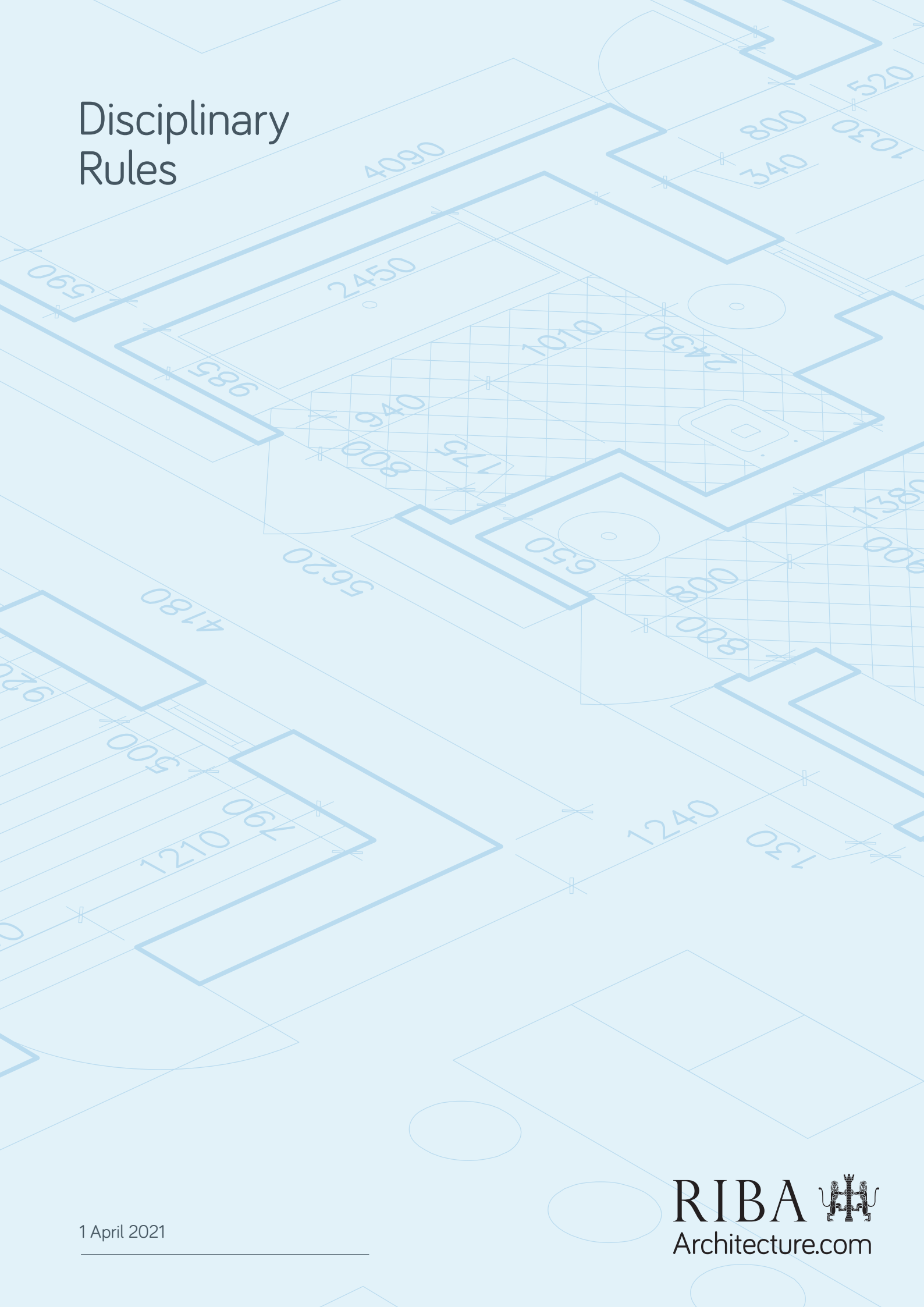


# Disciplinary Rules



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# Disciplinary Rules

Made under Byelaw 7.5.1 (c) and Regulation 5.2

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## Byelaw 5 Conduct

- 5.1** Any member of the RIBA who:
- 5.1.1** does not satisfy or ceases to satisfy the professional competency and any other criteria prescribed under Byelaw 2.2.2(a);
  - 5.1.2** does not satisfy or ceases to satisfy the requirement to be a fit and proper person in accordance with Byelaw 2.2.2(b);
  - 5.1.3** does not comply with any lifelong learning requirements that apply to their category or sub-category of membership in accordance with the Regulations;
  - 5.1.4** contravenes the Constitution or the Code of Professional Conduct;
  - 5.1.5** fails to exercise the powers that they have in their capacity as a member in a way that would be most likely to further the objects of the RIBA;
  - 5.1.6** fails to pay any subscription or other sum payable by him or her within 30 Clear Days of the date on which it has become due and the Board resolves that he or she should be liable for disciplinary action for this reason; or
  - 5.1.7** has behaved in the opinion of the Board in a manner which is likely to bring the reputation of the RIBA into disrepute shall be liable to disciplinary action in accordance with the Regulations which may result in such sanctions as shall be provided for in the Regulations including but not limited to suspension or removal from membership.
- 5.2** Members against whom a charge has been made under Byelaw 5.1 have the right to be heard either in person or through a representative.

