

# **The Chartered Institute of Building**

## **Competency Regulations 2007**

*(approved 31 October 2007)*

### **1. APPLICATION OF THESE REGULATIONS**

- 1.1 These Regulations are made under Bye-Laws 35 and 36 and shall apply where the Institute receives information suggesting that one or more of the circumstances set out in Bye-Law 35 may exist in respect of a Member.

### **2. SCOPE OF THE COMPETENCY SCHEME**

- 2.1 The competency of any Member to continue in membership of the Institute shall be investigated and determined only by the Investigations Secretariat, the Competency Panel and the Competency Appeal Panel in accordance with the terms of reference of each of these bodies or Committees as set out in Bye-Law 36 and these Regulations.
- 2.2 All Members including the Respondent shall provide their full and prompt cooperation to the Investigations Secretariat and in particular but without limitation to the generality of the foregoing shall provide the Investigations Secretariat with all information and copies of all documents within their control which are relevant to an investigation under these Regulations and the issue of the Member's competency, and upon the request of the Investigations Secretariat shall grant any consent or authorisation required by the Investigations Secretariat to obtain such documents from a third party. A failure by a Member to cooperate with the Investigations Secretariat in the conduct of its investigation may result in proceedings for misconduct being instituted against that Member.

### **3. INVESTIGATION OF THE COMPETENCY OF A MEMBER**

- 3.1 The Investigations Secretariat shall consider all information received by the Institute regarding the Competency of a Member and shall determine whether the information before it discloses matters which fall within Bye-Law 35 and which might justify an order imposing conditions upon or suspending the Membership of the Member in order to protect the interests of the public and preserve the reputation of the Institute.
- 3.2 Where the Investigations Secretariat determines that information received does not disclose such a matter falling within Bye-Law 35, it shall take no further action in relation to the information.
- 3.3 Where the Investigations Secretariat determines that information received does disclose such a matter, it shall proceed with an investigation in accordance with regulations 3.4 to 3.5.
- 3.4 Following a determination under regulation 3.3 the Investigations Secretariat shall send to the Respondent a notice which shall inform him that information has been received which suggests that his circumstances may fall within Bye-Law 35(a) and/or (b) (as the case may be) and which shall require the Respondent or his representatives to submit within 14 days (or such longer period as the Investigations Secretariat may determine) his response to that information, including:
- 3.4.1 confirmation of whether he considers that his circumstances are within Bye-Law 35(a) and/or (b); and

- 3.4.2 details of any reasons why he considers that he should not be suspended from Membership or subject to conditions upon his continued Membership if it is determined that his circumstances fall within Bye-Law 35(a) and/or (b); and
- 3.4.3 any documentation or other information which is relevant to the determination to be made by the Competency Panel.

The notice sent to the Respondent pursuant to this regulation 3.4 shall be in the form provided for in Schedule 1.

- 3.5 The Investigations Secretariat shall seek further information from any other person or body it considers likely to be able to provide information relevant to the determination to be made by the Competency Panel.
- 3.6 If following the investigations carried out pursuant to regulations 3.4 and 3.5 the Investigations Secretariat considers it appropriate, it shall refer the matter to the Competency Panel by providing them with all relevant material obtained during its investigations, including the Respondent's response under regulation 3.4 above. When referring the matter under this regulation 3.6 the Investigations Secretariat shall not make recommendations to the Competency Panel as to the disposal of the case, nor shall it provide summaries of evidence or materials in place of or in addition to original documentation and materials.

