

# RIBA



To Council

From ARB Review Task Group

Date 29 September 2004

Subject Report of the ARB Review Task Group

## Introduction

This report sets out the conclusions and recommendations of Council's ARB Review Group, for Council's approval. The background, remit and methodology of the Group is set out in Appendix 1 and an outline of the historical background of Registration of Architects in the UK is set out in Appendix 2.

## Analysis

Our Group's Briefing Note (reproduced at the end of appendix 1) invited consideration under three separate headings:

*Education*  
*Practice*  
*Does anything need to change?*

A number of responses also raised matters other than those highlighted in our briefing note. We have considered these under a further heading:

*Other matters*

## Education

The answers to the main questions that we asked were:

	RIBA	ARB	Other
1. Which body should control entry to the profession?	70%	30%	0%
2. Which body should define the professions knowledge base and the skills and abilities expected of future practitioners?	80%	18%	2%
3. Which body should ensure the quality output of the schools of architecture?	81%	17%	2%

4. Which body should control the education of architects in the UK? 80% 18% 2%

The majority opinions are ones which we endorse

Schools of Architecture currently seek to satisfy three bodies:

The Quality Assurance Agency, which has statutory powers to monitor the process of education;

The ARB, which has statutory powers to prescribe qualifications; and

The RIBA, so that passing a school's examinations will allow exemption from the RIBA's own exams.

Under the current regime, exemption from the RIBA's exams is necessary to satisfy the criteria for chartered membership of the Institute but not the rules made by ARB for prescription of a course

Our enquiries have led us to understand that the work currently undertaken by the ARB, when prescribing qualifications, is only necessary because of the Board's perceived statutory duty to act in an unfettered manner. We also understand that the QAA and RIBA Visiting Boards are capable of maintaining the necessary standards without any input from the ARB. It appears to us, therefore, that there is an unnecessary element of duplication, which leads to wasted resources in both the ARB and each school of architecture.

**We recommend that an educational system is designed that will:**

**Remove from the ARB the statutory duty to produce its own set of education criteria for schools of architecture;**

**Allow the ARB to rely upon the reports of the RIBA Visiting Boards (and those of the other charter bodies) as evidence of the educational sufficiency of each school of architecture;**

**Recognise that the public interest is served by this proposal in that education is a part of the charter responsibilities of the RIBA and other charter bodies, which are monitored by the Privy Council.**

### **Practice**

The answers to the two questions that we asked about competence and good practice were:

	RIBA	ARB	Other
1. By which body should standards of competence be set within the profession?	75%	21%	4%
2. By which body should standards of good practice be set within the profession?	78%	19%	3%

We did not score the third question regarding the promotion of architecture as too few people answered it.

The majority opinions are ones which we endorse.

The aspects of practice that currently attract the attention of the ARB are Continuing Professional Development (CPD) and Professional Indemnity Insurance (PII).

*COMPETENCE AND PROFESSIONAL DEVELOPMENT (CPD)*

The current position is that:

The qualifications and practical experience prescribed by the ARB set the basic standard of competency required as a pre-condition to registration. Some classes of applicants do not need to have passed Part 3 of the RIBA examination or one that gives exemption from it;

A chartered member of the RIBA is required to have passed Part 3 of the RIBA examination, or demonstrated experience that gives exemption from it, as a pre-condition of membership;

Subsequent to registration, competence to practice whether by virtue of recent practical experience or otherwise is of continuing concern to the Board; and maintenance of competence is the subject of a standard in the ARB Code.

Subsequent to membership, the RIBA requires its UK chartered members, who comprise 86% of UK registrants, to undertake CPD as a condition of their continuing membership of the Institute. A proportion of members is monitored annually.

We endorse the actions of the ARB in requiring, in its Code, that registrants should maintain their competence. However, inasmuch as CPD is an extension of the education of an architect, our view is that the RIBA should define the scope of CPD and that it is inappropriate for the ARB to do so. In other words, the ARB should confine itself to accepting, through prescription, *what* should be achieved and not defining *how* it should be achieved.

Further, by providing guidance on what constitutes adequate CPD, the ARB is duplicating a task already being undertaken and monitored by the RIBA.

*PII*

The current position regarding PII is that:

The ARB Code requires all relevant registrants to hold PII in accordance with a pre-ordained scale according to turnover and to notify the ARB annually of compliance with the Standard;

The RIBA Code requires all members entering into a professional engagement to state whether or not PII is held and the limit of their liability.

The RIBA requires all registered practices to hold PII, which (for the sake of consistency) is required to be in accordance with the pre-ordained scale set by the ARB;

The RIBA has produced evidence, by reference to claims history, to show that, at the lower end of the pre-ordained scale, the levels of PII are set unnecessarily high. While the ARB has asked for evidence that these levels are causing unnecessary hardship, no evidence has ever been produced by the ARB to justify the levels that they have set. Further, the ARB has not provided for the effect of excesses on policies or of the ability of some members to self-insure.

Our view is that the ARB should limit the Code to requiring that an architect is capable, in the event of a claim being made against him, of meeting his professional obligations (albeit that this is already a common law obligation). In other words, the ARB should confine itself to accepting, through prescription, *what* should be achieved and not defining *how* it should be achieved.

