

# RULES OF THE PROFESSIONAL CONDUCT COMMITTEE

**Date:** 20 December 2018  
**By:** The Registration Body of the RIAI

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## **1. Introduction**

- 1.1. The Professional Conduct Committee (the “PCC”) is established pursuant to section 23 of the Building Control Act 2007 (the “Act”). Any person may complain to the PCC concerning an action of an architect which is alleged to amount to professional misconduct or poor professional performance.
- 1.2. Section 61 (3) of the Act entitles the Registration Body of the Royal Institute of the Architects of Ireland (the “RIAI”), to make rules for facilitating and carrying out its functions and the functions of the other boards and committees provided for under the Act. This document contains the rules for the time being for the PCC. Where there is a conflict between these rules and the provisions of the Act, the provisions of the Act shall take precedence.

## **2. Membership and General**

- 2.1. The PCC comprises a Chairperson and 11 ordinary members, 5 of whom are nominated for appointment by the RIAI, and 5 of whom are not architects and are nominated for appointment by the Minister for Housing Planning and Local Government. The remaining member is also not an architect and is nominated for appointment by the Minister for Housing, Planning and Local Government with the consent of, the Minister for Business Enterprise and Innovation. The Chairperson of the PCC shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court or Supreme Court and is appointed by the Minister for Housing, Planning and Local Government with the consent of the Minister for Business, Enterprise and Innovation.

- 2.2. The PCC shall in the exercise or performance of its powers, duties or functions, under Part 6 of the Act have regard to safeguarding the public interest and maintaining the reputation of the profession of architecture.
- 2.3. The term of office of members of the PCC shall be for a period of 3 years unless the member dies or resigns in writing during that time. A member shall not serve for more than two consecutive terms of office. Where a member, other than the Chairperson, dies or resigns, a casual vacancy arises which may be filled in accordance with section 70(4)(b) of the Act.
- 2.4. Meetings of the PCC will be held in private unless the Chairperson directs otherwise and only in exceptional circumstances.
- 2.5. Proceedings of or communications to or by the PCC in the course of any meeting of the PCC and opinions, findings, reports and decisions of the PCC made in the exercise or performance of its powers, duties or functions, under Part 6 of the Act, shall in any action for defamation, be absolutely privileged.
- 2.6. Any member of the PCC who is a party to a complaint shall take not part in any meetings of the PCC relating to that complaint.
- 2.7. It shall be compulsory for all members of the PCC to declare any conflicts of interest in relation to all complaints before the PCC. The Chairperson will consider any such conflict and make a decision as to the member's future involvement in any particular matter in which there is a conflict. All Committee members must comply with the "General Provisions" set down in section 6 of the Rules for Registration which address conduct of board members, removal of board members and the handling of correspondence.
- 2.8. Members of the PCC shall keep confidential all matters arising in consideration of a complaint, save for those matters that are in the public domain or are otherwise disclosed to them. Members of the PCC are not permitted to disclose or discuss any matters relating to a complaint with any members of the public or media or any other parties, save to staff of the RIAI or any professional advisors to the PCC or in the context of court proceedings concerning a decision of the PCC.
- 2.9. Neither the PCC nor the RIAI shall be liable for costs incurred by the Complainant or the Architect in taking legal or other advice on the complaint, or availing of legal or other representation or the costs of any witness engaged by them in respect of the complaint.
- 2.10. The PCC has no authority or jurisdiction to award costs. The Complainant and Architect are each responsible for their own costs.
- 2.11. A member of the RIAI executive shall be assigned to the position of Secretary to the PCC. The Secretary shall answer enquiries about complaints and inform the Complainant and the Architect on the practice and procedure of the PCC.
- 2.12. The Secretary shall, in consultation with the Chairperson, arrange dates of meetings and prepare all necessary papers for circulation to members of the PCC. The Secretary shall attend all meetings of the PCC and record the minutes of the meeting.
- 2.13. For the avoidance of doubt a reference to a meeting of the PCC includes any meeting at Investigation, Inquiry and Sanction stage.