### Definitions

ARB = Architects Registration Board

## 1.0 Oversight of procedures

- 1.1** Under Byelaw 7.5.1, Council delegates to the Standards Committee responsibility for oversight of the publication and implementation of the RIBA Disciplinary Rules.

## 2.0 Making a complaint

- 2.1** Any complaint against a Member, in relation to the Code of Professional Conduct, or Chartered Practice, in relation to the Code of Practice, or the general provisions of Byelaw 5 shall be made in writing and signed and forwarded to the Head of Professional Standards who shall make any necessary enquiries and submit the matter for investigation.
- 2.2** Only complaints about misconduct which potentially offends against Byelaw 5 can be accepted and investigated by the Institute. All complaints shall be registered and given a reference number.
- 2.3** The RIBA itself may raise a complaint against a Member or Chartered Practice. Such a complaint must be made in accordance with 2.1 and 2.2 above and must be signed off by a member of the Executive Team.
- 2.4** Byelaw 2.3.3 states: "A notice of resignation of a member shall not be effective while the conduct of that member is subject to an investigation under Byelaw 5."
- 2.5** The RIBA shall also not accept a resignation or request to withdraw from the Chartered Practice Scheme received from any Chartered Practice which is the subject of an investigation under these Disciplinary Rules, made under Byelaw 7.5.1 and Regulation 5.2.

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- 2.6** A Member or Chartered Practice is considered to be the subject of an investigation under these rules when the RIBA has received **all** of the following:
- A signed and dated complaint form; and
  - Details of the conduct complained of containing allegations that the Member or Chartered Practice has breached the RIBA Code of Professional Conduct or Code of Practice and/or RIBA Byelaw 5; and
  - Supporting documentation to evidence the allegations raised by the complaint; and
  - A chronology setting out a timeline of events.
- 2.7** The Member, Chartered Practice, or complainant shall not contact, or attempt to contact, any person directly involved in the operation of any part of the Disciplinary Procedure Regulations other than the Head of Professional Standards, to whom all comments or queries should be addressed. The Member or Chartered Practice may contact an RIBA Council Member who is able to advise in terms of procedure.
- 2.8** The details of the conduct complained of and supporting documentation to evidence the allegations must be limited to 20 single sides of A4. An index of all further evidence available in the matter may be included in these 20 sides of A4. Any complaints received which exceed this limit may be returned to the complainant with a request for resubmission within the prescribed limit. No additional submissions are permitted (at this stage) unless it is evidence that was not available at the time the complaint was made or it is specifically requested by the RIBA.
- 2.9** Submissions greater than 20 sides of A4 may only be accepted at the discretion of the Head of Professional Standards.
- 2.10** The assessment of a complaint shall be postponed or suspended where:
- the same or a related complaint has been made to another professional body or regulator which has a more direct interest in the matter complained of; and/or
  - there is a related dispute resolution process or litigation or employment tribunal proceedings underway, and until such time that other procedures have been concluded, whereupon the outcome may be taken into account in determining any relevant sanction under these disciplinary procedures.

## **2A** [Complaint to the ARB](#)

- 2.11** Where the same or a related complaint has also been made to the ARB it shall be registered and given a reference number by the RIBA. A copy shall be sent to the Member or Chartered Practice. At that point the investigation shall be suspended until the ARB reaches a decision whereupon the provisions in paragraph 2B, 2.12 below may apply. If the ARB decides to take no action, the appraisal team shall consider the complaint and the Member's response in accordance with paragraphs 3 and 4 below.

## **2B** [Sanction by the ARB](#)

- 2.12** Where the same or a related matter has been referred to the ARB and where a Member has been found guilty of unacceptable professional conduct or serious professional incompetence by the Professional Conduct Committee of the ARB, which has in consequence issued a disciplinary order (i.e. a reprimand, a penalty order (fine), a suspension order or an erasure order), then the Member or related Chartered Practice (if a related complaint against the Chartered Practice has already been received by the RIBA) shall be written to and required to make a written plea in mitigation to an RIBA appraisal team within 28 days to demonstrate why they should not be referred to an RIBA hearing panel.
- 2.13** If the Member or Chartered Practice fails to make a plea in mitigation, the failure shall be taken into consideration by the appraisal team and may lead to a referral to a hearing panel for failure to co-operate.