In taking this course of action, the ARB would meet the will of Parliament expressed by Mr James Clappison, the Under Secretary of State, who declared that:

*'Some architects practise without insurance. Although the vast majority encounter no problems, we encourage all architects to take out some form of indemnity insurance. That, however, must remain a matter for the individual and his professional organisation and we certainly do not feel that such insurance should be compulsory. The matter should be dealt with in the contractual arrangements between the client and the architect or other building professional. If he wishes, the client may insist on employing someone with professional indemnity.'*

*(Parliamentary Debates 1995-96 Vol. 278 col. 571)*

**We recommend that proposals are prepared that will:**

**Limit the ARB Code to establishing the principles of practice in respect of, but not limited to, CPD and PII;**

**Allow the ARB to rely upon the guidance, produced by the RIBA (and that of any other charter body), as to what constitutes good practice as the basis for establishing satisfaction of the ARB Code;**

**Recognise that the public interest is served by this proposal in that education and standards of good practice are a part of the charter responsibilities of the RIBA (and those of the other charter bodies), which are monitored by the Privy Council.**

### ***Does anything need to change?***

The questions that we asked have been difficult to score as some respondents have answered more than one question. What we are able to record, however, is that out of 793 respondents, the answers to the two clear questions were:

	Yes	%age
1. Should the Architect's Act be repealed with the consequent removal of protection of the title 'architect', so that ARB ceases to exist?	17	2.1%
2. Do you wish there to be no change in the way that the ARB currently performs its role?	47	5.9%

In respect of the responses received to the remaining questions, 85% wished to retain protection of title. We started our work on the assumption that we would agree with the majority opinion, but all the evidence that we have taken has led us to question the basis of that assumption.

The role of the ARB is defined in the Architect's Act. The Board is described as a registration body and not as a regulator. Nevertheless, the tag line that appears on all ARB literature is:

*'Protecting the consumer and safeguarding the reputation of architects'*

We are of the opinion, however, that protection of title does not, in itself, protect the consumer.

With 86% of the UK's profession as members of the RIBA and, thus, already committed to protect the needs and expectations of the consumer, we question whether there is a need for a registration body for architects that is in being to monitor, in effect, the remaining 14% of the profession in the UK.

We recognise, however, that our survey of the profession demonstrated that there is, currently, no general support for the abolition of registration. In excess of 85% of those surveyed wish to keep protection of title, the most commonly evinced reason being that it *'distinguishes us from the rest'*.

Protection of title is, therefore, seen by respondents as a marketing tool. At the same time, however, the majority also said that a key reason for joining the RIBA is that the initials are recognised as the 'gold standard' for architects.

**We recommend that the Institute informs and further canvasses the views of the membership regarding issues of registration and protection of title.**

### ***Other matters***

The other matters drawn to our attention relate to:

*Appealing decisions of the Board*  
*EU Directive*

*Appealing decisions of the Board*

It has been brought to our attention that, although a decision of the Professional Conduct Committee may be appealed in the High Court, there is no mechanism for a registrant or a charter body to appeal against the decision of the Board.

The Parliamentary Commissioner Act 1967 lists the Government departments and public bodies in respect of which an appeal may be made to the Parliamentary Ombudsman. The ARB is not included on that list.

The reason given is the exclusion in the Act of the application of the Act to:

*'... a corporation or body whose sole activity is, or whose main activities are, ... the control of entry to any profession or the regulation of the conduct of members of any profession; ...'* [Section 4(4) and 4(5)(c)]

The only means of holding the ARB to account is by judicial review. This is, in our view, an unreasonably expensive mechanism and contrary to the principles of natural justice when public bodies can appeal to the Ombudsman and other professions can appeal to an independent tribunal or the Privy Council.

**We recommend that the RIBA work with the ODPM to develop a mechanism to hear appeals against decisions of the ARB.**

*EU Directive*

An architect may be accepted for registration by the ARB in accordance with either section 4 or 5 of the Architects Act. Registration by virtue of section 4 requires the applicant to hold qualifications prescribed by the ARB. Registration by virtue of section 5 requires the applicant to satisfy the terms of Council Directive 85/384/EEC, generally known as the Architects Directive.

A simple distinction may be drawn between the two requirements for entry. Those seeking registration in accordance with section 4 are required to have passed the RIBA Part 3 examination (or one giving exemption from it), a requirement not sought of

those applying for registration via the section 5 route, who are required to be able to demonstrate only four years of academic qualification plus two years of practical experience in an EU country.

In our view it is only a matter of time before a UK student, who has been denied registration on the grounds that he or she has not passed the Part 3 examination, yet who has been educated in the UK and achieved two years practical experience in the UK, successfully challenges such a decision on the basis that it is irrational to require a UK based student to possess a higher level of qualification and experience than is required of a non-UK based student or architect.

**We recommend that the RIBA should consider how a distinction might be drawn within its membership between architects who possess a pass in the RIBA Part 3 practical experience examination and those who do not.**

### *Conclusion*

**Council is asked to approve the content of this report and to adopt a policy of seeking to return the role of the ARB to the minimalist role of registration originally intended in conjunction with a wider review of the benefit of the ARB; and instructs the Professional Services Board to set up an ARB Action Group to carry out the following four tasks:**

**Work with the ODPM and Regulatory Impact Unit, in liaison with the ARB, to amend, through the use of Regulatory Reform Orders and other methods, the existing legislation so as to better define the role and accountability of the ARB;**

**To evaluate the distinction that might be made between the requirements for entry to the ARB register and those for entry to RIBA chartered status;**

**Improve working relationships between the ARB and the profession through a better understanding of the needs and expectations of the consumer and the profession;**

**Continue to investigate the value of registration and protection of title, concurrent with informing and further canvassing the views of the membership on these issues.**

Michael A H Highton  
*(on behalf of the Task Group – Drafted 30 Aug. 2004)*