

RIBA



Royal Institute
of British Architects

To Council

From ARB Review Task Group

Date 29 September 2004

Subject Appendix 1 - Report of the ARB Review Task Group

Appendix 1: Methodology of RIBA Council's ARB Review Group

This appendix sets out the background for the setting up and remit of RIBA Council's ARB Review Group and outlines the methodology and processes carried out by the Group in carrying out its task. The Briefing Note sent out to members for consultation is reproduced at the end of this appendix.

Setting up of the Group

At the RIBA Council meeting on 10 December 2003 the Council considered the following motion, proposed by RIBA Council member Peter Phillips:

'This Council is concerned by the now overarching ambit of the Architects Registration Board (ARB) and believes that it is acting beyond its statutory responsibilities and function. The Council also believes that ARB is conducting its business with a lack of transparency that is now expected of public bodies, in accordance with the Nolan Report and subsequent recommendations and legislation. Accordingly, Council wishes the Government to undertake an examination of the ARB's conduct, and the scope of responsibilities it has extended to itself, and to take whatever action is necessary to ensure that it restricts itself to the letter, spirit, and intentions of the 1997 Architects Act under which it was established.'

The motion was seconded by RIBA Council member George Oldham. A debate was held in camera for approximately 20 minutes during which much of the sentiment within Council was in favour of the motion. However, an intervention by RIBA Council member Alex Reid pointed out that there was no legal opinion in support of the contention set down in the motion and, for this reason, the motion was defeated.

Because of the overwhelming agreement with the sentiment of the motion, RIBA President George Ferguson undertook to set up an ARB Review Task Group, to report direct to Council, to examine the generally expressed perception that ARB was expanding its scope of work beyond what had been intended at the time that the Board was set up.

Members of the Group

The ARB Review Task Group comprised the following five Council members:

Michael Highton	<i>(Chairman and regionally elected member for RIBA South)</i>
George Oldham	<i>(Regionally elected member for RIBANorth)</i>
Ruth Reed	<i>(President of RSAW and regionally elected member for Wales)</i>
Alex Reid	<i>(Nationally elected member up to August 2004)</i>
Guy Thompson	<i>(Regionally elected member for RIBA South East, up to August 2004)</i>

Remit of the Group

The remit of the Group was subsequently agreed at the next Council meeting as:

'To assess the operation of the Architects Act by the Architects Registration Board and to make appropriate recommendations to Council.'

The Group was tasked with reporting back to the RIBA Council meeting held on 12 May 2004. However, the work was more involved and took more time than originally envisaged. The Group was therefore only able to present an interim progress report to Council on 12 May 2004. The final report (of which this appendix forms part) is submitted for Council's approval on 29 September 2004.

Government Review of ARB

The Regulatory Reform Act, which came into force in April 2001, gives wide powers to reform legislation via Regulatory Reform Orders (RRO). The body responsible for the RRO programme is the Regulatory Impact Unit (RIU) within the Cabinet Office. The RIU study a particular sector of industry on an annual basis and, in 2004 the Unit's studies are devoted to the construction industry. Consequently, consideration of the ARB falls within the remit of the RIU during 2004. It is understood that the RIU is awaiting the outcome of the RIBA Task Group's considerations before taking any decisions regarding ARB.

The issues before our Task Group have, therefore, taken on a greater significance in that our work is not only for the benefit of RIBA Council but also, subject to the endorsement of Council, for formal submission to the RIU.

Group Work Programme

The first meeting of the Group was held to discuss its *modus operandi*, which was seen as breaking down into four distinct phases:

Information gathering & Consultation;
Analysis of Information & Consultations;
Discussion and Review;
Conclusion and Reporting.

Phase 1 - Information Gathering & Consultation:

Consultation – Round 1:

The Group decided to consult as widely as possible within the profession and that meant consulting with individuals and not organisations. Accordingly, views were

invited through the letter pages of Building Design (BD) and the *Practice Pages* of the RIBA Journal (RIBAJ).

The Group was aware that, in the preparation of the Warne Report, there had been widespread consultation with organisations, including consumer bodies. The Group looked at the list of consultees and decided that, as many of them would be reached as individuals through the pages of BD and the RIBAJ, we would separately consult only with the three main consumer bodies: Consumers Association, National Consumer Council and the Welsh Consumer Council. There was no separately listed consumer body for Scotland.

The response from architects was disappointing. Likewise, there was only one response from the consumer bodies; the Welsh Consumer Council, which wished to make no representations.

Consultation .- Round 2:

The Group embarked, therefore, upon a second phase of information gathering. At its heart was a short briefing document (reproduced at the end of this appendix) that was sent to about 19,000 RIBA members who subscribe to email. Regrettably Building Design refused to publish the briefing document, or even a shortened version of it so this meant that its distribution was not as wide as the Group would have liked it to have been.