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## 3.0 Response to complaint

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- 3.1** If there is no reason to suspend the investigation of a complaint in accordance with paragraph 2.10 or 2.11 above, and unless section 2B applies, a letter of enquiry shall be issued to the Member or Chartered Practice, inviting their written response to the allegations which have been raised. The Member or Chartered Practice shall have 28 days to reply, which may be extended at the discretion of the Head of Professional Standards.
- 3.2** If the Member or Chartered Practice fails to provide a response to the allegations within the specified period, the matter may be referred to the appraisal team for consideration without further investigation.
- 3.3** Any written submission made or supporting documentation submitted by a Member or Chartered Practice, whose conduct is under assessment, may be referred to and used as evidence in an appraisal and/or hearing.
- 3.4** The response and evidence submitted in support must be limited to 20 single sides of A4. An index of all further evidence available in the matter may be included in these 20 sides of A4. Any responses received which exceed this limit may be returned to the Member or Chartered Practice with a request for resubmission within the prescribed limit. No additional submissions are permitted (at this stage) unless it is evidence that was not available at the time the response was submitted or it is specifically requested by the RIBA.
- 3.5** Submissions greater than 20 sides of A4 may only be accepted at the discretion of the Head of Professional Standards.
- 3.6** A copy of the response from the Member or Chartered Practice will be sent to the complainant for information. The complainant has no further right of response.

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## 4.0 Assessment

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- 4.1** The original complaint and the Member's or Chartered Practice's response or plea in mitigation shall be sent to an appraisal team for assessment.

An appraisal team comprises two RIBA Chartered Members and one lay person, selected by the Head of Professional Standards from a pool of persons established for this purpose and approved by the Practice & Profession Committee. Members of the appraisal team will be required to confirm that they have no conflict of interest and sign a statement that they will act impartially and respect confidentiality. An individual who fails to sign such a statement or who acts (or has acted) in breach of the principles of impartiality or confidentiality will not be eligible for selection and, if already selected, will be removed.

The appraisal team shall have the powers to:

- a) assess the conduct of any Member or Chartered Practice against whom a complaint has been made;
  - b) refer a complaint or formal information, such as a certificate of conviction, to the Registrar of the Architects Registration Board ('the ARB') for investigation;
  - c) refer a complaint or formal information, such as a certificate of conviction, to the council or governing body of an overseas professional body or regulator for investigation and report; or
  - d) ask a Member or Chartered Practice who has been found guilty of unprofessional conduct by any other recognised professional body or regulator to show cause why they should not be deemed, on the facts as determined by that professional body or regulator, to be in breach of the Code of Professional Conduct or Code of Practice.
- 4.2** Following assessment of the complaint, the appraisal team will confer and will:
- a) dismiss a complaint; or
  - b) issue a private caution by consent order; or
  - c) formulate in writing such charges as it thinks fit for determination by a hearing panel before referring the matter to a hearing.

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- 4.3** All decisions of the appraisal team shall be on a majority basis. If the panel fails to reach a majority decision, a lay panel member will be selected by the Head of Professional Standards, in accordance with paragraph 4.1, as a fourth member of the appraisal team.
  - 4.4** Appraisal teams will provide their written decision within 28 days of receipt of copies of the complaint and response, unless otherwise agreed with the Head of Professional Standards.
  - 4.5** Appraisal teams will provide written reasons for their decision. The Member or Chartered Practice and the complainant will be notified of the decision.
  - 4.6** At any time during the appraisal of the complaint, a Member of the appraisal team may request further information or evidence from the Member, Chartered Practice or the complainant. Such information will be provided within 14 days, unless otherwise agreed with the Head of Professional Standards. The information will be sent to all parties (the Member or Chartered Practice, complainant, appraisal team and Head of Professional Standards), for information.

#### **4A** Private caution

- 4.7** If the appraisal team decides that there is a prima facie case of misconduct against a Member or Chartered Practice, but that the matter is not sufficiently serious to warrant a hearing, they may offer the Member or Chartered Practice a private caution by way of consent order.
- 4.8** The Member or Chartered Practice will be sent a letter setting out the details of the proposed private caution, which will require written consent by way of signing and returning the consent order to the Head of Professional Standards within 28 days of receipt.
- 4.9** If the Member or Chartered Practice does not sign or return the consent order within 28 days, the matter will be referred to a hearing.
- 4.10** If the Member or Chartered Practice signs and returns the consent order within 28 days, the private caution will be formally issued by the Head of Professional Standards, on behalf of the appraisal team. The Member or Chartered Practice and the complainant will be notified of the issue of the private caution.
- 4.11** The private caution by consent order will remain on the record of the Member or Chartered Practice for 2 years from the date of issue. It may be taken into account in determining any relevant sanction in any future disciplinary proceedings against that Member or Chartered Practice that arise within the 2 year period.
- 4.12** Where the Member or Chartered Practice resigns or otherwise ceases Membership within the 2 year period then the private caution will be suspended at that time. Should Membership later be reinstated, the balance of the 2 year period for the caution will run from the date on which the membership is reinstated.

## **5.0** Failure to co-operate

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- 5.1** A Member or Chartered Practice who fails to co-operate with this disciplinary process may be liable to face a charge to that effect and may be liable to expulsion by a hearing panel.