#### **4. COMPETENCY PANEL**

- 4.1 The Competency Panel shall consider all the materials before it and shall determine whether the Respondent's circumstances fall within Bye-Law 35(a) and/or (b) and, if so, whether in all the circumstances the Respondent should be subject to an order under regulation 4.5.1 or 4.5.2 in order to protect the interests of the Respondent and/or the public and preserve the reputation of the Institute.
- 4.2 The Competency Panel shall conduct its business at private meetings and/or through the use of writing, video conferencing facilities, telephone, electronic mail or any other form of communication as it considers appropriate, provided that every member of the Competency Panel participating in the determination shall be afforded the opportunity to receive, consider and respond to all comments, views and opinions expressed by other participating members and any Legal Assessor before any determination or decision composing part of a determination is reached.
- 4.3 If the Competency Panel considers that it has insufficient information to make a determination under regulation 4.1, it may adjourn consideration of a case and refer the matter back to the Investigations Secretariat for further investigation under regulations 3.4 and/or 3.5. When requiring such further investigation the Competency Panel may specify any particular information it wishes to be obtained by the Investigations Secretariat.
- 4.4 If the Competency Panel is satisfied that the materials before it do not indicate that the Respondent's circumstances fall within Bye-Law 35(a) or (b), it shall dismiss the competency proceedings and no further action shall be taken under these Regulations in relation to the information on which the proceedings in respect of the Respondent were founded.
- 4.5 If the Competency Panel is satisfied that the materials before it do indicate that the Respondent's circumstances fall within Bye-Law 35(a) or (b) and it considers that the Respondent may be unable to continue to meet the professional standards expected of a

Member of the Institute, in order to protect the interests of the public and preserve the reputation of the Institute the Panel may:

- 4.5.1 attach conditions to the continuation of the Respondent's membership; or
- 4.5.2 suspend the Respondent's Membership.
- 4.6 When making a decision under regulation 4.5 as to which (if any) measure is appropriate, the Competency Panel shall take into account all the relevant circumstances, including but not limited to the nature and structure of the Respondent's business or professional activities, any medical treatment being received by the Respondent and any supervision available for the Respondent's continuing professional activities.
- 4.7 The Respondent may appeal against a determination of the Competency Panel in accordance with regulation 5.

## **5. COMPETENCY APPEAL PANEL**

- 5.1 The Competency Appeal Panel shall consider appeals lodged by a Respondent against determinations of the Competency Panel by reconsidering whether the Respondent's circumstances fall within Bye-Law 35(a) and/or (b) and, if so, whether in all the circumstances the Respondent should be subject to an order under regulation 4.5.1 or 4.5.2 in order to protect the interests of the public and preserve the reputation of the Institute. The Competency Appeal Panel shall accordingly confirm, rescind or vary any determination of the Competency Panel under regulation 4.5.
- 5.2 Appeals must be lodged with the Institute within 28 days of receipt of notice of the Competency Panel's determination, provided that the Chairman of the Competency Appeal Panel may consider and determine applications for the extension of this period.
- 5.3 The notice of appeal lodged under regulation 5.2 must be in writing, and must set out a description of the basis on which the Respondent considers that the determination of the Competency Panel should be overturned.
- 5.4 The Competency Appeal Panel shall conduct its business in accordance with regulation 7. Prior to a hearing by the Competency Appeal Panel the Respondent and the Investigations Secretariat shall comply with the requirements of regulation 5.6.
- 5.5 On conclusion of the hearing and its deliberations, the Competency Appeal Panel shall determine whether it considers that Bye-Law 35(a) and/or (b) applies to the Respondent and, if so, whether in all the circumstances the Respondent should be subject to an order under regulation 4.5.1 or 4.5.2 in order to protect the interests of the public and preserve the reputation of the Institute. The Competency Appeal Panel shall accordingly confirm, vary or rescind the determination of the Competency Panel and in so doing may make any order available to the Competency Panel under regulations 4.4 and 4.5.
- 5.6 The decision of the Competency Appeal Panel is final and cannot be further appealed.

## **6. PROCEDURE PRIOR TO A HEARING OF THE COMPETENCY APPEAL PANEL**

- 6.1 The provisions of this regulation 6.1 shall apply in relation to all hearings conducted by the Competency Appeal Panel.
- 6.2 As soon as practicable after an appeal has been lodged the Investigations Secretariat shall send the Respondent a Notice of Hearing in the form set out in Schedule 2. A Notice of Hearing shall be sent to the Respondent in accordance with regulation 14 and

not less than 28 days prior to the proposed date of the hearing. The Notice of Hearing shall be accompanied by copies of all the documents upon which the Investigations Secretariat intends to rely at the hearing.

