

A Report for the RIBA  
On the Registration and Regulation of Architects

**RULES AND RESPONSIBILITY**

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‘Absolute morality is the regulation of conduct in such a way that pain shall not be inflicted.’

Essays, Herbert Spencer

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### Abbreviations

ACA	Association of Consultant Architects
ARB	Architects Registration Board
ARCUK	Architects Registration Council of the United Kingdom
CPD	Continuing Professional Development
DCLG	Department of Communities and Local Government
EU	European Union
PII	Professional Indemnity Insurance
RIAI	Royal Institute of Architects in Ireland
RIBA	Royal Institute of British Architects
RICS	Royal Institute of Chartered Surveyors
R&R	Registration and Regulation
SCHOSA	Standing Conference of Heads of Schools of Architecture
UIA	Union Internationale des Architectes
UK	United Kingdom

## I Preface, Summary and Recommendations

‘In my beginning is my end.’

Four Quartets, T. S. Eliot

### Context and Terms of Reference

The Royal Institute of British Architects (RIBA) was established by Royal Charter in 1834. It is the authoritative body of the profession. During the later 19<sup>th</sup> and early 20<sup>th</sup> centuries, architects and the RIBA campaigned for the creation of an ‘Architects Registration Body’ to provide statutory registration and regulation (R&R) for the profession, in order to protect the use of the title ‘architect’. This was ultimately secured through the Architects (Registration) Act of 1931: the new statutory body was known as the Architects Registration Council of the United Kingdom (ARCUK).

At ARCUK’s request these arrangements were reviewed in 1992. The outcome of the review was the Warne Report (1993), which recommended that the statutory protection of title should be abolished, and ARCUK disbanded. The RIBA initially supported these conclusions, but was persuaded by its own membership to seek instead a new ‘streamlined’ registration body. Accordingly, Parliament created the Architects Registration Board (ARB) by means of Acts of 1996 and 1997. After an initial period of some years when senior members of the RIBA were closely involved in the ARB, problems seem to have arisen in the relationship between the two bodies. As part of its ongoing review of the situation, the President of the RIBA has invited me to provide this independent Report. The Report is intended to inform, but not foreclose, debate.

The terms of reference for my work were as follows:

#### Registration of the Architectural Profession

Neither opaque self registration nor regulation by inexperienced Quango appears to be working well for the consumer or the professional practitioner in the UK today. The former is open to mistrust and abuse and the latter is prone to careerism, stifles innovation and the development of what can be very technical professions operating within a fast changing world. A new model should be found that gives consumer confidence, transparency, fairness and freedom for the development of the profession.

To this end the RIBA is conducting a review of the registration of architects and the architectural profession. As part of this process it seeks disinterested but informed advice and recommendations on existing arrangements and possible ways forward.

The current registration body is the Architects’ Registration Board, established by the Architects Act 1997. ARB state they have:

*'a dual mandate to protect the consumer and to safeguard the reputation of architects. To achieve this, we:*

- *keep an up to date Register of all architects*
- *promote good standards both in the education of architects and in professional practice*
- *provide customers with an accessible service in cases of complaint*
- *investigate and prosecute unregistered individuals in business or practice who unlawfully call themselves an architect.'*

Additional factors for consideration are the impact on architectural education, the cost to the profession of registration and the benefit to consumers when registration within the construction industry is confined to architects. These factors should be evaluated against statutory duty and limitation and the criteria of the Better Regulation Executive which state that regulation should be transparent, accountable, proportionate, consistent and targeted – only at cases where action is needed.

Looking to the future is a key element of the architect's ethos. Accordingly, the RIBA seeks possible ways forward which respond to the needs of architects and their clients in the new century. The ambition is to put forward proposals offering a fresh, exemplary approach to what is necessary and proportionate for the regulation of the profession.

### Summary of the Report

I was asked to undertake this work in July 2009 and to present a draft paper by the end of September for consideration by the working-group at the RIBA in October, followed by the finished document by the end of November. Accordingly, I present my Report. It is in five Chapters. This first chapter provides the background, a summary, and a list of recommendations. Chapter II offers an outline of the history of the registration and regulation of architects. It concludes that both architects and the RIBA itself campaigned for several decades for the enactment of statutory R&R, which was finally granted in 1931. However, neither ARCUK, the first statutory body, nor the ARB, its successor, has proved wholly satisfactory to all parties. The question is: what should be done now?

Chapter III discusses the principles of professional R&R. It concludes that there are three (and only three) logical alternatives: no system of R&R, professional (self-) registration and regulation, and statutory R&R. Each of these works reasonably well for other professions – and, indeed for architects in other parts of Europe. The problems in the UK arise in large part from the dual system of professional (self-)

registration and regulation provided by the RIBA (a chartered body) and statutory R&R delivered by the ARB. This overlap of mission has engendered a climate of mistrust. At first glance, this might seem unnecessary – since (as I have been repeatedly told) ‘The ARB safeguards minimum standards; the RIBA provides the gold standard.’

Chapter IV considers alternative solutions for architecture. It explores the nature of some of the most painful and typical issues which have divided the RIBA and the ARB in the past (and, to some extent, still do) - two concerning competence, one concerning performance: educational qualifications for the profession, Continuing Professional Development (CPD), and professional standards coupled with codes of practice. It suggests that goodwill and commonsense might well resolve these issues. If not, there seem to be five logical alternatives:

- (a) abolish statutory protection of title and disband the ARB; or
- (b) maintain statutory protection of title and transfer the task from the ARB to the RIBA (with the disbanding of the ARB); or
- (c) maintain the status quo and encourage the two bodies to find a better modus vivendi by either
  - (c,i) persuading Parliament to make some statutory clarification of the role of the ARB in relation to the RIBA; or
  - (c,ii) persuading the Department of Communities and Local Government (DCLG) to issue some extra-statutory guidance to the same effect; or
  - (c,iii) arranging meetings (if necessary, with the help of a friendly mediator) to establish a common formulation to enable them to avoid conflict and improve co-operation in the future.