In tandem with this broadcast to members, the Group invited Mr Robin Vaughan, the Registrar and Chief Executive of ARB, and all members of the Board of ARB (15 in total) to meet the Group. As a result two or more of the Group met with Mr Vaughan, Mr Humphrey Lloyd (Chairman of the Board), Mr Mike Starling, Mr Richard Henchley and Mr Ian Salisbury, but at separate times. Mr Vaughan was accompanied by Mr Levett, responsible for education matters at the ARB, but Mr Levett expressed no views at the meeting.

The short briefing document that was emailed to all RIBA members was also enclosed with the letter of invitation to Mr Vaughan and all Board members. A written response was received from Mr Vaughan but not from any ARB Board member. Mr Lloyd did, however, comment that he felt that the document was biased, as it did not allow for maintaining the *status quo* as one of the possible options.

Consultation – Round 3:

The Group received about 400 responses from Institute members to the broadcast email. However, in light of the comment made by Mr Lloyd, we decided to amend the briefing document to include the suggestion that the *status quo* should be maintained. All members were broadcast a second time with an invitation to reply (if they had not already done so) and to amend their reply (if they felt that their earlier view had been inhibited for lack of a suggestion of maintaining the *status quo*).

The additional responses received means that just over 1,000 responses have now been received to the two emails broadcast to Institute members.

ARB Board Meetings:

The ARB Board meeting of 13 May 2004 was attended by Michael Highton and Guy Thompson, while the meeting held on 8 July 2004 was attended by Michael Highton alone, from the Group.

Legal Opinions:

Whilst the Group was aware that the ARB had sought a legal opinion on the operation of the Architects Act by the ARB, the Group did not know the terms of the instructions given to Counsel. Neither the legal opinion (nor the instructions) have been disclosed to the RIBA as the terms of disclosure were not acceptable to the Institute. The Group discussed whether or not to commission a separate legal opinion but decided not to given that this would incur significant expense to the Institute and that nothing short of a judicial review would settle the matter without question.

Consultation with the Government's Business Regulation Unit:

The Group met with Mr Eric Arnold, Senior Policy Advisor to the Building Regulation Team in the Regulatory Impact Unit of the Cabinet Office. This also formed part of the RIU's briefing on RIBA's views on the regulation of the architectural profession.

The conclusion from this meeting was that the Government had no desire to increase regulation and to extend Architectural registration to include "protection of function". Mr Arnold's view was that the Government was interested in reducing regulations, but the repeal of the Architect's Registration Act (removal of Registration and protection of the title "Architect") would only be favourably considered if it were felt that "consumer protection" would not be diminished. If the existing Architect's Act required amendment or guidance to better define the role of ARB, and to reduce duplication of activities between the RIBA and ARB, then the RIBA could suggest appropriate wording for a Regulatory Reform Order (RRO) of the Architect's Act by the Regulatory Impact Unit (RIU).

Consultation with RIBA Honorary Officers and Staff:

Members of the Group consulted with the RIBA Education and Practice Departments and their respective current Vice Presidents.

Information Gathering:

The Group, with the assistance of RIBA staff, reviewed recent RIBA correspondence and reports relating to ARB and on ARB related issues. These included Education (validation, prescription of qualifications, etc) and Practice (PI insurance, CPD, advertising, etc).

There was also a review of historical information relating to the development of Architect's Registration in the UK and regarding ARB's predecessor, the Architects Registration Council of the UK (ARCUK). This historical background is set out in *Appendix 2* of the Group's Report.

Education Information:

The Group heard in their consultations with ARB, in particular from Mr Vaughan and Mr Lloyd, about the prolonged discussions between the ARB and RIBA about the prescription and validation issues as they relate to schools of architecture in the UK. Their view is, in essence, that the RIBA having agreed a particular course of action regarding prescription and validation (in which the matters would be addressed jointly), the Institute then changed its mind. They felt that the ARB had worked hard to accommodate the Institute's wishes and that, having reached agreement (for RIBA to take on the full costs and additional workload of all Course Validation), it was then necessary for the ARB itself to take on additional staff to handle the work arising from the new regime. Mr Vaughan advised that, in spite of a desire on the part of the Board to keep the retention fee static for a few years, the new education regime had necessitated an increase in ARB subscriptions, even though more work was now being done by the RIBA.

Specific Exclusions:

The Group decided, at the outset not to consider matters relating to the protection of function. However we have reported the views expressed on this matter by our consultees.

Phase 2 – Analysis of Information & Consultations:The consultation briefing document:

The nature of the consultation briefing document sent to RIBA members was purposely not meant to be a check box list of items, for ease of ready scientific analysis. On the contrary, the Group wished to stimulate thought on the complex matters raised. The Group was grateful that many respondents spent a considerable amount of time and effort in setting out thoughtful (and, often, heartfelt) views.

Phase 3 – Discussion & Review:

The Group met on several occasions to discuss their findings, to carry out the consultations and to consider various courses of action before coming to their recommendation to Council. Extensive discussion also took place by telephone and e-mail correspondence.

Phase 4 - Conclusion and Reporting:

The Group was required by Council's remit to assess the operation of the Architects Act 1997. The Group's approach has been to take an objective, un-biased and open look at all the issues in coming to their conclusions and in preparing their report and recommendations to Council.