- 6.3 The Respondent shall at least 14 days before the date of the hearing provide the Investigations Secretariat with copies of all the documents or other evidence upon which he intends to rely at the hearing, together with the name, address and professional qualifications (if any) of any representative or adviser who will be attending and the names of any witnesses who will be attending to give evidence on behalf of the Respondent.
- 6.4 Upon the application of the Respondent or the Investigations Secretariat, the Chair of the Committee may postpone the hearing. In those circumstances the Investigations Secretariat shall as soon as practicable send notification of the decision to postpone the hearing and of any date fixed for the postponed hearing to all persons to whom the original Notice of Hearing was sent.

## **7. PROCEDURE AT A HEARING OF THE COMPETENCY APPEAL PANEL**

- 7.1 The hearing shall be open to the public unless in the opinion of the Panel fairness or the public interest requires otherwise, and provided that the Panel's deliberations shall be held in private. The Panel may deny entry to the hearing to any person or expel any person from the hearing if that person is disrupting or is likely to disrupt the hearing or where fairness otherwise requires. Where a hearing is open to the public the Panel may exclude the public for any part of the hearing where this is appropriate and fairness so allows or requires.
- 7.2 The Respondent may attend the hearing unaccompanied, may be accompanied by a representative or adviser of his choice, or may send a representative of his choice instead of attending in person. The Investigations Secretariat shall attend the hearing itself or be appropriately represented. References to the Respondent or the Investigations Secretariat in this regulation 7 shall be read as referring equally to the Respondent's or Investigations Secretariat's representatives if any.
- 7.3 If the Respondent does not appear and is not represented at the hearing, the Panel may nevertheless proceed with the inquiry if the Investigations Secretariat satisfies them that all reasonable efforts have been made to secure the presence of the Respondent or his representative including service of the Notice of Hearing on the member in accordance with regulations 6.2 and 14.
- 7.4 The procedure at the hearing shall be as follows, provided that where any matter regarding procedure is not covered by this regulation 7 it shall be determined by the Chair of the Panel:
  - 7.4.1 The Investigations Secretariat and the Respondent shall each be afforded a reasonable opportunity to make representations on the issue of whether Bye-Law 35 (a) and/or (b) applies to the Respondent, including the adducing of evidence as to facts and the making of submissions as to the scope of Bye-Law 35 (a) and (b).
  - 7.4.2 The Panel shall then withdraw to deliberate in private and reach a determination as to whether the Respondent's circumstances fall within the scope of Bye-Law 35(a) and/or (b). The Panel shall announce that decision to the hearing.
  - 7.4.3 If the Panel's determination under regulation 7.4.2 is that the Respondent's circumstances do not fall within Bye-Law 35(a) or (b), the determination of the

Competency Panel shall be rescinded and the Respondent's membership shall continue without conditions.

7.4.4 If the Panel's determination under regulation 7.4.2 is that the Respondent's circumstances do fall within Bye-Law 35(a) or (b), the Investigations Secretariat and the Respondent shall each be afforded a reasonable opportunity to make submissions as to whether in all the circumstances it is necessary to make an order under regulations 4.5.1 and 5.5 for the imposition of conditions on the Respondent's Membership or an order under regulations 4.5.2 and 5.5 to suspend the Respondent's Membership in order to protect the interests of the public and preserve the reputation of the Institute.

7.4.5 The Panel shall then withdraw to deliberate in private and reach a determination as to which (if any) order should be imposed under regulations 4.5 and 5.5. The Panel shall announce its determination to the hearing.

## **8. REVIEW OF COMPETENCY DETERMINATIONS**

8.1 A determination that a Respondent's circumstances fall within Bye-Law 35(a) or (b) and any consequent order imposing conditions upon the Respondent's continued Membership or suspending the Respondent's membership shall be subject to review under this regulation 8.