It is not obvious which of these options would be preferable. Nor is it clear that they are all available. Three require legislation. The profession is unlikely to welcome (a). That said, at this stage in the debate, none of the options can be ruled out. Any one of them could be made to work, with goodwill and wise leadership on all sides.

#### Conclusions and Recommendations

The final Chapter (V) presents the conclusions and offers three recommendations. The first finding is that, while the issues raised in the Report are indeed awkward, they are not particularly significant in the wider scheme of things. Neither the public nor the profession are – or should be – greatly concerned about them. A resort to legislation might seem like overkill. At least as a first step, the RIBA and the ARB (possibly with help from the DCLG) might hold talks to see how far they can make progress to resolve the issues set out in this Report.

The second finding is that there is no clear consensus among architects (whether or not members of the RIBA) about the best way forward for the profession. Indeed, there is

evidence of considerable confusion among architects about the whole question of R&R. A divided and confused profession is unlikely to persuade a government to legislate to help it.

The third and final finding is that the best interests of the profession will be served if the RIBA plays a waiting game, and resists the temptation to choose a favoured option until the implication of the first two findings are studied and dealt with. If, as I believe, the RIBA finds option (b) attractive, work needs to be done to show how it would fulfil its new role, if the responsibilities of the ARB were transferred to the RIBA. But the main point is the importance of keeping all the options open for the time being.

Accordingly, I recommend that the RIBA should:

1. invite the ARB to a joint discussion of the issues identified in this Report, and any other areas of disagreement or friction, seeking the presence at these talks of representatives from the DCLG. At a later stage it might be advantageous to invite representatives of the Standing Conference of Heads of Schools of Architecture (SCHOSA) to attend a second round of talks.
2. undertake a comprehensive consultation of architects (whether members or not), possibly using this Report as the basis for the exercise, to determine what architects really want, and whether there is a consensus (or, at least, a clear majority) in favour of pursuing one or other of the options.
3. wait until after the next election, when the political context may become clearer, and after the results of implementing recommendations 1 and 2 can be assessed, before reaching a final decision or seeking to initiate action on the question of the registration and regulation of the profession. *Festina lente*.

Finally, I should add that I have come to realise that this Report has inevitably addressed two questions at the same time, a larger question and a smaller question. The former is the broad issue of professional regulation: what is the best balance between rules and responsibility in the governance of professions? I have suggested that what may be needed are fewer rules and more responsibility. The smaller question concerns the relationship between the RIBA and the ARB. On this question, my findings and recommendations are set out above.

Nevertheless, I recognise that some of those who lead the RIBA are determined to seek and secure a *permanent* solution to the problems that have bedevilled the relationship between it and the ARB, and may be disappointed that I have not felt able to go further in this Report. I sympathise with this concern, and can understand that (c,iii), even if it provided a workable solution in practice for a time, could hardly be described as a permanent solution. To achieve that, new legislation is required (b or c,i) or, at least, some firm Extra-Statutory Provision provided by the DCLG to resolve the issues (c,ii) - I am inclined to rule out (a), since I doubt whether the profession as a whole would welcome or allow it (at least, for the foreseeable future). If, as I believe, the RIBA

favours (b) from among these alternative possibilities for a permanent solution, I have to advise that I see the following as necessary pre-requisites to the pursuit of (b):

a serious attempt to reach an accommodation with the ARB (recommendation 1) – if only to understand better what the problems are and why they seem to be intractable;

a thorough consultation of the architectural profession, both registered and chartered, to establish a clear and well-informed consensus in support of the RIBA's chosen solution (recommendation 2);

a careful study of the costs and staffing implications for the RIBA, if it were to become the Competent Authority for architecture and take responsibility for the functions set out in the 1997 Act, at present the business of the ARB. Recommendation 3 is intended to provide just such an opportunity for analysis and reflection.

### Note of Thanks

I am most grateful to the RIBA for entrusting this task to me. I have learned a lot, enjoyed the work, and met a number of interesting and delightful people in the course of it. A careful reader will perceive that I have had the great benefit of much helpful advice, and many generous advisers. First of all, I thank the two successive Presidents of the RIBA who commissioned and received the Report, Sunand Prasad and Ruth Reed. They have guided me with unfailing wisdom, kindness and courtesy. Among their colleagues at the RIBA I am grateful to Richard Brindley, David Gloster, Jack Pringle, Ian Pritchard and Roger Shrimplin, all of whom freely shared their experience, expertise and time with me. Margaret Ader, the RIBA's secretary for constitutional affairs, has helped me at every stage of the work. I thank her for her patience, insight and gentle guidance. Peter Gibbs-Kennet is an old friend, who has generously and patiently commented on earlier drafts and suggested improvements, for which I am most grateful.

I have, of course, informally consulted a number of individuals from organisations without the RIBA, including the ARB and the DCLG. I am particularly grateful to Alison Carr, Richard Harral and Anthea Nicholson, who received me so graciously, listened thoughtfully and then offered their own views of the issues set out in the Report. I am indebted to each of them. Among a number of architects and experts who have advised me at different stages of the preparation of this Report, I wish to record special thanks to Roger France, Joyce Lowrie, Jonathan McDowell, George Oldham and Ian Salisbury. Each of these has helped me improve successive drafts. If the readers find more things that need correction or improvement, the responsibility for any shortcomings is mine alone.

