

RIBA



Making a formal complaint of professional misconduct or incompetence

Making a Formal Complaint

Introduction

As an alternative to seeking some form of redress against an architect (see Part 3), you can make a formal complaint of professional misconduct or incompetence to the Architects Registration Board (see Part 2) or RIBA.

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1. Establishing RIBA Membership and registration
2. Formal complaint to the Architects Registration Board
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Applicability:

Anyone can make a complaint against an architect, you do not need to be a client. But please bear in mind that a complaint against an architect in a 'civilian' capacity (e.g. which has nothing to do with his or her professional practice) is unlikely to be accepted for investigation, unless the personal behaviour is having, or had, a direct impact on the architect's professional work.

Simultaneous actions - order of Precedence

If you are undertaking a dispute resolution procedure, legal action, or making a claim against a practice, you may also make a formal complaint about an individual architect's conduct or competence. But in most cases the investigation will be postponed until the other action has been concluded. The outcome is often relevant to the complaint.

If you submit your complaint to the ARB and the RIBA at the same time, the ARB's investigation will take precedence. The Institute will require the member to respond to a 'letter of inquiry' in order to procure evidence from both sides for later reference. But it will then suspend any further investigation until the ARB reaches a decision.

1. Establishing RIBA Membership and Registration

- i. If you have a problem or dispute with someone you believe is an RIBA chartered architect, first of all confirm that he or she is, in fact, a member. Most members are included in the on-line RIBA **Members Directory** or you can phone the Membership Department on 020 7307 3800. A fully qualified RIBA member (see below) is entitled to call him or herself a 'Chartered Architect' and use the 'RIBA' affix.
- ii. You can check whether the person is registered at the Architects Registration Board by searching the **ARB Register** on-line or phone the ARB on 020 7580 5861 to establish whether the architect is currently registered.

2. Formal complaint to the Architects Registration Board

Background

- i. The Architects Registration Board maintains the Register of Architects. It registers those persons who have prescribed academic and practical architectural qualifications and experience, and operates a **disciplinary procedure** through which a registered person found guilty of unacceptable professional conduct or serious professional incompetence can be sanctioned (see paragraphs vi and vii below).
The sanctions available are
 - a reprimand
 - a penalty order (fine)
 - suspension
 - erasure from the Register.
- ii. The ARB publishes the **Architects Code** which has 10 standards dealing with conduct and competence, and two standards relating to client service and complaints.
- iii. According to the Architects Act 1997, an architect's failure to comply with the provisions of the Code does not necessarily constitute unacceptable professional conduct or serious professional incompetence, but may be taken into consideration in disciplinary proceedings.

Making a complaint

- iv. To pursue a complaint against an architect at the ARB you will have to complete a complaints form and submit it, with evidence, to:
Architects Registration Board
8 Weymouth Street
London
W1W 5BU
Tel. 020 7580 5861.
- v. You can download information on the ARB's complaints procedure from its website.
- vi. The ARB investigates complaints against registered persons in accordance with its **Investigation Rules** and **Professional Conduct Committee Rules**. In the more complex cases, an investigator will be appointed to visit the architect and produce a report.

- vii. If the case appears to be substantiated, a report will be made to the **ARB's Professional Conduct Committee** including formal charges (drafted by the Board's solicitor) of unacceptable professional conduct or serious professional incompetence. The Professional Conduct Committee will consider the charges at a **public hearing**. As the complainant, you may be called to attend the hearing as a witness.
If the charges are upheld, the Committee can impose a **disciplinary order** – i.e. a sanction (see i. above).

Loss of title

- viii. A person who is either suspended or 'erased' (struck off) the Register, either temporarily or permanently, must cease practising architecture under the title 'architect' in the UK. But, since the ARB deals with protection of title, not function, he or she can nevertheless continue to practice as before, but it must be under a different, unregulated, title such as 'designer' or 'consultant'.

3. Formal complaint to the RIBA

Background

- i. Not all practising architects in the UK (i.e. registered at the ARB) are members of the RIBA. And nor are all RIBA members registered (it is not a membership requirement) – unregistered members may work in other fields, or not at all. Regardless of whether a member is registered or not, all members must abide by the **RIBA Code of Professional Conduct**. Those members who are registered at the ARB must therefore conduct themselves in accordance with both ARB and RIBA Codes.