8.2 A Respondent shall be entitled to seek a review of an outstanding competency determination in relation to his Membership not more than once every twelve months.

8.3 Where the Respondent wishes to apply for a review of the competency determination he shall submit to the Institute in writing a note of the basis on which he considers that the determination should be reviewed and consequently varied or rescinded, which shall be accompanied by any information on which the Respondent seeks to rely.

8.4 The matter shall then be referred to the Competency Panel, provided that prior to such referral the Investigations Secretariat shall carry out any further investigations required to enable the Competency Panel to fully consider and determine the Respondent's application and that any documentation or information obtained by the Investigations Secretariat during those investigations shall be disclosed to the Respondent prior to referral and his response to that information or documentation shall be sought and submitted to the Competency Panel together with the remainder of the relevant material. The Investigations Secretariat may set a reasonable time limit for the provision of information and documentation by the Respondent prior to the consideration of the Competency Panel.

8.5 The Competency Panel shall consider the Respondent's request for review in accordance with regulation 4 and shall then confirm, rescind or vary the existing determinations regarding the Respondent's competency and the conditions upon or suspension of the Respondent's Membership. The Respondent shall have a right of appeal to the Competency Appeal Panel against the Competency Panel's decision under this regulation 8.5, which shall be heard in accordance with regulations 5, 6 and 7.

## **9. DETERMINATIONS**

9.1 Written notice of determinations of the Competency Panel under 4.4 and 4.5 and of determinations of the Competency Appeal Panel under 5.5 shall be sent to the Respondent, to the Investigations Secretariat and to such other interested persons or bodies who or which in the opinion of the Investigations Secretariat or the relevant Panel have a proper interest in being so informed of its determination.

- 9.2 The Respondent and the Investigations Secretariat shall be provided with a brief statement of the reasons for the Panel's determination. In the case of any decision of the Competency Panel under regulations 4.4 or 4.5, the notice of the determination and reasons for the determination shall be in the form set out in Schedule 3. In the case of any decision of the Competency Appeal Panel under regulation 5.5, the notice of the determination and reasons for the determination shall be in the form set out in Schedule 4.
- 9.3 All determinations referred to in regulation 9.1 shall be sent to the Respondent in accordance with regulation 14 and shall normally be sent to the Respondent within 21 days after the date on which the Panel concluded its deliberations.
- 9.4 The Institute shall publish the determinations of the Competency Panel and the Competency Appeal Panel as it considers appropriate.

## **10. LEGAL ADVICE**

- 10.1 The Legal Assessor shall be present at all hearings of the Competency Panel or the Competency Appeal Panel unless the Panel determines that his presence is not required.
- 10.2 The Legal Assessor shall advise the Competency Panel and the Competency Appeal Panel on such legal or procedural matters as he believes in his professional opinion the Panels should be advised upon or upon which the Panels ask him to advise.
- 10.3 The advice of the Legal Assessor to the Competency Appeal Panel in relation to a particular disciplinary matter shall be delivered at the hearing in the presence of the Respondent and/or his representative or if delivered in private shall be faithfully and accurately relayed to the Respondent and/or his representative. The Respondent or his representative shall be entitled to comment upon such advice.

## **11. PROCEEDINGS IN RESPECT OF STUDENT MEMBERS**

- 11.1 In considering any proceedings which are brought under these Regulations regarding the Competency of a Student Member:
- 11.1.1 where the Panel is required to determine whether any order should be made imposing conditions on or suspending the Student Member's Membership, the Panel shall have regard to the stage in training reached by the Student, the level of competence appropriate to such a stage and expected of a Student Member and the extent to which the Student Member provides services direct to the public;
- 11.1.2 at any stage prior to determination, the Competency Panel or the Competency Appeal Panel may request any person responsible for supervising the Student's education or training to comment on any aspect of the Student's training or conduct which may have a bearing on the Committee's determinations in relation to the case.