## II The History of the Registration and Regulation of Architects

‘Those who cannot remember the past are condemned to repeat it.’

The Life of Reason, George Santayana

### 1834 -1931: the Background

Thomas Hardy, the novelist and poet, was an architect before he was a writer. He learned his skills from a local church architect, John Hicks, to whom he was apprenticed as an articled pupil at the age of 16 in 1856. Later in the 19<sup>th</sup> century it became clear that the pupillage system no longer provided a satisfactory education for architects. There were three main reasons for this: the ‘battle of the styles’, advances in the sciences of materials and engineering, and the growing complexity of methods of construction and the practical requirements of building. The rediscovery of Roman and Greek forms, the Romantic Movement and the Gothic Revival, each contributed to the disruption of the orderly development of the native English architecture based on shared principles and a common practice derived from the Italian Renaissance.

New materials like iron, steel or glass revealed new possibilities and required more thorough training. The organisation of major projects like the Crystal Palace, or the London railway termini, demanded architects who were also managers. It gradually became clear that architecture was a profession, and the members of the ancient professions (church, medicine or law) were – and are – educated and trained in the universities. The pupillage system was gradually replaced during the 20<sup>th</sup> century with courses and examinations offered by schools of architecture with the approval of the profession, the first course being validated in 1901 and the five-year course being introduced at Liverpool University in 1920. Today, all architects must follow similar courses before they can qualify.

From its foundation in 1834, the Royal Institute of British Architects (RIBA) has seen itself as the authoritative body of the profession. While it has never taken direct responsibility for architectural education and training (the French word formation would be appropriate and useful here), it provided a centralised system of examinations in the latter part of the 19<sup>th</sup> century and gave exemption from taking its own examinations to those individuals successfully undertaking courses and examinations approved by it and offered in the schools of architecture. In general, this is still the position today. One important (and more recent) example of the RIBA’s leadership in the education and training of architects was the RIBA’s influential Oxford Architectural Conference of 1958, which established new standards for architectural education and qualification. The profession looks to the RIBA to give a lead in a wide variety of areas affecting education, professional development and practice from the design implications of climate change to legal implications in construction contracts, as well as seeking the appropriate balance in architectural education and training between the demands of ‘innovation’ and ‘conservation’, or (more generally) theory and practice.

The RIBA visits the schools of architecture regularly to review and validate courses and examinations leading to qualification as an architect. It maintains a list of those who have qualified for the various categories of membership, regularly evolves the framework governing the practice of architecture and the conduct of architects, sets requirements for and gives guidance on Continuing Professional Development (CPD), provides a complaints procedure for members of the public and organisations unsatisfied by a chartered architect's services, and discourages those architects who present themselves as 'chartered architects' without having the proper qualifications. In short, the RIBA undertakes the functions of the registration and regulation of 'chartered architects'. How is it that statutory registration and regulation (R&R) has come to sit alongside this system of professional self-regulation?

The campaign for statutory recognition of the architectural profession began towards the end of the 19<sup>th</sup> century. One of the motivating forces for this campaign was the wish to ensure that architectural work should be reserved for properly qualified architects, not only in the UK, but also throughout the British Empire – both to protect the client from unqualified practitioners and architects from unfair competition. From 1887 until the enactment of the Architects (Registration) Act in 1931, a series of 'Architects Registration Committees' sought to persuade the government of the day to create statutory registration, at first for Architects, Engineers and Surveyors, later just for Architects and Surveyors, finally for Architects alone. To this day, statutory registration and regulation applies only to architects among the several professions and specialisms that contribute to the construction industry.

During this period three major concerns were dominating the debate among architects: the issue of education, training and qualification; the problem of the 'two communities' of 'chartered architects' (RIBA) and the members of the (unchartered) Society of Architects; and the question whether architecture was an art or a profession. In time the prevailing view established architecture as a profession and imposed a mandatory system of tertiary education and training as a prerequisite for membership of the profession. Only the problem of the 'two communities' remains unresolved to this day: some 75-85% of registered architects are 'chartered architects', the remainder are apparently content to be known as 'registered architects' (or, since 1939, simply 'architects'). One reason why so many qualified architects decline the opportunity of becoming 'chartered' architects may be cost: today (mandatory) statutory registration costs each architect £86 p.a.; optional membership of the RIBA as a 'chartered' architect costs £370 p.a. (at the full rate).

But the explanation is not as simple as that. Some ARB-registered architects have not chosen to complete the necessary qualifications for 'chartered' status. Others may not be currently practising architecture, though they are pleased to describe themselves as '(registered) architects'. Many live and work at a distance from London and perhaps feel that the benefit of chartered status would be less advantageous for them. A few have principled objections to joining a professional association.

Conversely, there are groups of 'chartered architects' (members of the RIBA) who do not qualify for registration with the ARB. These include many who are retired but wish to retain their chartered status, a small number of honorary members of the RIBA, and a larger group of international members who have qualified at schools of architecture

overseas, recognised by the RIBA, but not by the ARB. There is also a group of architects from the EU, who could qualify for registration by the ARB, but apparently see no point in it, while valuing their chartered status at the RIBA.

