



# ARB's Investigations Rules

**Draft for consultation**

**Architects Registration Board**

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**arb** Architects  
Registration  
Board

# Investigations Rules

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## **1. Commencement**

- 1.1 These rules shall be known as the 'Architects Registration Board Investigation Rules' and are made under sections 14 and 23 and Part III of Schedule 1 to the Architects Act 1997.
- 1.2 They came into force on [DATE] and subject to rule 10 replace the Investigations Rules made by the Board on 9 February 2022.

## **2. Interpretation**

- 2.1 In these Rules the words and phrases below shall, except where the contrary intention appears, have the following meanings:

“the Act” means the Architects Act 1997;

“ARB” means the Architects Registration Board;

“the Board” means persons designated under Part I of Schedule 1 of the Act;

"Case Examiner" means a Lay or Registrant Case Examiner appointed by the Registrar for the purpose of exercising functions under section 14(1) and (2) of the Act and "Case Examiners" means the Lay and Registrant Case Examiners to whom a matter is referred under rule 3.3(b) and includes any replacement or additional Case Examiner appointed by the Registrar;

“the Case Presenter” is a person appointed by the Registrar to present a Charge to the Professional Conduct Committee on behalf of ARB;

“Charge” is a charge to be heard before the Professional Conduct Committee of unacceptable professional conduct or serious unprofessional incompetence or that the Registered Person has been convicted of a relevant criminal offence;

"the former Investigations Rules" means the Investigations Rules made by the Board on 9 February 2022;

“Lay” means a person other than a Registered Person or a person who has ever been a Registered Person;

“Register” means the Register of Architects established under section 3 the Act;

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

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

“relevant criminal offence” means a criminal offence which has a material relevance to the fitness of a Registered Person to practise as an architect;

“referrer” is a person who refers a matter to the Registrar for the purposes of section 14(1) of the Act;

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

### **3. Preliminary Investigation**

- 3.1 Where matters are brought to the attention of the Registrar that there may be an allegation of unacceptable professional conduct or serious professional incompetence of a Registered Person, the Registrar may:
- (a) carry out such preliminary investigations as are appropriate for the purposes of section 14(1) of the Act;
  - (b) obtain such advice as they see fit.
- 3.2 Unless the Registrar decides to take no further action upon receipt of matters brought to their attention under rule 3.1 they shall inform the Registered Person of the matters brought to their attention and offer them an opportunity to make written representations.
- 3.3 Following the opportunity to provide representations under rule 3.2, the Registrar may:
- (a) take no further action;
  - (b) refer the matter to the Case Examiners.

### **4. Consideration by Case Examiners**

- 4.1 Where the Registrar has referred a matter to the Case Examiners under rule 3.3(b):
- (a) it shall be considered by one Lay Case Examiner and one Registrant Case Examiner; and
  - (b) the Case Examiners shall decide whether there is a case to answer.
- 4.2 In determining whether there is a case to answer, the Case Examiners shall consider whether there is a realistic prospect of:
- (a) such facts as are material being proven on the balance of probabilities; and
  - (b) a finding of unacceptable professional conduct or serious professional incompetence being made by the Professional Conduct Committee.
- 4.3 If the Case Examiners consider that investigation or advice additional to that obtained under rule 3.1 is required, they shall give a direction to that effect to the Registrar.
- 4.4 Before determining whether there is a case to answer, the Case Examiners may invite written representations from:
- (a) the Registered Person;
  - (b) the referrer;
  - (c) the Registrar.

- 4.5 Where the Case Examiners are minded to decide there is a case to answer and to refer the matter to the Professional Conduct Committee they shall:
- (a) direct the Registrar to instruct a Case Presenter to prepare a draft report to the Professional Conduct Committee; and
  - (b) subject to rule 4.6 and any amendments they wish to make to the draft report, refer the matter to the Professional Conduct Committee.
- 4.6 Where a Case Presenter forms the view that the matter should be considered further by the Case Examiners, whether on account of new evidence or for any other reason, they shall write to the Case Examiners, copying the Registered Person who shall have an opportunity to comment before the Case Examiners consider the matter further.
- 4.7 A copy of the final report to the Professional Conduct Committee shall be provided to the Registered Person.
- 4.8 Where the Case Examiners are minded to decide there is no case to answer they:
- (a) may propose to give advice as to the Registered Person's future conduct or performance; and
  - (b) shall notify the Registered Person and the referrer, if any, including any proposed advice.
- 4.9 Where there is no request for an Internal Review under rule 6, the Case Examiners shall finalise their decision under rule 4.8 and notify:
- (a) the Registered Person; and
  - (b) the referrer.
- 4.10 If the Case Examiners fail to agree on a decision under rule 4, the Registrar shall appoint a third Case Examiner and the decision shall be taken by majority.