## **12. COMPOSITION AND APPOINTMENT OF PANELS**

- 12.1 Composition of the Competency Panel:

12.1.1 The Competency Panel shall consist of members of the Professional Conduct Committee who shall be appointed to a Panel by the Chairman of the Professional Conduct Committee.

12.1.2 The Competency Panel shall act under a quorum of three. Those members of the Professional Conduct Committee not appointed to the Panel shall play no part in the investigation and determination of that competency matter.

12.1.3 The Chair of each Competency Panel may be an Independent Member or an Institute Member.

12.1.4 Any preliminary or procedural issue that arises prior to a hearing may be determined by the Chair of the Competency Panel.

12.2 Composition of the Competency Appeal Panel:

12.2.1 The Competency Appeal Panel shall consist of members of the Appeal Committee who shall be appointed to a Panel by the Chairman of the Appeal Committee.

12.2.2 The Competency Appeal Panel shall act under a quorum of three. Those members of the Appeal Committee not appointed to the Panel shall play no part in the investigation and determination of that competency matter.

12.2.3 The Chair of each Competency Appeal Panel may be an Independent Member or an Institute Member.

12.2.4 Any preliminary or procedural issue that arises prior to a hearing may be determined by the Chair of the Competency Appeal Panel.

### **13. APPLICATION TO CHARTERED BUILDING COMPANIES AND CONSULTANCIES**

13.1 For the avoidance of doubt, in relation to Bye-Law 35(a) these Regulations apply to Chartered Building Companies and Consultancies as they do to individual members of the Institute and references to "Members" and "members" should be read accordingly.

13.2 References to "suspension" shall refer to suspension or expulsion from membership as a CBC and the corresponding suspension or removal of the right to use the designation Chartered Building Company or Consultancy (as the case may be), and references to the imposition of conditions upon continued Membership shall be read accordingly.

### **14. SERVICE OF NOTICES**

14.1 Any notice, determination or other document required by these Regulations to be given or sent to a Member or Respondent shall be served by sending it by special delivery post addressed to the Member or Respondent at his address as notified to the Institute or at his last known address if that address differs from his address notified to the Institute and it appears to the Investigations Secretariat that service at his last known address would be more effective.

14.2 Where the member is a CBC any notice or other document required by these Regulations to be given or sent to the CBC shall be served by sending it by special delivery post addressed to that body at its address in the register or at the address of its registered or principal office if that address differs from its address in the register and it appears to the Investigations Secretariat that service at its registered or principal office would be more effective.

## 15. DEFINITIONS AND INTERPRETATIONS

15.1 In these regulations unless the context otherwise requires, the following expressions shall have the following meanings:

- (a) "Appeal Committee" means the Committee established under regulations 8 and 16 of the Disciplinary Regulations pursuant to Bye-Law 33;
- (b) "Bye-Laws" means the Bye-Laws of the Institute as amended from time to time;
- (c) "Charter" means the Royal Charter of the Institute as amended from time to time;
- (d) "Competency" means the matters set out in Bye-Law 35 which may affect a Member's ability to meet the professional standards expected of a Member;
- (e) "Competency Appeal Panel" means the panel of the Appeal Committee established for the purposes set out in regulation 5 and in accordance with regulation 12;
- (f) "Competency Panel" means the panel of the Professional Conduct Committee established for the purposes set out in regulation 4 and in accordance with regulation 12;
- (g) "Independent Member" means a member of a Panel who meets the criteria in regulation 17.5 of the Disciplinary Regulations;
- (h) "Institute" means the Chartered Institute of Building;
- (j) "Institute Member" means a member of a Panel who meets the criteria in regulation 17.6 of the Disciplinary Regulations;
- (k) "Investigations Secretariat" means the division of the Institute whose task is to investigate disciplinary and competency matters or such external contractors, agents or representatives as the Institute may appoint to fulfil this function on its behalf;
- (l) "Legal Assessor" means a person appointed to provide legal advice to the Competency Panel or the Competency Appeal Panel and who shall be independent from the Investigations Secretariat;
- (m) "Member" means, for the purposes of these regulations only, a corporate or non-corporate member of the Institute elected in accordance with Bye Laws 7 – 11 including for the avoidance of doubt a Chartered Building Company or Chartered Building Consultancy as defined in Bye-Law 12;
- (n) "Membership" means any one of the classes of membership of the Institute provided for in Bye-Law 4 - 5, including for the avoidance of doubt the status of a Chartered Building Company or Consultancy as provided for in Bye-Law 12, as is appropriate in the context having regard to the class of membership held by the Respondent at the time these Regulations are applied to him;
- (o) "Notice of Hearing" means a written notice prepared by the Investigations Secretariat in accordance with regulation which specifies the proposed date, time and place of a hearing of the Competency Appeal Panel;