For all these reasons, it is not easy to estimate the exact proportion of ‘registered’ architects who are not ‘chartered’, or vice versa. The unresolved struggle to unite the profession under the umbrella of the RIBA and to create a system for registration can be glimpsed in the following sequence of events:

1884, formation of the Society of Architects, after Fellows of the RIBA had resisted a campaign by Associates of the RIBA to be allowed to vote on RIBA affairs;

1889 (and 1891), the Architects Registration Bill Committee proposed bills for the registration of architects, with the support of the Society of Architects, but in the face of opposition by an independent group of leading architects;

1902, amalgamation of the Architects Registration Bill Committee with the Society of Architects;

1905, the RIBA adopted an education policy calling for statutory powers to secure satisfactory training for architects by means of registration with the RIBA;

1908, the RIBA created a class of ‘licentiate architects’ who could demonstrate competence without qualification by examinations;

1913, closure of the licentiate class after more than 2000 architects had been accepted by this route;

1924, RIBA established a Standing Registration Committee;

1925, amalgamation of the RIBA and the Society of Architects, most of the members of the latter becoming ‘licentiate architects’ – the RIBA having re-opened the licentiate class;

1927, the RIBA’s Registration Committee arranged for a draft bill to be introduced in parliament, but this was withdrawn after opposition from surveyors;

1931, the revised bill was finally enacted as the Architects (Registration) Act 1931, requiring a register of architects to be established under a statutory body called the Architects Registration Council of the United Kingdom (ARCUK) – although the RIBA had hoped that this job would be given to itself.

## 1931 - 2009: the Foreground

From 1931 until the present day, members of the profession have been statutorily registered as 'Registered Architects' (until 1938), thereafter as 'Architects'. ARCUK, the Council responsible for registration asked for a review of the system in 1992. As a result, the government commissioned John Warne, a senior civil servant, to prepare an independent assessment: the Warne Report was published in 1993. It was – and is – a thorough, dispassionate, authoritative and persuasive review of the issues. Its conclusions were simple: that the statutory protection of the title 'architect' should be abolished, and that ARCUK be disbanded. As a second option, if the former proved unacceptable, Warne proposed that ARCUK's functions be transferred to the RIBA. In either case ARCUK would cease to exist.

The RIBA leadership initially supported the first of these recommendations, but the membership resisted it. As a result, the RIBA campaigned for the retention of the statutory protection of title with a 'streamlined' registration board. Among others, the National Consumer Council also argued for an independent registration body. Accordingly, Part III of the Housing Grants, Construction and Regeneration Act 1996 reconstituted the registration body as the Architects Registration Board (ARB). One year later this Act and its predecessors, the Acts of 1931 and 1938, were consolidated in the Architects Act of 1997. The ARB was then established with a majority of appointed lay members and a minority of elected architect members. And there matters stand, apart from Amendments made by Statutory Instruments to alter the membership of the Professional Conduct Committee and subsequently to reflect a new EU Directive on the recognition of qualifications.

It seems useful at this point to consider what is at stake: both professional (self-) registration and regulation and statutory R&R are designed to protect the *title* (in the case of architecture) of 'chartered architect' and 'architect' respectively. The intention is to protect clients from unqualified practitioners and architects from unfair competition. However, there is no protection of *function*. Unqualified practitioners may design buildings, so long as they don't claim to be '(chartered) architects'.

There is no doubt that architects find benefit in this protection of title: but they pay a price for it – both literally and metaphorically. They are required by law to pay the fees set by the ARB, and (if they want chartered status) their subscription to the RIBA. They must also meet the educational standards set by the two bodies, conform to their codes of conduct and submit to their disciplinary procedures, should problems arise. One wonders whether the costs and benefits of R&R are really commensurate for the practitioners, or fully necessary to protect the public. And whether the statutory protection of title should really be a protection of function? These questions are reconsidered later in the Report.

However, three factors have contributed to the re-opening of the question of the statutory R&R today. The first is the long-standing conviction among some architects within the RIBA that statutory recognition was neither necessary, desirable nor appropriate for the architectural profession. This principled objection is made stronger by the second factor – the opinion shared by some leading members of the RIBA and many chartered architects, that the ARB (like its predecessor ARCUK) has not proved in practice to be a fully satisfactory authority – and that the job could be done better by the RIBA itself.

There is evidence from the Parliamentary debate before the passing of the 1997 Act that Ministers intended the ARB to provide a light touch and take a ‘minimalist approach’. But this is not how things are seen to have turned out in the eyes of its critics. It is difficult to decide how intractable the problem is. Perhaps it is fair to say that the ARB has been seen as a problem by the RIBA in the past, and could prove to be so again, but is not such a serious problem now. If so, that provides hope for further progress towards some sort of reconciliation.

The third factor is the widely held view that recent governments have created too many ‘quangos’ and statutory authorities, and that the time has come to reduce their number and attempt a limited programme of deregulation. This view has been forcefully expressed by the leader of the Conservative Party in a recent speech. Whatever the outcome of the next General Election, it is likely that the question of deregulation will once again rise on the political agenda. For all these reasons, the RIBA has decided that the time has come to review its own policies on the statutory R&R of architects and the continuing role and remit of the ARB.

### Summary

In summary, architects and the RIBA campaigned for several decades for statutory R&R, which was granted in 1931. However, neither ARCUK, the first statutory body, nor its successor, the ARB, has proved wholly satisfactory for the RIBA. The story is reminiscent of Aesop’s fable of the frogs, who petitioned Zeus for a king, when they proved unable to settle their own disputes. Zeus threw a log into the pond, but the frogs soon found that their new king was wholly inactive and useless. They asked for another, so Zeus placed a stork on the log. The stork began to eat the frogs. When the frogs complained, Zeus told them that there are only two kinds of king – and that they must make do with what they had been given.