## **6.0** Independent review of appraisal

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- 6.1** A complainant shall have the right of independent review by the Centre for Effective Dispute Resolution (CEDR) or an equivalent body agreed by the Practice & Profession Committee following a decision made by an appraisal team to dismiss a complaint or to issue a private caution.

- 6.2** Any application for review must only be on the grounds of:
- a) unfair conduct by the appraisal team or any member of the appraisal team in reaching their decision; and/or
  - b) incorrect or unfair application by the appraisal team of the RIBA disciplinary procedures in respect of their decision.
- 6.3** Application for review must be based on evidence that the process was not conducted correctly or fairly. Appeals directly against the decision of the appraisal team will not be accepted.
- 6.4** Any application for review must be made in writing to the CEDR, copied to the RIBA Head of Professional Standards, within 28 days of the date of notification of the decision.

## 7.0 Formulation of the charge

- 7.1** Where a majority of the appraisal team determine that there is:
- a) a prima facie case of misconduct; and
  - b) that the matter is sufficiently serious to warrant further investigation, the case will be referred to a hearing panel.

The Head of Professional Standards will collate the views of the appraisal team to draft the 'charge'. The term 'charge' should not be interpreted in any legal sense and is designed to serve as a basis upon which the hearing panel may shape their further investigation.

- 7.2** A matter may also be referred to a hearing where:
- a) the appraisal team is not satisfied that the Member or Chartered Practice has complied or is complying with previously imposed requirements to remedy, discontinue or avoid repetition of misconduct; or
  - b) it appears to the appraisal team after such further consultation as they consider appropriate with the Head of Professional Standards, with legal advice where necessary, that the conduct of the Member or Chartered Practice may be so harmful to the reputation of the Institute's membership that further action should be taken.
- 7.3** A Member or Chartered Practice against whom a charge has been formulated under the provisions of these Regulations shall be informed:
- a) of the charge in writing by the Head of Professional Standards;
  - b) that the charge has been formulated for investigation by a hearing panel;
  - c) that an answer to the charge must be submitted in writing to the Head of Professional Standards within 28 days;
  - d) that the time within which an answer shall be made may be extended at the discretion of the Head of Professional Standards;
  - e) of the day, place and time appointed for the hearing panel which, unless agreed otherwise with the Member or Chartered Practice, shall not be less than one month after the date of service of the charge. Wherever possible hearings should take place no later than two months after the date of service of the charge; and
  - f) that they are required to appear in person before the hearing panel at the time appointed for the hearing of the charge, unless informed by the Head of Professional Standards that such appearance is unnecessary. The Member or Chartered Practice may request in writing an alternative date and time for the hearing, such request to be determined at the discretion of the Head of Professional Standards;
- and shall be:
- g) sent a copy of the Regulations made under Byelaw 5;
  - h) sent a schedule of the written evidence to be presented to the hearing panel ;
  - i) advised of the right to be represented by a solicitor or counsel; and
  - j) advised of the right to call witnesses.

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- 7.4** The Member or Chartered Practice shall comply with the requirements set out above, subject to any further or other directions.
- 7.5** A Member or Chartered Practice who has been charged and who fails to submit an answer to the charge in accordance with paragraph 7.3(c) or fails to appear in person before the hearing panel in accordance with paragraph 7.3(f) above shall be liable to expulsion by the hearing panel.

## 8.0 Answer to the charge

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- 8.1** The written answer of a Member or Chartered Practice shall be in the form of a letter or other statement signed by the Member or an authorised representative of the Chartered Practice.
- 8.2** If the Member or Chartered Practice intends to defend the charge, the details of the defence shall be set out in the written answer, with reference to any evidence (documentary or otherwise) intended to be relied upon in support of the defence.
- 8.3** The Member or Chartered Practice may submit with the written answer copies of such further evidence (documentary or otherwise) as is reasonably necessary to answer the charge and which has not already been submitted to the appraisal team.
- 8.4** The written answer and copies of any further evidence will be sent to the complainant for information. The complainant has no further right of response.
- 8.5** When answering the charge, the Member or Chartered Practice shall give notice of any intention to call witnesses or to be represented by counsel or a solicitor. The names of any witness(es) to be called by the Member or Chartered Practice will be disclosed at this stage.
- 8.6** Additional witnesses to those disclosed in accordance with paragraph 8.5 above shall not be called without the permission of the hearing panel.
- 8.7** In advance of the hearing, the Member, Chartered Practice or complainant shall provide such supplementary information as may be reasonably required by the hearing panel or the Head of Professional Standards. Such information will be provided within 14 days, unless otherwise agreed with the Head of Professional Standards. The information will be sent to all parties (the Member or Chartered Practice, complainant, hearing panel and Head of Professional Standards), for information.