- (p) "Panel" means any one or more of the Competency Panel and the Competency Appeal Panel as is appropriate in the context;
- (q) "Professional Conduct Committee" (formerly the Disciplinary Committee) means the Committee established by regulations 7 and 16 of the Disciplinary Regulations pursuant to Bye-Law 33;
- (r) "Respondent" means a Member who is subject to proceedings under these Regulations following a determination under regulations 3.1 and 3.3.
- (s) "Student Member" means a Student member elected under Bye-Law 11;
- (t) "Suspension" means, in relation to a Member, suspension of membership of the Institute for a indefinite period of time subject to review in accordance with regulation 8.

15.2 In these Regulations unless the context otherwise so requires, words and expressions not defined in regulation 15.1 shall have the meanings assigned to them by the Charter and the Bye-Laws. Words importing the masculine gender shall include the feminine and words in the singular shall import the plural and vice versa.

# Schedule 1 to the Competency Regulations

## Notice under Regulation 3.4

Dear [Sir] [Madam],

The Institute has received information which indicates that your circumstances may fall within Bye-Law 35 (a) AND/OR (b) in that *[insert brief description of what is suggested by the information]*.

The Institute is now required to consider under its Competency Regulations whether the information before it discloses matters which fall within Bye-Law 35 and, if so, whether an order should be made imposing conditions upon your continued Membership or suspending your Membership in order to protect the interests of the public and preserve the reputation of the Institute.

In accordance with regulation 3.4 we are therefore writing to you to give you notice that it appears that Bye-Law 35 may apply to you as a member of the Institute.

We enclose *[insert detail documents of any documents]*.

Before the Institute proceeds further in relation to this matter we are seeking your response to the suggestion that your circumstances fall within Bye-Law 43 and your comment on whether, if you do fall within Bye-Law 43, your Membership should be subject to conditions or suspended. Your response is required under regulation 2.2. Your response should be received by the Institute within 14 days after the date on which you receive this letter, and should:

- Confirm whether you consider that your circumstances are within Bye-Law 35(a) and/or (b); and
- Include details of any reasons why you consider that you should not be suspended from Membership or subject to conditions upon your continued Membership if it is determined that your circumstances fall within Bye-Law 35(a) and/or (b); and
- Enclose any documentation or other information which is relevant to the determination to be made by the Competency Panel.

Following receipt of your response the matter may be referred to the Institute's Competency Panel, which would consider all information gathered on this matter, including your full response. The Competency Panel would then consider all the materials before it and determine whether your circumstances fall within Bye-Law 35(a) and/or (b) and, if so, whether in all the circumstances you should be subject to an order under regulation 4.5.1 or 4.5.2 in order to protect the interests of the public and preserve the reputation of the Institute. We will inform you in due course whether this matter has been referred to the Competency Panel.

We enclose a copy of the Institute's Bye-Laws and Competency Regulations for your information.

Yours faithfully

## Schedule 2 to the Competency Regulations

### Notice of Hearing under Regulation 6.2

Dear [Sir] [Madam],

You have lodged an appeal against the decision of the Institute's Competency Panel dated [*insert date*] which determined that your circumstances fell under Bye-Law 35(a) AND/OR (b) in that [*insert a brief description of the circumstances*] [and which imposed an order that] [your continued membership be subject to the conditions that [*insert conditions*] ] [your membership be suspended].