But this rather cynical – yet not wholly inappropriate – fable cannot be the last word. Before concluding that a replacement for the ARB might provide the best solution, if the government was prepared to find one, it seems proper to consider the principles governing professional R&R. What are they? What should they be? That is the subject of the next Chapter.

### III The Principles of Professional Registration and Regulation

‘All professions are conspiracies against the laity.’

The Doctor’s Dilemma Act 1 (George Bernard Shaw)

#### Professions

The government’s Better Regulation Executive suggests that regulation should be transparent, accountable, proportional, consistent and targeted – only at cases where action is needed. This formula, though helpful, begs the questions of why professional R&R is thought to be desirable, necessary or appropriate at all – and whether such registration or regulation (if it is needed) should be controlled by statute, or managed by the profession (as in the case of surveyors). These questions, in turn, beg the further questions of the definition of a ‘profession’ and why (among all the remunerated or unremunerated occupations of a mixed economy) the professions, or perhaps some of them, might be especially in need of R&R.

Although architects like to pretend that architecture is the second oldest profession, recalling the story of the Tower of Babel in the Book of Genesis – an unsuccessful public building by all accounts – in truth medicine, law and the church constitute the three ancient professions. Today, the term ‘profession’ embraces a wider range of occupations. In technical language ‘the professions’ include engineering, pharmacy, dentistry, teaching, accountancy, nursing, surveying, librarianship and social work (for example) – as well as divinity, medicine and the law – and, of course, architecture. In common parlance, the word has come to be used almost as a synonym for ‘occupation’. The old class distinction between people in trade and those called to a profession has almost disappeared.

The Oxford English Dictionary defined a profession in 1933 as ‘a vocation in which a professed knowledge of some department of learning or science is used in its application to the affairs of others or in the practice of an art founded upon it, applied specifically to the three learned professions of divinity, law and medicine, also to the military profession’. A valuable contemporary report, British Professions Today: The State of the Sector (2009), uses Sir Alan Langland’s definition: those occupations ‘where a first degree followed by a period of further study or professional training is the normal entry route and where there is a professional body overseeing standards of entry to the profession’. Perhaps the most thoughtful definition was offered by Sidney and Beatrice Webb in 1917: ‘a profession is a vocation founded upon specialised educational training, the purpose of which is to supply disinterested counsel and service to others, for a direct and definite compensation, wholly apart from expectation of other business gain’.

Taken together, these (and similar) definitions emphasise four key features of professions – two concerned with professional competence, two with professional performance: specific education and training, distinctive knowledge and skills, service to others, and standards of performance. I argue that the starting point should be the second and fourth of these: professional standards and the code of practice, together with a shared basis of

professional knowledge and skills. 'First do no harm' is the first principle of the Hippocratic Oath which governs the practice of the medical profession. Lawyers show a commitment to respect the confidentiality of their clients. Priests never reveal the secrets of the confessional. In some professions (like medicine) the standards of conduct are explicitly laid down; in others (like teaching) they are implicit. But all professions have professional standards and a shared code of practice to enable them to serve others in an appropriate way. Likewise, all professions have their own distinctive professional knowledge and skills. And to ensure that members of the profession have mastered the requisite knowledge and skills, and observe the code and provide a good service, professions inevitably come to require specific education and training, and qualifications for membership.

### Regulation

It naturally follows from this that professions concern themselves with the questions of continuing professional development (CPD), discipline for those members who fall short of the standards required, and prosecution of people who pretend to be members of the profession without the necessary qualifications or competencies. And this in turn requires a system for the registration of members in good standing and the regulation of qualifications, CPD, disciplinary procedures and prosecution of those who falsely claim to be professionally qualified to practise. Architecture satisfies each one of these criteria for a mature profession.

However, some occupations which would like to think of themselves as professions have not yet developed systems of R&R – though that may happen in future. University teachers offer an interesting example of an unregistered and unregulated profession. The universities and colleges which employ them are responsible for ensuring that they are appropriately qualified, re-trained and disciplined (where necessary). Students who feel that they have not received a good service from their teachers can appeal to the employer – or (in serious cases) to the law of the land. There is neither a statutory nor professional registration and regulatory body. And it is notable that neither the public nor the profession seems to be demanding that such a body should be created.

University teachers are perhaps an exceptional case – indeed, some may question whether (without R&R) they constitute a true profession. Most professions have come to develop systems of R&R, of which there are two main kinds: statutory and professional. Indeed, one influential definition of the formation of a profession suggests that any trade or occupation transforms itself into a profession through 'the development of formal qualifications based upon education and examinations, the emergence of regulatory bodies with powers to admit and discipline members, and some degree of monopoly rights' (New Fontane Dictionary of Modern Thought, p.689).

Both public and professional interests tend to co-operate to create such regulatory bodies. It is arguably in the public interest to ensure that members of a profession are registered and regulated – and the members themselves feel they derive benefits from registration and regulation. Hence there is a potential conflict of interest: members of the profession may come to feel that statutory R&R is unnecessarily expensive, onerous and bureaucratic – while professional (self-) regulation may appear to the public as self-serving or self-indulgent. What is remarkable in the case of architecture is that both

systems co-exist: the RIBA provides an excellent example of professional (self-) registration and regulation – alongside the ARB, which is the statutory body. While there are other examples of such a duplicate system (for other professions in the UK – and for architecture in other countries), it is unusual to find such a duplicate system where there is neither an agreed pecking order between the two bodies, nor an agreement to allocate leadership for specific functions to one or other body.