- ii. **RIBA Code of Professional Conduct**

The Code comprises three guiding principles relating to :

Integrity

Competence

Relationships

These Principles are supported by a series of nine **guidance notes** which may be downloaded from the RIBA web-site or obtained from the RIBA Information Centre (tel. 0207 580 5533) or RIBA Bookshops (tel. 0207 251 0791).

Submitting a complaint

- iii. If you believe that an RIBA member has breached the principles of the RIBA Code and want to make a formal complaint about it, you must set this out in writing on a complaints form, explaining how you believe the member has breached the Code, and enclosing evidence which supports your allegations. A complaints form may be obtained from the Professional Standards Office (tel. 020 7307 3649 or e-mail: Professional.Conduct@inst.riba.org).

- iv. **RIBA Disciplinary Process**

This is explained in the following section entitled **The RIBA Complaints Investigation Procedure**.

- v. **ARB decisions: consequential action at the RIBA**

If the ARB dismisses a case which has also been submitted to the RIBA, the Assessment Panel will review the complaint and the member's response to

determine whether or not to drop it as well, or investigate further on the Institute's behalf.

- vi. If the ARB's Professional Conduct Committee has imposed a sanction the member will be given the opportunity to put a 'plea of mitigation' to the RIBA Assessment Panel as to why he or she should not similarly be sanctioned by the Institute.

- vii. **Simultaneous litigation**

If you are engaged in, or about to engage in, litigation or other dispute resolution such as arbitration or adjudication, which is related to the project (i.e. with the architect, the contractor, a sub-contractor or a supplier), or make a claim against the practice, the investigation will be deferred until a decision is reached in or out of court. The decision will then form part of the evidence for consideration by the Assessment Panel.

Criminal convictions or civil judgements against RIBA members

- viii. A member who is convicted of an indictable offence which carries a custodial sentence of twelve months or more will be automatically expelled. Any member convicted of an indictable offence carrying a lesser sentence will be referred to the Disciplinary Committee's Assessment Panel which will determine the appropriate action.
- ix. A finding against a member in a recognised tribunal (such as an Employment Tribunal) will be taken into account by the RIBA Disciplinary Committee's Assessment Panel when considering a formal complaint.

WARNINGS:

- x. Complainants should not regard the Institute's Disciplinary Procedures as a means of extracting evidence to use against the architect in other formal proceedings. Without any statutory basis, any decision by the RIBA can be disregarded by the courts.
- xi. If necessary, the Assessment Panel will take into account the complainant's own conduct in submitting a complaint, and reserves the right to refuse to undertake an investigation where it judges that behaviour to be unacceptable (such as incorrectly informing the RIBA about litigation or dispute resolution (see point vii above)).

The RIBA Complaints Investigation Procedure

Initial Assessment

- i. Once a properly completed form with sufficient evidence has been received, it will be assessed to determine whether the matters raised can properly be investigated under the RIBA Disciplinary Procedures. **Not every complaint received can be pursued.** If the complaint appears to be justified within the context of the RIBA Code, it will be formally registered and given a case reference number.
- ii. The RIBA Code is generally only applicable to a member's conduct as an *architect*; so the Disciplinary Procedures cannot usually be applied to a member's conduct in a purely personal or 'civilian' capacity.

Suspending or deferring an Investigation

- iii. Please note that if there is **ongoing or proposed legal action, formal dispute resolution (such as adjudication or arbitration) or a claim of negligence** against the architect or the practice, which is related to the complaint, the investigation will either be suspended or deferred until the litigation or claim has been settled.
- iv. If you have also made a **complaint to the Architects Registration Board** the Member will be asked to reply to your allegations (see v below) so that both complaint and response are available on file, but then the investigation will be suspended until the ARB reaches a decision. The outcomes of these other procedures will be taken into account in determining the appropriate subsequent action by the Institute.

The investigation process

- v. If there is no reason to suspend an investigation, a 'letter of inquiry' plus a copy of the complaints form, and any supporting evidence, will be sent immediately to the Member concerned. He or she will be asked to consider the reason for your complaint, and to respond in writing to the particular issues you have raised within the context of the Code of Professional Conduct.