## 9.0 Hearing

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### 9A Hearing panel

- 9.1** A hearing panel comprises two lay persons and one RIBA Chartered Member, selected by the Head of Professional Standards from a pool of persons established for this purpose and approved and reviewed as required by the Practice & Profession Committee. Members of the hearing panel will be required to confirm that they have no conflict of interest and sign a statement that they will act impartially and respect confidentiality. An individual who fails to sign such a statement or who acts (or has acted) in breach of the principles of impartiality or confidentiality will not be eligible for selection and, if already selected, will be removed.
- 9.2** The Head of Professional Standards will select one of the lay panel members to act as Chair. No person who has previously acted as a member of the appraisal team in the same matter can sit on the hearing panel.
- 9.3** A hearing panel shall be convened as necessary to:
- consider an appropriate sanction (if any) for a Member or Chartered Practice convicted of a criminal offence (see Schedule 1, paragraph 1);



- b) hear pleas in mitigation from Members sanctioned by, or Chartered Practices connected to a relevant sanction of, the Professional Conduct Committee of the ARB where referred by an appraisal team (see paragraph 2B, 2.12 above); or
- c) hear and investigate charges formulated by the appraisal team.

## **9B** New/amended charge

- 9.4** Where a hearing panel considers it reasonable so to do, the panel may:
- a) amend a charge; and/or
  - b) formulate a new charge on the basis of additional information which comes to their attention during the course of these proceedings.
- 9.5** Where the hearing panel amends and/or formulates new charges prior to the Hearing, the Member or Chartered Practice will have 28 days to provide a written response to the amended/newly formulated charge(s). Amended or new charges and subsequent written responses will be sent to the complainant for information.
- 9.6** Where a hearing panel amends and/or formulates a new charge at the hearing, the Member or Chartered Practice may request a short break to consider their position. If they believe an adjournment is required to properly respond to the amended/newly formulated charges, they may request an adjournment, providing reasons for their request. The hearing panel will decide, based on a majority decision, whether to adjourn the hearing.
- 9.7** When and if a hearing has been adjourned it may be resumed at a subsequent meeting of the hearing panel, whether or not composed of the same persons. The panel at a subsequent meeting may take notice of evidence or decisions recorded in the minutes of the adjourned hearing.

## **9C** Hearing procedure

- 9.8** All parties (the Member or Chartered Practice, complainant, hearing panel and Head of Professional Standards) will be sent a copy of the hearing bundle, which will comprise:
- a) the complaint;
  - b) the response to the complaint or the plea in mitigation;
  - c) the charge formulated by the appraisal team;
  - d) the answer to the charge and any further evidence provided;
  - e) any further information submitted in response to a request from the appraisal team and/or hearing panel; and
  - f) a list of any and all witnesses to be called by the Member or Chartered Practice and the complainant at the hearing.
- 9.9** A Member or Chartered Practice appearing before a hearing panel shall have the right to:
- a) be heard either in person or by counsel, solicitor or a friend; and
  - b) call witnesses, subject to the discretion of the hearing panel, and have their witnesses give oral and/or written evidence to the hearing panel.
- 9.10** The complainant:
- a) has the right to attend the hearing. The complainant must inform the Head of Professional Standards of their intention to attend within 28 days of the decision of the appraisal team, together with the names of any witnesses they intend to call and anyone who will be representing and/or accompanying them; and
  - b) may address the hearing panel when invited to do so.
- 9.11** In considering any case, the hearing panel shall have the power to regard:
- a) any criminal charges upheld in a court of law; and/or
  - b) any finding of fact by the ARB Professional Conduct Committee or by any other recognised professional body or regulator
- as conclusive evidence of the facts so found.

- 9.12** The hearing panel shall have the power to call and question witnesses. The Member or Chartered Practice and complainant shall be notified in writing of any witness(es) the panel intends to call.
- 9.13** No witness(es) will be allowed to attend the hearing before or after addressing the panel and answering their questions.
- 9.14** The hearing of a charge will normally proceed as follows:
- a) All parties will be called before the hearing panel and will identify themselves to the panel;
  - b) The panel will introduce themselves;
  - c) The Chair will inform all parties present that the hearing will be audio recorded;
  - d) The procedure to be followed will be explained by the Chair;
  - e) The charge will be read by a member of the Professional Standards team;
  - f) The Member or Chartered Practice will be asked to orally confirm or, if they wish, amend their written response to the charge;
  - g) The Member or Chartered Practice (or their representative) will then be given the opportunity to address the panel and answer any questions from the panel;
  - h) The panel will then invite the complainant (or their representative), if present, to address the panel and answer any questions from the panel;
  - i) The panel will then be addressed by and have the opportunity to question any witnesses called by the Member or Chartered Practice, the complainant and/or the panel;
  - j) The complainant will then have a final opportunity to address the panel;
  - k) The Member or Chartered Practice will then have a final opportunity to address the panel;
  - l) At any time the hearing panel may ask the parties and any witnesses to exit the room while the panel deliberates; and
  - m) At the end of the hearing the Chair of the panel will inform the Member or Chartered Practice that they will be notified of the outcome in writing within 7 days.
- 9.15** All decisions of the hearing panel shall be on a majority basis.
- 9.16** The standard of proof for decisions of the hearing panel is the balance of probabilities.
- 9.17** Hearing panels will provide written reasons for their decision.

