

NZRAB Complaints and Discipline Policy

As amended on 15 June 2021

1. This policy is to apply to the processing of complaints received on or after 10 January 2020.
2. The NZRAB has a statutory function under section 50(d) of the Registered Architects Act 2005 (the Act): “to receive, investigate, and hear complaints about, inquire into the conduct of, and discipline, Registered Architects.”
3. The way the NZRAB must do this is specified primarily in part 2 of the Act and part 4 of the Registered Architects Rules 2006 (the Rules).

Governance and Administration

4. The Board’s appointments policy sets out the appointment of Investigating Panels.
5. The NZRAB also has in place a series of delegations necessary for the NZRAB’s Disciplinary Procedures to operate as intended by the Act and Rules (attachment 1)

Procedures

6. The NZRAB has a document Guidance on Disciplinary Procedures (the Manual), which describes in detail how the NZRAB’s disciplinary procedures work at a practical level.
7. Where a member of the public raises an Architectural Service Concern, the person the concern has been raised about will be advised, unless that person is not a Registered Architect or was not a Registered Architect when the alleged events occurred.
8. When the ASAP Chair reports to the NZRAB Executive that efforts to facilitate a resolution have not been successful and the person has been advised of the complaint avenue, the service concern will be considered closed. The Executive will write to the person asking that if a complaint is to be made, that it be made ideally within 20 working days. If no complaint is received within 20 working days, the CE and the Board Chair will review the information in the concern form to see if “reasonable grounds” exist for a Rule 60 Board initiated inquiry. If it is considered that reasonable grounds exist, then the CE will advise the EO Public Protection in writing and the inquiry process will commence. If such grounds do not exist, the matter will be closed, unless at a later stage a complaint is received.
9. In determining a penalty, the Board will consider the significance of the various penalty options provided under section 26 of the Act and precedent.

10. Where the Board determines, on the recommendation of an Investigating Panel or following a Disciplinary Hearing, if one is held, that there are grounds to discipline an architect, 100 per cent of the costs and expenses of, and incidental to an inquiry, including Investigating Panel costs, may be recovered, unless there is good reason otherwise. The Board must consider the submissions of the parties and the Investigating Panel on penalty, costs, and publication before making a decision.
11. Where a person has been ordered to pay a fine or costs under section 26(4) of the Act, payment may be made over 12 months if the person has presented a plan involving regular payments that the NZRAB has agreed to. If no plan has been presented and agreed to and payment is not made, then, subject to a Board decision, 60 days after the date of the invoice for payment, if the person is a Registered Architect, his or her registration shall be suspended and then after 12 months cancelled, as allowed for under section 27(b) of the Act, and reasonable efforts will be made to recover the money where practical.
12. Public notification under section 26(5)(b) will NOT occur unless there are good reasons in terms of the public interest, given that separately sections 21(1)(a)(iii) and 21(2) of the Act require that penalties imposed on architects must be publicly recorded on the Register for three years.
13. If a determination is made that there are grounds for disciplining an architect AND there will be no public notification, the name of the architect will be redacted from the Board's published minutes.
14. Where an architect has had two complaints laid against them within a five-year span, an out of sequence competence review will take place.
15. An Investigating Panel may recommend an out of sequence competence review where it has not found an architect being investigated to be at fault, but the Panel has broader concerns about the architect's fitness to practise.
16. If an Investigating Panel or a Disciplinary Hearing has found that there are grounds for disciplining an architect, then that person will have a one-off competence review as set out in the Continuing Registration Policy.
17. Where an architect's competence review reveals a criminal conviction to which the Registered Architects Act 2005 Section 25 (1) (a) (1) applies (punishable by imprisonment for a term of six months or more) the matter will be referred to the CE to determine whether a Registered Architects Rule 2006 Rule 60 inquiry is required.
18. Where there are useful lessons for the profession to be gained from a disciplinary procedure, the NZRAB will prepare an anonymised report and/or a cautionary note, and architects advised.

Attachment 1

27 August 2020 Delegations



Delegations

27 August 2020

By resolution of the Board, the functions, duties, and powers in regard to the following rules are delegated:

- a. rules 60(1) and (2) to the Chair and/or Chief Executive (CE)
- b. rules 61(a) and 61(b), to the CE
- c. rule 62, to the CE
- d. rule 63, to the CE
- e. rule 64, to the CE
- f. rule 65, to the CE
- g. rule 66(4), to the CE
- h. rules 71(1), 71(2), 71A(3) and 71D, to the CE
- i. rule 74, to the CE
- j. rule 78, to the CE.