For example, the Scandinavian countries have no formal system for R&R of architects; Ireland has a system of professional (self-) registration and regulation; France and Spain (and others) have statutory R&R. It appears that the third category, which is the largest, contains two broad groups: nations (like the Netherlands) where the registration function is limited, and there is little or no overlap with the function of the professional body; and nations (like France and Spain) where there is no professional body – or only a limited one – and where the registration body has expanded its role to fill the gap.

The position in Ireland is particularly interesting. The Royal Institute for Architects in Ireland (RIAI) now has a statutory function as the Competent Authority (under EU legislation) for the registration and regulation of architects. Perhaps this offers a model for the UK – if there is political will to alter the existing arrangements. I understand that the RIAI has ensured that there is a proper representation of independent lay members on its disciplinary committees. But this system is still relatively new and untried. It will be interesting to see how well it stands up to the test of time.

The terms of reference for this Report suggest that neither system (self-regulation or statutory R&R) is felt to be fully satisfactory – at least for architecture. They state that:

‘Neither opaque self registration nor regulation by inexpert Quango appears to be working well for the consumer or the professional practitioner in the UK today. The former is open to mistrust and abuse and the latter is prone to careerism, stifles innovation and the development of what can be very technical professions operating within a fast changing world. A new model should be found which gives consumer confidence, transparency, fairness and freedom for the development of the profession.’

A dispassionate observer might be tempted to suggest that ‘opaque self-registration’ might be improved by the adoption of the principle of ‘openness’, and that ‘registration by an inexpert Quango’ might be transformed by the addition of some expertise. If these changes are needed, they would be easy to make. Other professions do not seem to demonstrate the same degree of concern about the subject of R&R as architects do. It seems possible that one of the reasons for this is that architecture is bearing the load of duplicate systems. But it is not alone in this. Other professions – like Pharmacy or Physiotherapy, or Insurance – seem to be able to make a similar duplicate system work. What seems like intolerable friction to some may appear to be ‘healthy tension’ to others.

It seems to be true that each of the other three logical alternatives for the registration and regulation of professions can be found among UK professions – and appears to be working reasonably well. University teachers have no system of R&R; chartered surveyors practise professional self-regulation; medicine is subject to statutory R&R.

There are several other examples of each of these three alternative solutions. There is no other alternative. If a new model is to be found which will give 'consumer confidence, transparency, fairness and freedom for the development of the profession' it will come from the refinement of one of these three alternatives. In practice, as has been seen, professions tend to move from type 1 (no registration or regulation) to type 2 (professional self-registration and regulation) to type 3 (statutory R&R): it seems to be a one-way street – there is no going back. (Though one should never say never in politics!)

### Leadership and Performance

But prosperity and success in human affairs do not depend solely on organisations and systems. Leadership and performance are also critically important. In team games like football, the rules and the referee play a significant role, but the leadership of the coach and captain, and the performance of the players count for more. When things go wrong, it is tempting to assume that what is required is a change of rules, or a new referee, when the real issues may be defective leadership or poor performance. In Aesop's fable the real problem lay with the quarrelsome nature of the frogs, rather than any particular system of government.

Acton's Law states that 'power tends to corrupt': this is undoubtedly true. To deal with the problem, societies have developed systems of laws, regulations and rules to attempt to control errant behaviour of those with power, be they governments, quangos, the police, professions or parents. But, the more people's actions are regulated in this way, the less they are free to practise responsible behaviour. There is a trade-off between (over-) regulation and responsibility. The art is to find the point of balance which will maximise responsible behaviour, while maintaining a necessary minimum of regulation. It might be argued that parents require rather more regulation today: we too readily assume that they will behave responsibly. Architects, in contrast, seem over-regulated: perhaps we do not allow them enough freedom to behave responsibly?

The first thing to note is that cases of malpractice are relatively rare and relatively minor. A review of the evidence of intervention by both the RIBA and the ARB for the last three years, suggests that by and large the public is well served by this profession: there is no cause for concern. If, as I argued above, one of the defining features of a sound profession is 'service to others', it appears that architecture – and architects – broadly satisfy the test.

Registration should be proportionate to risk. Doctors are more carefully and thoroughly regulated than librarians for example: the public has more to fear from an incompetent doctor, than from a bad librarian. A bad architect could certainly do a lot of damage – to life and property. In this respect, architecture is more like medicine than librarianship. Regulation is appropriate and necessary. The question is whether architecture is an over-regulated profession. I think it may be.

Architects are governed by a considerable body of legislation, including the system of planning approval and building regulations. The public is reasonably well protected against dishonesty, malpractice and incompetence by the law of the land. The dual systems of professional (RIBA) and statutory (ARB) R&R operate like a combination of

belt and braces on a well-tailored pair of trousers. Neither is essential: two such safeguards look like exaggerated caution.

It is important to remember that architectural practices range from the single operator to the large architectural firm. Most of the cases dealt with by the RIBA and the ARB concern the lower end of the range – the householder in dispute with the individual architect. Major cases involving large firms and big projects are settled in the courts, if disputes arise. Regulations appropriate at one end of the scale may be quite inappropriate at the other. All these considerations have led me to question the necessity of imposing a dual system of regulation on top of the existing legal framework. Neither the public interest nor the profession really needs – or benefits from – this duplication.

### Summary

In summary, it appears that there are three (and only three) logical alternatives for the registration and regulation of professions: no system of R&R, professional (self-) registration and regulation, and statutory R&R. Each of these alternatives works well enough for other professions – and, indeed, each seems to work reasonably well for architects in other EU nations.