## **9D** Sanction

- 9.18** The hearing panel shall have the power to issue one of the following (see also Schedule 2) to a Member or Chartered Practice found to have breached Byelaw 5 and/or the Code of Professional Conduct or Code of Practice:
- a) a private caution;
  - b) a public reprimand;
  - c) a suspension; or
  - d) an expulsion.
- Any public decision made under this paragraph b), c) or d) shall be reported to a subsequent meeting of the RIBA Council.
- 9.19** The hearing panel shall also have the additional power to require a Member or Chartered Practice, found to have breached Byelaw 5 and/or the Code of Professional Conduct or Code of Practice, to undertake specific CPD training. They may direct a Member or Chartered Practice to complete up to a maximum of 35 hours additional CPD in a 12 month period.
- 9.20** The Member or Chartered Practice will be required to provide evidence to the Head of Professional Standards that the stipulated CPD has been completed within such time as has been directed by the hearing panel.

- 9.21** The hearing panel shall also have the power to require a Member or Chartered Practice to provide references of good character within a specified period. The panel may request a maximum of 5 references in total at any one time.
- 9.22** Where a Member or Chartered Practice fails to complete any CPD training specified by the hearing panel or to provide the references required by the panel within the specified timeframes, they may be subject to further sanction by the hearing panel without further investigation.
- 9.23** The Member or Chartered Practice shall be informed of the outcome of the hearing in writing. Where a public sanction is imposed, such notice shall be signed by the Chief Executive of the Royal Institute. Notification of any other form of sanction may be signed by the Head of Professional Standards. The Head of Professional Standards shall also inform the complainant, if any, of the decision in the case.
- 9.24** The hearing panel shall have the power to extend the time to issue their written decision by an additional 7 days if notice is given to the member or Chartered Practice and complainant within 5 days of the date of the hearing.

## 10.0 Independent review of hearing

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- 10.1** A Member or Chartered Practice subject to a private caution or public sanction by the hearing panel has the right to refer the matter to independent review by the Centre for Effective Dispute Resolution (CEDR) or an equivalent body agreed by the Practice & Profession Committee. Any application for review must be made in writing to the CEDR, copied to the Head of Professional Standards, within 28 days of the date of the delivery of the hearing panel's decision.
- 10.2** A complainant shall have the right of independent review by the Centre for Effective Dispute Resolution (CEDR) or an equivalent body agreed by the Practice & Profession Committee following a decision made by the hearing panel to dismiss the case or to issue a private caution, a public reprimand or to suspend the Member or Chartered Practice.
- 10.3** Any application for review must only be on the grounds of:
- unfair conduct by the hearing panel or any member of the hearing panel in reaching their decision; and/or
  - incorrect or unfair application by the hearing panel of the RIBA disciplinary procedures in respect of their decision.
- 10.4** Application for review must be based on evidence that the process was not conducted correctly or fairly. Appeals directly against the decision of the hearing panel will not be accepted by CEDR.
- 10.5** Any application for review must be made in writing to the CEDR, copied to the RIBA Head of Professional Standards, within 28 days of the date of the decision letter.

## 11.0 Appeals

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- 11.1** A Member, Chartered Practice or complainant may appeal against any substantive decision of the hearing panel. Any such appeal must be made in writing, with clear and detailed reasons, within 28 days of the date of the decision letter.
- 11.2** Any such appeal must be on one or more of the following grounds:
- that the decision reached by the hearing panel is unreasonable in the circumstances; and/or
  - that new evidence is now available that could not reasonably have been made available at the hearing AND such evidence may have had a material impact on the findings of the hearing panel.

- 11.3** A copy of any written appeal will be sent to the other party in the matter by the Head of Professional Standards. That party will have 28 days from receipt of such appeal to provide a written response to the appeal (a copy of which will be sent to the party making the appeal by the Head of Professional Standards, for information).
- 11.4** An appeal panel comprises two lay persons and one RIBA Chartered Member, selected by the Head of Professional Standards from a pool of persons established for this purpose and approved by the Practice & Profession Committee. Members of the appeal panel will be required to confirm that they have no conflict of interest and sign a statement that they will act impartially and respect confidentiality. An individual who fails to sign such a statement or who acts (or has acted) in breach of the principles of impartiality or confidentiality will not be eligible for selection and, if already selected, will be removed.
- 11.5** No person who has previously acted as a member of the appraisal team or hearing panel in the same matter can sit on the appeal panel.
- 11.6** After reviewing all case material, including a written transcript of the hearing, the written appeal and the written response to the appeal, the appeal panel shall confer and shall:
- a) dismiss the appeal; or
  - b) overturn the decision of the hearing panel and issue a different decision; or
  - c) overturn the decision of the hearing panel and direct that a new hearing takes place.
- Any public decision made under this paragraph shall be reported to a subsequent meeting of the RIBA Council.
- 11.7** The standard of proof for decisions of the appeal panel is the balance of probabilities.
- 11.8** All decisions of the appeal panel shall be on a majority basis.
- 11.9** Appeal panels will provide their written decision within 28 days of receipt of the appeal and response, unless otherwise agreed with the Head of Professional Standards.
- 11.10** Appeal panels will provide written reasons for their decision.
- 11.11** No sanction imposed by a hearing panel shall take effect until expiry of the appeal period or conclusion of an appeal.