Briefing Document – copy of document sent out to all consultees**The ARB Debate: *Why the RIBA is carrying out a review***

As a result of concerns expressed at a recent Council debate, the President, George Ferguson, set up a task group, the remit of which is: *'To assess the operation of the Architects Act by the Architects registration Board'*.

Both the Architects Registration Board and the Royal Institute of British Architects (RIBA) have a duty to serve the public interest. ARB has a statutory duty, by virtue of the Architects Act 1997, to maintain a register and to set threshold standards, while the RIBA derives its responsibility for the advancement of architecture from its charter. The legislation creating ARCUK, ARB's predecessor, and ARB was not intended to give the current Registration Board the character and functions of a professional body. In certain respects, however, ARB is acting as a professional body and is, consequently, seen to be a rival to the RIBA. This is confusing (particularly since Government appointed lay members outnumber architects on the Board of ARB), wasteful of financial and human resources and is not in the public interest.

In 1992, the government commissioned John Warne to review architects' registration. His report concluded that the title 'architect' should no longer be protected and that ARCUK should be disbanded. While at first agreeing with its conclusions, the RIBA later changed its mind, following consultation with RIBA membership in the regions, and lobbied for a replacement registration body. It did not have in mind a rival. There

are current tensions between the two bodies both in the fields of education and practice.

Architectural Education

There has been increasing debate, since ARB's inception, about the part that each body should play in architectural education and the control of entry into the profession. The RIBA has, since the 1890's, conducted Visiting Boards to Schools of Architecture in the UK and overseas, for the purpose of recommending exemption from the RIBA's own membership examinations, and has, therefore, had oversight of the conditions of entry to the architectural profession. As a result of its experience in this field, the Institute is now a world leader in setting and monitoring standards in architectural education.

In the past ARCUK relied on RIBA Visiting Board reports to determine who could join the architects' register. Although the recent Act gave ARB a similar duty, to ensure that those joining the register are appropriately qualified and to prescribe qualifications to that end, ARB has recently refused to prescribe courses solely on the basis that they are deemed by the RIBA to be of an acceptable standard; and now the Prescription Procedures published by ARB make no mention of the RIBA. It appears, therefore, that ARB does not wish to be a partner or to rely upon evidence provided by the RIBA and itself wishes to control entry into the profession.

The first set of points for your consideration in this debate are, therefore:

Which body should control entry into the profession?

Which body should define the profession's knowledge base and the skills and abilities expected of future practitioners?

Which body should ensure the quality output of the schools of architecture?

Which body should control the education of architects in the UK?

Architectural Practice

The ability of an architect to practice, and disciplinary procedures for those who fail to meet the threshold standards necessary for consumer protection, are proper concerns of the Registration Board. But by its activities in relation to Professional Indemnity Insurance (PII) and to CPD, ARB has shown that it believes it should consider matters beyond the realm of professional conduct by determining and controlling how architects practice. Many do not believe that the duties of the Registration Board extend to this task or that it is suitably constituted for it.

Professional Indemnity Insurance

In Standard 8 of the Code, ARB has converted guidance into a requirement. It has prescribed that all architects must be insured for a minimum amount related to their turnover. The RIBA supports the need for adequate PII cover for architects.

However, it does not agree that the amount should be prescribed and believes that, at the lower end of the scale, the amounts stipulated by ARB are, in many cases, an unnecessary burden on occasional practitioners and their clients. Furthermore the standard takes no account of circumstances in which non-compliance (for instance, because of self insurance) raises no issue of unprofessional conduct.

Continuing Professional Development

ARB has issued guidance about the CPD that a registered architect should undertake in order to fulfil the Board's requirements. While this is only guidance, there are concerns, echoing those under the heading of education, that a body, whose *raison d'être* is registration, should be issuing guidance on what constitutes acceptable CPD.

Sign Boards

ARB has recently been considering promoting the use of its own logo on site signboards for use by all registered architects, which some may see as a direct challenge to the membership benefits enjoyed by chartered architects and, as members of the RIBA, to the part that they play in the promotion of architecture in the public interest. Some also doubt whether this will be of benefit to the consumer as it could lead to confusion about the definition of an architect.

The second set of points for your consideration are, therefore:

How should standards of competence be set within the profession?

How should standards of good practice be set within the profession?

Can architectural practice be separated from the promotion of architecture?

Does anything need to change?

The present unsatisfactory state of affairs between the RIBA and the ARB was foretold in the Warne Report. Several scenarios to resolve the situation (in no particular order of preference) present themselves:

The RIBA and the ARB agree to discharge their separate functions without duplication and conflict.

Government and/or the Privy Council direct ARB to restrain itself and avoid duplicating the functions of RIBA

The Architects Act is amended to secure the minimalist role for ARB originally intended.

The Architects Act is amended to abolish ARB and establish RIBA as the registration body.

The Architects Act is amended to make the title that is protected 'registered architect' and not 'architect', thus distinguishing it from 'chartered architect'.

The Architects Act is repealed, with the consequent removal of protection of the title 'architect', and ARB ceases to exist.

What views do you have on these scenarios? Does anything need to change?