You have appealed on the following grounds:

*[insert summary of the grounds as set out in the notice of appeal].*

Notice is hereby given to you on the .....day of .....20....., a hearing of the Competency Appeal Panel will be held at .....at .....am/pm to consider your appeal and determine whether the decision of the Competency Panel should be confirmed, varied or rescinded.

Pursuant to regulation 6.2 we enclose copies of all the documents upon which the Institute intends to rely at the hearing.

Under regulation 6.3 you are required to provide to the Institute on or before [*insert the date 14 days before the hearing*] copies of all documents upon which you intend to rely at the hearing in addition to the notice of appeal which you have already lodged with the Institute and the name, address and professional qualification (if any) of any representative or adviser who will be attending on your behalf.

You are invited to appear before the Panel at the place and time specified above, for the purpose of making representations to the Committee as to why your appeal should be allowed. You may appear in person or be accompanied by a representative, who may (but does not need to be) a counsel or solicitor or an officer or member of any professional organisation of which you are a member. Alternatively, a representative may appear in your place. If you do not appear and are not represented, the Panel may continue with the hearing in your absence.

Any statement or communication which you may wish to make in relation to the appeal should be addressed to the Institute.

If you wish to make an application that the hearing should be postponed, you should send the application to the Institute as soon as possible, stating the grounds on which you require a postponement. Any such application will be considered by the Chairman of the Competency Appeal Panel appointed for your case, in accordance with regulation 6.4.

Yours faithfully,

# Schedule 3 to the Competency Regulations

## Notice of Determination of the Competency Panel

In the matter of [Institute member] [Chartered Building Company] [*insert name*] (“the Respondent”)

### Determination of the Competency Panel

The case was considered by the following Competency Panel:

[*insert name*] (Chair and Independent Member)

[*insert name*]

[*insert name*]

[Legal Assessor [*insert name*] advised the Committee.]

The matter was considered [on .....] [between ..... and .....]

1. The Panel noted that competency proceedings had been commenced following receipt of information suggesting that the Respondent’s circumstances might fall within Bye-Law 35a) AND/OR (b). The Panel satisfied itself that the procedures set out in the Competency Regulations had been followed and that the matter was properly before them.

2. The Panel found the following facts:

[*Set out brief description of the main facts*].

3. In reaching that conclusion the Panel relied in particular on the following documents and information:

[*List the main pieces of evidence accepted by the Panel*].

[*Insert a brief description of any decision by the Panel to discount or place less weight on any other potentially important evidence*].

4. The Panel concluded that the Respondent’s circumstances [did] [did not] fall within Bye-Law 35(a) AND/OR (b) on the basis that [*set out any interpretation of Bye-Law 35 or the evidence which led to the conclusion that the Respondent’s circumstances fell within the Bye-Law*].

5. [*If the Panel finds that Bye-Law 35 does apply*]. The Panel took into account [*set out any factors submitted in support of representations that conditions/suspension should not be imposed and any other information about the Respondent’s circumstances*].

6. The Panel accordingly hereby

[determines under regulation 4.4 that the Respondent’s circumstances do not fall within Bye-Law 35(a) or (b)]

[determines under regulation 4.5 that the Respondent’s circumstances fall within Bye-Law 35(a) AND/OR (b) but that it is not necessary to make an order under regulations 4.5.1 or 4.5.2]

[determines under regulation 4.5 that the Respondent's circumstances fall within Bye-Law 35(a) AND/OR (b) and that it is necessary to make an order under regulation 4.5.1 that the Respondent's continued Membership should be subject to *[insert details of conditions imposed]* ]

[determines under regulation 4.5 that the Respondent's circumstances fall within Bye-Law 35(a) AND/OR (b) and that it is necessary to make an order under regulation 4.5.2 for the suspension of the Respondent's Membership]

7. *[Where an order is made under regulation 4.5.1 or 4.5.2:* The Competency Panel's order under regulation **4.5.1** or **4.5.2** is subject to review in accordance with regulation 8 of the Competency Regulations. In addition you may appeal against the Competency Panel's decision by lodging an appeal at the Institute with 28 days of the date on which you receive this notice.
8. *[If the Member has been suspended:* Please note that during the period of your suspension you are not entitled to describe yourself as a Member/Fellow (etc) of the Institute OR a Member of the CBC Scheme. You are not required to pay subscription fees in relation to the period of suspension.]