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# Schedule 1

## Incidental Provisions

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### 1.0 Criminal convictions and professional sanctions

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- 1.1 Where a Member or Chartered Practice has been convicted of a criminal offence the Head of Professional Standards shall open a case file and, if required, obtain a certificate of conviction from the court.
- 1.2 The Member or Chartered Practice shall be invited to make a written plea in mitigation to a hearing panel against the imposition of a disciplinary sanction in consequence of the conviction.
- 1.3 The Member or Chartered Practice shall have 28 days to make the written plea, which may be extended at the discretion of the Head of Professional Standards.
- 1.4 A hearing panel shall then be convened to consider the Member's or Chartered Practice's plea and decide whether or not a sanction is appropriate.
- 1.5 If the Member or Chartered Practice fails to provide a written plea in mitigation, the failure shall be reported to the hearing panel, which shall decide on the sanction to impose, if any, without any further investigation.
- 1.6 Where a Member has been sanctioned by the ARB and the matter has been referred to a hearing panel under paragraph 5.1 above, the Member or related Chartered Practice shall make a written plea in mitigation to the hearing panel addressing why any such hearing panel should not impose a similar sanction to that imposed by the ARB.

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### 2.0 Publication of a notice of sanction

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- 2.1 Any notice of a public sanction (public reprimand, suspension or expulsion) shall, unless the hearing panel or appeal panel decides otherwise, be published on the RIBA's website and in the RIBA Journal. The contents of the notice shall be at the panel's discretion.
- 2.2 No public sanction shall be published until expiry of the appeal period or the conclusion of an appeal.

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### 3.0 Variations to the procedure

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- 3.1 Provided that the proceedings remain fair to the parties, the Head of Professional Standards may vary the procedures set out in these disciplinary procedures to ensure that the fairness and integrity of professional conduct complaints proceedings are maintained. The Member or Chartered Practice and complainant should be provided 28 days to comment on any material variation to these procedures before any final decision is made. Final discretion will rest with the Head of Professional Standards.

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## 4.0 Suspension for lack of compliance

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- 4.1** The hearing panel may postpone the investigation of a charge, and suspend the Member or Chartered Practice for conduct inconsistent with their status as a Member or Chartered Practice, if the Member or Chartered Practice fails to:
- a) Answer a charge in writing (in accordance with paragraph 7.3(c)); or
  - b) Appear in person before the hearing panel (in accordance with paragraph 7.3(f)).
- 4.2** The period of suspension shall be at the hearing panel's discretion. The provisions for suspension set out in Schedule 2 below shall apply.
- 4.3** If, by the end of the suspension period, the Member or Chartered Practice has failed to comply with the requirements of paragraphs 7.3(c) or 7.3(f), and no representations have been made on their behalf, a hearing panel shall expel the Member or Chartered Practice. If the Member or Chartered Practice does comply, the proceedings shall continue in the ordinary course.

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## 5.0 Legal assessor

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- 5.1** A Legal Assessor may be appointed at the discretion of the Head of Professional Standards for a hearing.
- 5.2** It shall be the duty of any Legal Assessor to:
- a) take notice of :
    1. the Charter and Byelaw 5 of the Institute and the Disciplinary Procedure Regulations made thereunder;
    2. the Code of Professional Conduct or Code of Practice of the Institute (as applicable);
    3. the Member Staff Protocol (if applicable);
    4. the charge and the evidence in support;
    5. the answer of the Member or Chartered Practice to the charge; and
    6. any other document which the Head of Professional Standards may specify and which is pertinent to the proceedings;
  - b) inform the hearing panel of any irregularity in the conduct of the proceedings relating to the charge and to advise the panel of their own motion where it appears that but for such advice there is a possibility of injustice or a miscarriage of justice;
  - c) advise the hearing panel on any question of law or the admission of evidence arising in the proceedings; and
  - d) tender advice on any question of regularity, justice, law or admissibility of evidence arising in the proceedings which the Head of Professional Standards may specify.

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## 6.0 Confidentiality

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- 6.1** All Members of the appraisal teams, hearing panels, appeal panels, Council and the parties shall observe the confidentiality of these disciplinary proceedings.
- 6.2** Hearings shall be held in private and, with the exception of the complainant and any witness(es), no Members of the general public shall be allowed to attend.
- 6.3** Hearings shall be audio recorded, except where the hearing panel undertakes private deliberations. A written transcript of the hearing will be made available to all parties in the event of an appeal.