- 2.14. All complaints should be made in writing and signed by the Complainant. In so far as it is possible, complaints should be submitted on the RIAI Fitness to Practice Complaint Form. All complaints, comments, observations, submissions or responses should be addressed to the Secretary to the PCC and marked *Private and Confidential*.
- 2.15. Where, in the opinion of the Secretary, the complaint or any comments, observations, submissions or responses provided are not in an appropriate format the Secretary may return the complaint or any comments, observations, submissions or responses to the Complainant or the Architect for resubmission. The Secretary should explain why in its opinion it is not in an appropriate format. If a Complainant or Architect confirms in writing that they do not wish to resubmit the complaint or any comments, observations, submissions or responses the Secretary shall proceed using the documents in the format originally provided.
- 2.16. Any reference to 'working day' in these Rules means a day that is not a Saturday, Sunday or public holiday and does not include any day falling between Christmas Eve and the first working day of the New Year.
- 2.17. The Architect shall be provided with a complete copy of the complaint made against them and invited to make a written response in relation to it within 15 working days of receipt of the complaint or such longer period as may be decided by the Chairperson. The complaint shall be sent to the Architect by prepaid registered post to the Architect's address as stated in the register.
- 2.18. The Complainant may then be sent the Architect's response for consideration and if the Complainant wishes to submit comments and observations they should do so within 15 working days. Any comments and observations submitted by the Complainant may then be sent to the Architect for their consideration with a request to submit written responses within 15 working days.
- 2.19. Both the Complainant and the Architect may apply in writing to the Chairperson for an extension of time in which make any comments, observations, written response or any other written submissions to the PCC. The Chairperson may unilaterally grant an extension of time to the Complainant or the Architect but in any case shall inform both the Complainant and the Architect of the grant of extension of time.
- 2.20. The PCC may perform its functions whether or not there is a vacancy in its ordinary membership and none of its proceedings are invalidated by any defect in the appointment of a member to it. For the avoidance of doubt this provision does not apply when the position of Chairperson is vacant.
- 2.21. There shall be three stages in the PCC Fitness to Practise complaint process, namely an Investigation Stage, an Inquiry Stage and a Sanction Stage.
- 2.22. The quorum of a sitting of the PCC is 6, the majority of which shall be non-architects. There may be reckoned for the purposes of that majority the Chairperson of the Committee if they are present at the meeting.
- 2.23. The opinions, findings and decisions of the PCC shall be by majority with the Chairperson having the casting vote. No reference shall be made to any minority view in any written opinion, finding or decision.
- 2.24. The Chairperson may require a legal assessor be present for any meeting or hearing.

- 2.25. The PCC is an independent statutory committee. The RIAI provides secretarial support to the PCC. Any correspondence received by the RIAI relating to fitness to practice complaints or the administration of the PCC process may be forwarded to the PCC for its review and consideration.
- 2.26. In exceptional circumstances the Secretary may, after consultation with the Chairperson and with the Chairperson's agreement, withhold from a Complainant or an Architect, in accordance with fair procedures, any correspondence submitted to it which it believes is immaterial, irrelevant, or scandalous or may unnecessarily delay or obfuscate the matter at issue.