.....  
[Signed by the Chair on behalf of the Panel]

.....  
[Dated]

## Schedule 4 to the Competency Regulations

### Notice of Determination of the Competency Appeal Panel

In the matter of [Institute member] [Chartered Building Company] [*insert name*] (“the Respondent”).

#### Determination of the Competency Appeal Panel

The case was considered by the following Panel:

[*insert name*] (Chair and Independent Member)  
[*insert name*] (Institute Member)  
[*insert name*] (Institute Member)

[Legal Assessor [*insert name*] advised the Committee.]

Also present:

[*insert name*] from/on behalf of the Investigations Secretariat  
The Respondent and/or [*insert name*] representing the Respondent

The hearing was held on ..... at .....

1. The Panel noted that competency proceedings had been commenced following receipt of information suggesting that the Respondent’s circumstances might fall within Bye-Law 35 (a) AND/OR (b), that the Competency Panel had considered the Respondent’s Competence and that the Competency Panel had determined that [*insert the determination made by the Competency Panel as to application of Bye-Law 35 and suspension or conditions*]. The Panel satisfied itself that the procedures set out in the Competency Regulations had been followed and that the matter was properly before them.
2. The Respondent appealed on the following grounds:  
  
[*Set out a summary of the grounds for the appeal pursued at the hearing*]
3. The Panel considered the written materials in their bundle, heard representations on behalf of the Investigations Secretariat and the Respondent.
4. The Panel relied in particular on the following representations and materials:  
  
[*List the main representations accepted by the Panel*].  
  
[*Insert a brief description of any decision by the Panel to discount or place less weight on any other potentially important representations or materials*].
5. The Panel concluded that the Respondent’s circumstances [did] [did not] fall within Bye-Law 35(a) AND/OR (b) on the basis that [*set out any interpretation of Bye-Law 35 or the evidence which led to the conclusion that the Respondent’s circumstances fell within the Bye-Law*].
6. [*If the Panel finds that Bye-Law 35 does apply*]. The Panel took into account [*set out any factors submitted in support of representations that conditions/suspension should not be imposed and any other information about the Respondent’s circumstances*].

The Panel accordingly hereby

[determines under regulation 4.4 that the Respondent's circumstances do not fall within Bye-Law 35(a) or (b)]

[determines under regulation 4.5 that the Respondent's circumstances fall within Bye-Law 35(a) AND/OR (b) but that it is not necessary to make an order under regulations 4.5.1 or 4.5.2]

[determines under regulation 4.5 that the Respondent's circumstances fall within Bye-Law 35(a) AND/OR (b) and that it is necessary to make an order under regulation 4.5.1 that the Respondent's continued Membership should be subject to *[insert details of conditions imposed]* ]

[determines under regulation 4.5 that the Respondent's circumstances fall within Bye-Law 35(a) AND/OR (b) and that it is necessary to make an order under regulation 4.5.2 for the suspension of the Respondent's Membership]

and the determination of the Competency Panel is accordingly [confirmed] [varied] [rescinded].

8. *[Where an order is made under regulation 4.5.1 or 4.5.2: The Competency Panel's order under regulation 4.5.1 or 4.5.2 is subject to review in accordance with regulation 8 of the Competency Regulations.*
9. There is no right of appeal within the Institute against the decision of the Competency Appeal Panel.
10. *[If the Member has been suspended: Please note that during the period of your suspension you are not entitled to describe yourself as a Member/Fellow (etc) of the Institute OR a Member of the CBC Scheme. You are not required to pay subscription fees in relation to the period of suspension.]*

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[Signed by the Chair on behalf of the Panel]

.....  
[Dated]