If, as the terms of reference imply, there is a problem in the UK, it appears to arise from the fact that the UK alone has a dual system of both professional (self-) registration and regulation, and statutory R&R, where both responsible bodies (the RIBA and the ARB) have competed for authority and control, and from a consequent ethos of critical suspicion and mutual readiness to find fault – where co-operation and trust might work a good deal better, as (it appears) is now starting to happen. In spite of Shaw's famous dictum, quoted at the start of this Chapter, there seems to be no evidence of public disquiet about the architectural profession. If it is a conspiracy, it must be a very successful one! If there is a problem, it affects the profession, not the laity.

One of the principles that should govern human affairs is 'if it ain't broke, don't fix it'. Another is that, if it is broken, you should be sure to locate the precise defect before attempting to correct the whole system. Perhaps architecture is an over-regulated profession? In any event, is it true that the registration and regulation of the architectural profession in the UK is in disarray? If there are problems, do they arise from the rivalry of the RIBA and the ARB, and the consequent history of mistrust and antagonism, rather than from the constitution of the two bodies? What are the theoretical alternatives to the status quo? And what practical solutions offer a possible way forward? That is the subject of the next Chapter.

#### IV Alternative Solutions for Architecture

‘Look shining at  
New styles of architecture, a change of heart.’

XXX Poems, W.H. Auden

##### The RIBA and the ARB

The problem of the dual system of R&R, set out in the previous Chapters, could theoretically be solved by abandoning one, or other, of the competing systems. The Warne Report proposed in 1993 that the statutory protection of the title ‘architect’ be abolished and the regulatory body (ARCUK, at that time) be disbanded. Alternatively – in theory – the RIBA could decide to give up its role as a regulator for the profession to become merely a professional association, like the Association of University Teachers – though it would have to ask the Privy Council to modify its Charter and/or Bye-Laws. One could even imagine – still, in theory – both these things happening. But not in practice.

I know of no one who has suggested that the RIBA should seek to abandon its role as the body responsible for the professional self-regulation of chartered architects. Nor do I suggest it. Although it is possible that a new government, intent on a programme of deregulation after the next election, might decide unilaterally to abolish the ARB in some general ‘bonfire of the quangos’ – and thereby end statutory R&R for architects – it appears that such a step would not at present be welcomed by the profession as a whole. In 1993 the RIBA was persuaded by its own members to oppose the main conclusion of the Warne Report and to campaign for the retention of the statutory protection of title. A more recent review of members’ feelings, undertaken by the RIBA’s ‘ARB Review Task Group’ in 2004 (The Highton Report), found that 85% of the 793 respondents ‘wished to retain the protection of title’. Commenting on this finding, the Report continues: ‘We started our work on the assumption that we would agree with the majority opinion, but the evidence we have taken has led us to question the basis of that assumption.’

This is an extraordinarily revealing sentence. It demonstrates that for at least a decade, and probably a good deal longer, some leading members of the RIBA have wished to do away with statutory R&R, while the membership has insisted on holding on to it – like some sort of comfort blanket, perhaps. As a result the RIBA has adopted a policy of accepting the status quo (statutory R&R), and the continuing existence of the ARB, while seeking to persuade the ARB – and the government department to which it is accountable (the Department of Communities and Local Government - DCLG) that it should adopt ‘the minimalist role of registration originally intended’ (The Highton Report, p.6). But storks do not behave like logs!

That said, the ARB’s own account of its role, set out in its strategy document, seems to me unexceptionable. It has adopted five core values: proportionality, evidence-based objectivity, open-mindedness, transparency and integrity. Its purpose is ‘to ensure that architects are competent and behave with integrity in accordance with the provisions of

the Architects Act 1997. The ARB sets and maintains standards for entry to the Register of Architects, as well as the standards of conduct and practice which are expected of architects'. The three aims of the ARB are to protect the consumer, support architects through regulation, and deliver the requirements of the Architects Act of 1997. It pledges itself both to act 'in a manner which is at all times proportionate', and to work 'in conjunction with other bodies within the profession'. I find little to criticise, and much to respect, in these formulations. Nevertheless, it is undoubtedly the case that problems have arisen in the first decade or so of its existence.

The problems that have affected the relationship between the ARB and the RIBA since the former's establishment in 1997 are few in number, but painful in their impact on the two organisations and (to a lesser extent) the profession. One must consider how far these problems represent no more than the inevitable friction caused by two independent and authoritative bodies seeking to manage the same issues – the predictable consequences of the dual system of R&R, or whether some accommodation might be reached between them, or if the situation is beyond ameliorative treatment and requires major surgery (new legislation).

### Bones of Contention

What are these issues? There seem to be three main areas of dispute, two concerning competence, one concerning performance: educational qualifications for the profession, CPD, and professional standards coupled with codes of practice. Of these, by far the most substantial and (so far) intractable issue is the question of responsibility for architectural education and training, and qualifications. University Schools of Architecture are required to satisfy three external bodies as to the quality and appropriateness of their courses – as well as their own internal systems of validation: the Quality Assurance Agency, which has statutory responsibility to monitor all university courses; the ARB, which has statutory powers to prescribe qualifications in architecture; and the RIBA, which validates university courses so as to permit exemption from its own examinations, deriving its authority from the Royal Charter which established it in 1834.