### **3. The Investigation Stage**

- 3.1. The meetings of the PCC at Investigation Stage shall be held in private.
- 3.2. The PCC shall consider the complaint together with the written comments, observations, submissions or responses of both the Complainant and the Architect.
- 3.3. Where the PCC is of the opinion that clarification or additional information is required to enable it to reach an opinion on whether a *prima facie* case has been established it may request either the Complainant or the Architect or both to provide it with such clarification or additional information.
- 3.4. The PCC shall decide whether the complaint is false, frivolous or vexatious. Where the PCC is of the opinion that the complaint is false, frivolous or vexatious it shall not proceed any further.
- 3.5. Where the PCC is of the opinion that the complaint is not false, frivolous or vexatious, it will proceed to consider whether a *prima facie* case has been established for referral to an Inquiry. In forming an opinion as to whether a *prima facie* case has been established the PCC shall consider whether the allegations giving rise to the complaint could be proven at an Inquiry and if proven could those allegations amount to an adverse finding against the Architect and if the complaint meets the threshold of seriousness required for referral to an Inquiry. If the PCC considers that the complaint is serious and that the allegations could be proven at an inquiry and if proven they could amount to an adverse finding against the Architect then a *prima facie* case has been established.
- 3.6. Where the PCC is of the opinion that a *prima facie* case has not been established, it shall prepare a report containing its written opinion. The report shall be provided to the Complainant, the Architect and the Registrar and the PCC shall not proceed any further.
- 3.7. There is no right of appeal to the Appeals Board against an opinion of the PCC at the Investigation Stage.
- 3.8. Where the PCC is of the opinion that a *prima facie* case has been established the PCC may, where it considers it appropriate, request the Complainant and the Architect to seek resolution of the complaint by mediation by a person appointed pursuant to the RIAI Rules for Mediation. If the Complainant and the Architect consent to such mediation being conducted the Secretary shall make the required arrangements.
- 3.9. Where the Mediator informs the PCC that the mediation has resolved the complaint and a written agreement has been signed by both the Complainant and the Architect the PCC shall consider the complaint closed and have no further involvement in the matter.
- 3.10. Where the Mediator informs the PCC that the mediation has not resolved the complaint, the PCC shall refer the complaint to Inquiry.
- 3.11. Where the PCC is of the opinion that a *prima facie* case has been established it shall prepare a report containing its written opinion. The report shall be provided to the Complainant, Architect and the Registrar.

3.12. Where in connection with a matter that is the subject matter of a complaint made to the PCC:

- (a) Civil proceedings have been commenced; or
- (b) The PCC is of the opinion that there is a reasonable likelihood of civil proceedings being instituted; and

in either case it is reasonable for the PCC to assume that those civil proceedings or threat of civil proceedings may constrain the ability of a Complainant or an Architect to submit comments, observations, submissions or responses within the fitness to practice complaints process or to rebut any allegation made against them, the PCC may adjourn its Investigation pending the determination of those proceedings.

In forming any such opinion the PCC shall have regard to safeguarding the public interest and maintaining the reputation of the profession of architecture.

3.13 Where civil proceedings or criminal proceedings have been commenced in connection with a matter that is the subject of a complaint to the PCC and have not been finally determined; and the PCC considers that in those proceedings it is likely that the court will determine an issue relevant to or concerning such complaint the PCC may adjourn its investigation pending the determination of those proceedings.

3.14 Proceedings shall not be regarded as finally determined for the purposes of rules 3.12 and 3.13 until any appeal, rehearing, retrial or other related proceeding has been determined.

#### **4. The Inquiry Stage**

- 4.1. Where the PCC is of the opinion that a *prima facie* case has been established the Chairperson shall notify the Complainant, the Architect and the Registrar of the following:
  - (a) The date;
  - (b) The time;
  - (c) The place for the hearing; and
  - (d) The details of the nature of the complaint.
- 4.2. The Notice of Inquiry shall be sent to the Architect by prepaid registered post to the address recorded in the Register for the Architect. The Notice of Inquiry shall inform the Architect of their right to be legally represented at the Inquiry Hearing.
- 4.3. Within 15 working days of receipt of the Notice of Inquiry, or such longer period as may be decided by the Chairperson, the Architect is requested to give to the Registrar written notice of whether they intend to appear at the Inquiry Hearing and, if they are to be legally represented, the name and address of their legal representative.