## **5. Request for information from a Registered Person**

- 5.1 The Case Examiners or the Registrar may make a request for a Registered Person to supply any information or document which appears relevant, including facilitating inspection of such at the Registered Person's business premises.
- 5.2 The Registered Person shall, subject to rule 5.3, comply with a request under rule 5.1.
- 5.3 Rule 5.2 shall not apply to any information to which the Registered Person is entitled to legal professional privilege or the disclosure of which would be unlawful.

## **6. Internal Review**

- 6.1 Where a referrer or Registered Person receive notice under rule 4.8(b), and they consider there have been deficiencies in the process leading to that notice, they may request an Internal Review of the process leading to the notice.

- 6.2 Such a request must be made in writing to the Registrar within 28 days of the date of the notice under rule 4.8(b) and upon receipt the Registrar shall consider whether to commence an Internal Review.
- 6.3 The Registrar shall commence an Internal Review where:
- (a) the request clearly identifies the alleged deficiencies in the process; and
  - (b) they consider those alleged deficiencies may, if upheld, reasonably lead the Case Examiners to decide to refer the matter to the Professional Conduct Committee.
- 6.4 Where an internal review is commenced under rule 6.3 and upheld the Registrar shall notify the Case Examiners of the outcome of the Internal Review.
- 6.5 Where upon notification under rule 6.4, the Case Examiners are:
- (a) minded to decide that there is case to answer, they shall direct the Registrar to instruct a Case Presenter to draft a report under rule 4.5(a); or
  - (b) of the view that there is no case to answer, they shall finalise their decision in accordance with rule 4.9.

## **7. Further Review**

- 7.1 Following the finalisation of a decision under rule 4.9, all or part of that decision may be reviewed by the Registrar where they have reason to believe:
- (a) the decision may be materially flawed wholly or partly; or
  - (b) there is new information which may have led, wholly or partly, to a different decision,
- but only where the Registrar considers such a review is necessary in the public interest.
- 7.2 The Registrar shall not, save in exceptional circumstances, commence a review of all or part of a decision specified in rule 7.1 more than two years after it was made.
- 7.3 Where the Registrar decides to conduct a review under rule 7.1, they shall:
- (a) notify the Registered Person and referrer of the decision to review and the reasons for that decision;
  - (b) notify the Registered Person and referrer of any new information and, where appropriate, provide them with that information;
  - (c) invite representations from the Registered Person and referrer.
- 7.4 Where the Registrar concludes that all or part of the decision being reviewed under rule 7.1 was materially flawed or that there is new information which could have led to a different decision, they may refer the matter for reconsideration by the Case Examiners under rule 4.

7.5 Where the Registrar has reviewed all or part of a decision under rule 7.1, they shall notify the following of the decision under rule 7.4:

- (a) the Registered Person;
- (b) the referrer.

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

8.1 If it appears to the Registrar that a Registered Person has been convicted of a relevant criminal offence they shall:

- (a) where necessary, carry out an investigation into the relevant facts;
- (b) refer the matter to the Professional Conduct Committee by way of a report from a Case Presenter, copied to the Registered Person.

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

9.1 A report to the Professional Conduct Committee shall contain:

- (a) the Charge;
- (b) a copy of any evidence that is intended to be adduced against the Registered Person;
- (c) the name of any witness whom it is intended to call in person before the Committee; and
- (d) where the Charge relates to a relevant criminal offence, a certificate or other evidence of the conviction.

## **10. Transitional Provision**

10.1 Where a relevant criminal offence, allegation of unacceptable professional conduct or allegation of serious professional incompetence has come to the attention of the Registrar before the date on which these rules come into force:

- (a) the matters shall be investigated under rule 6 or 23 of the former Investigations Rules as if they had not been revoked;
- (b) where the matters have not been referred to an Investigations Panel under rule 6(d) of the former Investigations Rules, they may be referred to the Case Examiners under rule 3.3(b) of these Rules;
- (c) where a relevant criminal offence has not been referred by the Registrar under rule 23(b) of the former Investigations Rules, it may be referred to the Professional Conduct Committee under rule 8.1(b) of these Rules.

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