Pause for appraisal

- vi. A copy of the Member's response, and your complaint, will then be sent to members of the Assessment Panel (see paragraph ix below) for an initial appraisal. They will decide whether or not there is justification for continuing the investigation under the Disciplinary Procedures. The complaint may be dropped at this stage, but the Panel members must be unanimous in this decision. If the case is dropped, the file will be closed, and you be informed of the decision in writing. **This will conclude the Institute's correspondence relating to the case and it will not be re-opened.**

Continuing the investigation

- vii. If the Panel members are not unanimous, the case will proceed. A copy of the Member's reply will be sent to you for your consideration and comments. This will probably be about two months after you return the complaints form. However, the member's response will not be sent to you if the case is dismissed at the appraisal stage (paragraph vi above).

- viii. The Institute allows both parties in the complaint **28 days** to respond to correspondence. You may request a week's extension if it is impossible to respond within this period. Such a request must have good cause, and extended deadlines will be at the discretion of the Head of Professional Standards. **If you do not submit your comments as requested, it will be assumed that you have decided not to proceed.** Late submissions (without prior request) may not be acceptable – it will be at the Institute's discretion.

Consideration by the Assessment Panel

- ix. When your comments are received, a copy will be sent back to the member for any final submissions before the case is put before the full **Assessment Panel** (the investigatory half of the Disciplinary Committee). You are now unlikely to be involved any further in the procedures unless additional, specific information is required from you. The case papers will be sent to all the members of the Panel, who will discuss the details of the case when they meet. The Panel will decide whether or not the evidence supports a breach of the Code of Professional Conduct. If not, the case will be dismissed. If it does, the Member will be **charged with breaching the Code**.
- x. The Assessment Panel meets three or four times throughout the year. Your complaint may have to be considered by the Panel over more than one meeting before a conclusion is reached. (For example, if further information is required from the Member, or if the Panel decides to take action which requires drafting, consultation and approval.)

Charges heard by the Hearings Panel

- xi. If the Assessment Panel issues a charge, the member will be summoned to appear before the **Hearings Panel** (the other half of the Disciplinary Committee which considers the written response to the charge and hears and questions verbal testimony from the member at a formal hearing).

The assessment and hearings procedures will take several months to conclude.

At the conclusion, you will be notified either that :

1. the complaint was dealt with according to the Disciplinary Procedures and was dismissed, no further action will be taken,
- or
2. your complaint was upheld and the Member was :
 - a) reprimanded; b) suspended; c) expelled.

Notification of Outcomes

- xii. The outcomes in 11.2 above will be published in the RIBA Journal (except where the Hearings Panel has decided to issue a private reprimand). A 'not upheld' verdict by the Hearings Panel may also be published at the Member's request.
- xiii. If the outcome of a complaint is published, there is a possibility that, as the complainant, you will also be named in the notice.
- xiv. Please note that the Assessment Panel and the Hearings Panel do not provide any explanations for their decisions-and do not engage in correspondence after

a decision has been reported to the parties involved. Cases will not be re-opened.

RIBA



Making a complaint – application, contacts and costs

TYPE OF ACTION	APPLICABLE TO :	ASSOCIATED COSTS	TAKE NOTE...
1. FORMAL COMPLAINT TO THE ARCHITECTS REGISTRATION BOARD (ARB)	All registered persons. Contact: ARB - Tel. 020 7580 5861, Fax. 020 7436 5269	No fee.	If the architect is found guilty of <u>unacceptable professional conduct</u> , or <u>serious professional incompetence</u> , he or she may be fined, reprimanded, suspended or removed from the Register of Architects A person calling him or herself an 'architect' while unregistered is liable to be prosecuted by the ARB.
2. FORMAL COMPLAINT TO THE RIBA	RIBA Chartered, Graduate and Student Members and Affiliates. Contact: RIBA - Tel. 0906 302 0400 (this is an information service and calls are charged at 50p per minute.)	No fee.	If the member is found to have breached the Code of Professional Conduct, he or she may be reprimanded, suspended or expelled.