#### **5. The Registrar**

- 5.1. At the Inquiry the case against the Architect will be presented to the PCC by the Registrar or by a legal representative on behalf of the Registrar.
- 5.2. The Registrar does not act for or represent the Complainant at the Inquiry.
- 5.3. At the Inquiry the Registrar or its legal representative shall be entitled to call an expert witness or witnesses to give evidence to the PCC.

## **6. The Inquiry Hearing**

- 6.1. Inquiry hearings shall be held in private unless in exceptional circumstances where the Chairperson may rule otherwise.
- 6.2. The proceedings at an Inquiry hearing shall be recorded.
- 6.3. The PCC has the powers, rights and privileges vested in the High Court or a judge thereof in hearing an action for the purposes of:
  - (a) enforcing the attendance of witnesses and examining them on oath or otherwise; and
  - (b) compelling the production of documents; anda summons signed by the Chairperson shall be sufficient validation of same.
- 6.4. Where a person summoned by the Chairperson to attend before an Inquiry hearing or to produce a document:
  - (a) makes a default in attending;
  - (b) fails or refuses to produce a document that is within that person's power to produce; or
  - (c) refuses to take an oath or refuses to answer a question which the PCC may lawfully ask,that person shall be guilty of an offence under section 57(7) of the Act and shall be liable, on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.
- 6.5. If the Architect or their legal representative fails to appear in person at an Inquiry Hearing, the PCC, may, if satisfied that the Architect has been given adequate opportunity to attend and has provided no sufficient reason for the non-attendance, hear the case in the Architect's absence.
- 6.6. A person giving evidence before an Inquiry hearing has the same immunities and privileges as if they were a witness before the High Court.
- 6.7. The Chairperson shall not consider any requests for adjournments of an Inquiry Hearing, save where such requests are made in writing at the first available opportunity and save in exceptional circumstances, no later than 2 weeks prior to the date of the inquiry. Where applications for adjournments are made on medical grounds, the application must be supported by a medical certificate and/or medical report outlining the reasons why an adjournment is necessary.
- 6.8. Any request by the Complainant to withdraw the complaint must be made in writing. The receipt of such a request shall not prejudice the right of the Registrar to make a complaint in its own right on foot of any information which comes to the Registrar's attention or to proceed with the complaint in the absence of the Complainant.
- 6.9. At the Inquiry Hearing, the PCC shall deal with any preliminary issues or applications from either the Architect or the Registrar.
- 6.10. The Architect shall then state whether they intend to defend against the allegations or not.
- 6.11. The Inquiry Hearing shall commence with the Registrar or its legal representative outlining the case against the Architect, calling any witnesses in person, including any expert witnesses and producing any other evidence.

- 6.12. Any witness giving evidence may be examined by the party who called them or their representative, and cross-examined by the other party and their representative.
- 6.13. The Architect or their legal representative shall then be entitled to call witnesses, including any expert witnesses and adduce any other evidence.
- 6.14. At the conclusion of the evidence both the Registrar or its legal representative and the Architect or their legal representative shall be entitled to address the PCC and make submissions.
- 6.15. The PCC shall thereupon conclude the Inquiry Hearing and shall in due course prepare a report in accordance with section 57(10) of the Act.
- 6.16. The PCC shall produce a report in writing embodying its findings including:
  - (a) the details of the nature of the complaint;
  - (b) the evidence before it;
  - (c) such other matters relating to the Architect as it thinks fit; and
  - (d) its finding as to whether professional misconduct or poor professional performance has been established; and
  - (e) the reasons for its finding.
- 6.17. The findings of the PCC shall not be made public without the consent of the Architect unless the PCC makes a finding of professional misconduct or poor professional performance against the Architect.
- 6.18. Where the PCC makes no finding of professional misconduct or poor professional performance against the Architect, it shall not proceed further. The Chairperson shall so notify the Architect and the Complainant by prepaid registered post and the Registrar shall also be informed. The Complainant shall be informed of their right to appeal the decision to the Appeals Board within 3 months of the date of the decision.
- 6.19. In the event of any such appeal by the Complainant the decision of the PCC shall be stayed pending the determination of the appeal.

