

NOTE

1. ***The ARB’s status and functions***

The Architects Registration Board (ARB), operating under the Architects Act 1997 as amended, is authorised to prescribe architectural qualifications for the purpose of maintaining the Register of Architects, and has certain responsibilities for standards of professional conduct and competence in respect of registered persons. But it is not a professional body in the accepted meaning and therefore cannot be the source of “professional standards”. (Thus the ARB is required to consult professional bodies under sections 4 and 13).

2. ***The ARB’s PCC***

The legislation requires there to be a Professional Conduct Committee of the Board (whose remuneration or expenses are decided and paid by the Board as the corporate body). The function of this Committee is to hear and determine allegations against registered persons which have been formally reported or referred to it in accordance with the Architects Act 1997 (as amended) and the Rules which the Board is authorised to make. In practice the allegations are usually presented to the Committee by a solicitor appointed and paid by the Board; and the Committee usually has a legally qualified chairman chosen from those who (male or female) are required by the legislation to have been appointed to membership of the Committee on the nomination of the President of the Law Society. To date these have all been solicitors.

3. ***The PCC’s legally qualified chairmen***

Under the rule of law, a basic entitlement of any accused person whose reputation and livelihood could be at stake is the right to a fair hearing by the decision-maker or a court or tribunal or committee or other body as the case may be. In matters of professional conduct, it is normal in the UK to appoint a legally qualified chairman (or clerk or adviser or assessor), with appropriate experience, who can be held to have a professional and judicial responsibility for protecting the accused in respect of the right to a fair and unprejudiced hearing and trial. The importance of this is reflected in the statutory provisions for constituting the Board’s Professional Conduct Committee which are in Part II of Schedule 1 of the Act (as amended). The Schedule requires three of the committee members to have been nominated by the President of the Law Society, one of whom must be included in any quorum (of three) for a hearing.

4. ***Discipline (of higher education; of punitive coercion?)***

The word “discipline” commonly refers to education, with the meaning of a branch of knowledge (as: “in what discipline is his doctorate?”; “teachers should be well trained in their subject”; “anthropology is the study of ...).

In the Architects Act 1997 (as amended) education is referred to in Part II which is headed “Registration etc.”, not in Part III which is headed “Discipline”. References in Part II are: “educational establishments” in section 4A(2)(c)(i); “education and training “ in section 6(2A); “educational bodies” in section 6(3)(b); “architectural education” in section 6A. “The Education Fund” is mentioned in SCHEDULE 2 (Section 27, Transitional Provisions).

In Part III of the Architects Act 1997 “Discipline” is being used in one of the

secondary meanings, such as: punish in order to gain control or enforce obedience (“The teacher disciplined the pupils rather frequently”); the act of punishing (“The offenders deserved the harsh discipline they received”).

5. ***Redress against the ARB error***

On “**unacceptable professional conduct**” as used in the Act, one of the first of the articles in these pages (dated 14 December 2005...

[\[http://www.aaruk.info/Act/Act-Synopsis-RJ01.pdf\]](http://www.aaruk.info/Act/Act-Synopsis-RJ01.pdf) remarked:

- the “Interpretation” section of the Act makes clear that the phrase has the same meaning throughout the Act as it has in section 14 (not vice versa);
- in section 14 (1) the phrase is expanded as: “conduct which falls short of the standard required of a registered person”;
- the context shows clearly that the ARB itself has been given neither a legislative nor a discretionary power to impose such a required standard for professional conduct.;
- it is not, for instance, something which the ARB has prescribed or declared for its own administrative purposes;
- the source of such a required standard as mentioned in section 14 (1) should be looked for elsewhere, that is, it will be found in the field of architecture and the supply of architectural services by architects in practice;
- for the purposes of disciplinary proceedings, it must have been properly identified to an accused person before the Professional Conduct Committee can hold the person liable to any of the “disciplinary orders” listed in section 15(2), and to the obloquy of being publicly denounced by that body (on the ARB website) for having been found guilty of “unacceptable professional conduct”;

but in view of the formidable penalties to which registered persons are exposed at the mercy of the ARB’s PCC, with no practical means of redress against a misguided decision (the prolonged, needless and costly struggle against the ARB and PCC reported in Case Study 2 can be seen to have been the exception which has proved the generality of that rule), there could be a less than satisfactory outcome in the event of the conciseness of the drafting resulting in some misunderstanding on the part of ARB and its PCC (but as to redress now see the outcome of Case Study 2).

6. ***See also***

<http://www.aaruk.info/PCC/Hearing/CSPt3.htm> for *QC’s advice* and links to other pages about Case Studies 1 and 2.

For *:exceptio probat regulam in casibus non exceptis* (“the exception confirms the rule in cases not excepted”) see...

[http://en.wikipedia.org/wiki/Exception\\_that\\_proves\\_the\\_rule#Original\\_meaning](http://en.wikipedia.org/wiki/Exception_that_proves_the_rule#Original_meaning) citing Fowler, and Cicero’s defence of L. Cornelius Balbo (56 B.C).

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