will not be realised until 2020 and beyond.

New PCC appointments will need to be made in September 2019. Given the increased importance of having highly competent legally qualified chairs, a detailed benchmarking exercise will take place before we recruit, to ensure our pay-rates are competitive.

7. Risk Implications

The risks in respect of these recommendations were considered in some detail at the July Board meeting.

8. Communication

ARB is committed to dealing with allegations against architects fairly and promptly. It is important that we review and update our procedures regularly, so as to ensure they remain fit for purpose.

9. Equality and Diversity Implications

An Equality Assessment has been carried out on the proposed changes. That Assessment did not identify any adverse impacts the new policies may have on any party with protected characteristics, so long as the ARB case-officer assuming some of the duties of the Clerk is properly trained.

The Assessment did identify potentially positive impacts of appointing an Inquirer at an early stage, which may assist those complainants who have difficulty in articulating what can be complex architectural issues.

10. Further Actions

Subject to the Board's agreement to the new Rules, they will be put in place to be effective from 1 February 2019. New guidance will be published and new Inquirers appointed. The new Professional Conduct Committee rules will only impact on those cases referred to the PCC after February 2019, meaning that in practice they will not come into force until late spring.