## **7. The Sanction Stage**

- 7.1. Where the PCC has made a finding of professional misconduct or poor professional performance against the Architect the PCC shall schedule a sanction hearing. The Secretary shall arrange a date for the sanction hearing.
- 7.2. The procedure for a sanction hearing shall be similar in format to that of an Inquiry.
- 7.3. A Notice of Sanction Hearing shall be sent by the Secretary to the Architect by prepaid registered post to their address as recorded in the Register for Architects. The Notice of Sanction shall request the Architect to appear at the sanction hearing and shall inform the Architect of their right to be legally represented at the sanction hearing.
- 7.4. The Architect or their legal representative shall be entitled to make written and oral submissions on mitigation to the PCC and may call witnesses as to character. The Registrar shall also be entitled to make written and oral submissions including submissions as to appropriate level of sanction.
- 7.5. Where the PCC determines that an Architect is guilty of professional misconduct or poor professional performance, it may apply one or more of the following sanctions:
  - (a) Advise, admonish, or censure the Architect in relation to the conduct or performance complained of;
  - (b) Impose on the Architect a fine of a specified amount and failing payment by him or her of the fine to the RIAI within two months of his or her being notified of its imposition the Registrar may erase the architect's name from the Register;
  - (c) Direct that during a specified period, registration of the Architect's name in the Register shall not have effect;
  - (d) Erase the Architect's name from the Register;
  - (e) Direct that the Architect's name remain on the Register but impose such conditions for the name remaining on the Register as the PCC considers appropriate, to be complied with by the Architect.
- 7.6. The Chairperson shall notify the Architect of its decision by prepaid registered post at the address on the Register. The notice shall contain a copy of the decision and the date thereof and advise the Architect of their right to appeal the decision to the Appeals Board within 3 months of the date of the decision.
- 7.7 In the event of any such appeal by the Architect, the decision of the PCC is stayed pending the determination of the appeal.

## **8. Publication of Sanction Policy**

- 8.1. Where a sanction is applied to an Architect that sanction shall be published in the RIAI Journal, the RIAI website and on the online Register for Architects.
- 8.2. Where the sanction imposed is Advice the publication of sanction shall remain on the RIAI website and on the online Register for Architects for 1 year.
- 8.3. Where the sanction imposed is Admonishment the publication of sanction shall remain on the RIAI website and on the online Register for Architects for 2 years.
- 8.4. Where the sanction imposed is Censure the publication of sanction shall remain on the RIAI website and on the online Register for Architects for 3 years.
- 8.5. Where the sanction imposed is a fine the sanction shall be published on the RIAI website and on the online Register for Architects and shall not be removed until 2 years from the date of payment of the fine.
- 8.6. Where the sanction imposed is suspension of registration the sanction shall remain on the RIAI website for the duration of the suspension or for a period of 5 years, whichever is the later. The Architect's name shall be removed from the online Register for Architects for the period of the suspension.
- 8.7. Where the sanction imposes conditions on the Architect those conditions shall be published and remain on the RIAI website and online Register for Architects until the expiry of those conditions or for 3 years, whichever is the later.
- 8.8. Where the sanction imposed is erasure of registration the sanction shall remain on the RIAI website indefinitely and the Architect's name shall be erased from the online Register for Architects.
- 8.9. Where the sanction imposed is a combination or two or more sanctions the publication period of the combined sanctions shall be the later of any sanction imposed.

## **9. Variation of these Rules**

- 9.1. The Registration Body of the RIAI at its own initiative and in accordance with its own rules or upon a request from the PCC or Registrar, and in consultation with them, may vary any or all of these Rules at any time.

**Dated this 20 Day of December 2018**