## 7.0 Public announcements

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- 7.1** Without prejudice to Schedule 1, paragraph 2 and Schedule 2, public announcements of action taken under the Disciplinary Procedure Regulations may be made in accordance with the following provisions:
- 7.2** When a Member or Chartered Practice makes a public statement which imputes misconduct by another Member or Chartered Practice of the Institute, the Chief Executive may make a public announcement stating the matter has been referred to an appraisal team for investigation.
- 7.3** Where a Member or Chartered Practice makes a public statement disclosing matters affecting their own conduct which are or have been the subject of inquiry under the Institute's disciplinary procedures, the Chief Executive may make a public announcement stating the action already taken under the procedures.

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# Schedule 2

## Public Reprimands, Suspensions and Expulsions

### 1.0 Private cautions

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- 1.1 Where the hearing panel or appeal panel decides to issue a Member or Chartered Practice with a private caution, such caution will remain on their record for 2 years from the date of issue. It may be taken into account in determining any relevant sanction in any future disciplinary proceedings against that Member or Chartered Practice within the 2 year period.
- 1.2 Where the Member or Chartered Practice resigns or otherwise ceases Membership within the 2 year period then the private caution will be suspended at that time. Should Membership later be reinstated, the balance of the 2 year period for the caution will run from the date on which the membership is reinstated.

### 2.0 Public reprimands

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- 2.1 Where the hearing panel or appeal panel decides to issue a Member or Chartered Practice with a public reprimand, a notice will be published on the RIBA website and in the RIBA Journal, unless the panel decides otherwise.
- 2.2 Notices of a public reprimand will remain published on the RIBA website for a period of 6 months, unless otherwise specified by the panel.
- 2.3 The public reprimand will remain on the record of the Member or Chartered Practice for 2 years from the date of issue. It may be taken into account in determining any relevant sanction in any future disciplinary proceedings against that Member or Chartered Practice within the 2 year period.
- 2.4 Where the Member or Chartered Practice resigns or otherwise ceases Membership within the 2 year period then the public reprimand will be suspended at that time. Should Membership later be reinstated, the balance of the 2 year period for the reprimand will run from the date on which the membership is reinstated.

### 3.0 Suspensions

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- 3.1 Where the hearing panel or appeal panel decides to suspend a Member or Chartered Practice, their Membership will be suspended with immediate effect and all Membership benefits will be withdrawn for the duration of the suspension period. A notice will be published on the RIBA website and in the RIBA Journal, unless the panel decides otherwise. There will be no refund of subscriptions paid for the year in which the suspension occurs.
- 3.2 Notices of suspension published on the RIBA website will remain published for the duration of the period of suspension.
- 3.3 Regulation 5.4 specifically identifies the Membership benefits which are withdrawn.



- 3.4** During the suspension period, regardless of the withdrawal of Membership benefits, the suspended Member or Chartered Practice will nevertheless remain subject to the rules and conditions of Membership as set out in the Institute's Charter and Byelaws and the Code of Professional Conduct and/or Code of Practice.
- 3.5** The panel shall determine the period of the suspension which shall begin on the day of the decision. Suspension periods shall be measured in months and years, not weeks or days. The maximum period of suspension is 24 months.
- 3.6** At the end of the suspension period, the suspended Member or Chartered Practice shall be required to sign a declaration confirming that their conduct throughout has been appropriate to the status of a Member or Chartered Practice of the Institute.
- 3.7** If, during the suspension period, a new complaint is submitted to the Institute, it shall be investigated in accordance with the foregoing procedures.
- 3.8** If no concerns or complaints about the suspended Member's or Chartered Practice's conduct or competence have arisen during the suspension period, reinstatement will normally occur as soon as their declaration (see paragraph 3.6 above) has been received and all outstanding subscriptions paid. However, Membership shall be terminated if, despite reminders, the suspended Member or Chartered Practice fails, within 28 days, to submit a declaration and/or pay all outstanding subscriptions.
- 3.9** The suspension notice will remain on the record of the Member or Chartered Practice for 2 years from the end of the suspension period. It may be taken into account in determining any relevant sanction in any future disciplinary proceedings against that Member or Chartered Practice within the 2 year period.
- 3.10** Where the Member or Chartered Practice resigns or otherwise ceases Membership within the 2 year period then the suspension will be suspended at that time. Should Membership later be reinstated, the balance of the 2 year period for the suspension notice will run from the date on which the membership is reinstated.

## 4.0 Expulsion

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- 4.1** Where the hearing panel or appeal panel decides to expel a Member or Chartered Practice, their Membership will be terminated with immediate effect and all Membership benefits will be withdrawn forthwith. A notice will be published on the RIBA website and in the RIBA Journal, unless the panel decides otherwise. There will be no refund of subscriptions paid for the year in which the expulsion occurs.
- 4.2** Notices of expulsion published on the RIBA website will remain published for a duration of time to be decided by the panel, which shall not in any event exceed a period of 24 months from the date of the decision.
- 4.3** A Member or Chartered Practice expelled from the Institute must immediately remove all references to their former Membership wherever and however they occur, and may not use them in future unless or until Membership is restored.
- 4.4** A Member or Chartered Practice may not apply for re-admission for a minimum of 5 years from the date of expulsion.

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