It is argued that the co-existence of these three systems for the external accreditation of university courses – unique to architecture – is onerous, unnecessary and could lead to conflict and confusion, if the RIBA and the ARB disagreed about the adequacy of a particular course (as has already happened). One system of professional external accreditation should be enough. Either the RIBA or the ARB should retire from the field. SCHOSA, in particular, seeks a fundamental review of the validation process. The RIBA argues that it is the senior body with a long and proven track-record of external accreditation, its system – involving periodic visitations to the Schools of Architecture – is more thorough and reliable, and its Charter requires it to oversee the education of (chartered) architects.

The ARB argues that its statutory duty requires it to act in an unfettered manner, thus preventing it from accepting the standards set by the RIBA (or anyone else) – though it does not itself undertake visitations. It also points out that a 'triangular system' of accreditation can work perfectly well, if each partner makes a different and relevant contribution, and that the UK system of accreditation ensures that UK qualifications are both of the highest standard and earn valuable respect in the EU. This may be so, but in

this area the relationship between the two bodies has so far engendered more heat than light. Neither has been prepared to give way, or reach a workable compromise.

There has been in the past a similar impasse between the two bodies over the question of the responsibility for prescribing the content and scope of CPD. Both bodies (the ARB and the RIBA) agree that Continuing Professional Development is a requirement for professional architects – as it surely must be for members of every profession. CPD is a broad church: it comprises retraining for those who have dropped out of professional practice for a period and wish to re-enter it; updating all architects in new knowledge and skills to keep them abreast of developments in materials, science, regulation or design, for example; revisiting the essential principles and practices of the profession so as to ensure that all architects continue to provide a service above the threshold of acceptable competence; continuous improvement – to encourage architects to develop and enhance the practice of their chosen profession above this threshold. The public has a proper interest in the arrangements for CPD in a profession such as architecture.

After registration, competence to practise is a continuing concern for both the RIBA and ARB. The ARB's Code of Practice includes a standard requirement that architects maintain their competence. Chartered architects are required by the RIBA to undertake CPD as a condition for continuing membership of the Institute. A proportion of members is monitored annually. So far, so good. The argument starts when it comes to the question of what should be the content and scope of CPD. Both bodies agree on the principle of CPD: each proceeds to offer guidance – or make regulations – about what CPD should encompass and how it should be undertaken, including minimum hours of study. This has led to disagreements, duplication of effort, and confusion for the profession. But I believe that recently there have been encouraging signs of progress towards a compromise in this area, acceptable to both bodies.

The third main area of dispute concerns the professional standards and code of practice required of architects. Each of the two bodies (the RIBA and the ARB) has taken a lot of trouble to establish codes of professional behaviour, as one would expect of them. The RIBA's Code comprises three principles of professional conduct, the professional values which support these principles, and guidance notes to explain how the principles should be applied in practice. The Three Principles are:

Integrity – members shall act with honesty and integrity at all times;

Competence – in the performance of their work members shall act competently, conscientiously and responsibly;

Relationships – members shall respect the relevant rights and interests of others.

The ARB is reviewing its own Standards of Professional Conduct and Practice, comprising twelve proposed standards, explanatory notes on each of them, and general guidance notes. The summary reads as follows:

As an architect you are expected to:

1. Be honest and act with integrity
2. Be competent
3. Promote your services honestly and responsibly
4. Manage your business competently
5. Consider the wider impact of your work
6. Carry out your work faithfully and conscientiously
7. Be trustworthy and to look after your clients' money properly
8. Have appropriate insurance arrangements
9. Maintain the reputation of architects
10. Deal with disputes or complaints appropriately
11. Co-operate with regulatory requirements and investigations
12. Have respect for others

At first glance, it is difficult to fault either of these formulations – or to find any significant conflict between them. The devil, of course, lies in the detail. One example will illustrate the nature of the problems which may arise from the existence of two independent codes of conduct for architects.

Most architects carry Professional Indemnity Insurance (PII): it is sensible to do so, since it provides protection for both the profession and the public, when things go wrong. Accordingly, the RIBA advises its members to ensure that they are covered by PII, and requires all members entering into professional engagements to state whether or not PII is held and the limit of their liability. The ARB has required all architects to complete a form each year to show that they have obtained PII – which must accord with a pre-ordained scale set by the ARB. The RIBA has argued that the scale is set too high at the lower end, unnecessarily adding to professional costs – which, of course, must be passed on to clients, and that some architects are comfortably able to insure themselves. It proposes that the ARB should limit the Code to the principle of requiring that architects be capable of meeting their professional obligations, and leave the RIBA to offer appropriate guidance on what constitutes good practice. I understand that the ARB is currently revising its code to make it less prescriptive. Perhaps, at least here, a workable solution may be in sight.

European legislation has introduced further complication. The EU requires there to be a 'competent authority' for each profession. In countries without developed systems of R&R the competent authority is the appropriate government department. This is the case in Spain, for example, even though there is a separate registration body. In the UK, the ARB fulfils this role for architecture. It therefore has the duty of registering architects,

who have been educated and trained elsewhere in the EU, so that they can practise in the UK. In some cases, such 'EU architects' cannot be registered by the RIBA as 'chartered architects' without further qualification.

Conversely, the RIBA has a long tradition of offering global leadership for the profession and is ready to recognise appropriate qualifications from overseas countries beyond the EU. The ARB has up to now not seen this role as part of its remit. The outcome has been a degree of confusion, which is neither in the public nor the profession's interest. It seems obvious that the two bodies should co-operate to create a coherent system for the appropriate registration of architects from abroad – whether from the EU or elsewhere. Some of the evidence I have received suggests that the arrangements for the assessment of architects who qualified overseas are not fully satisfactory at present. This needs attention.

### Alternative Solutions

A dispassionate observer, having reviewed the disagreements between the RIBA and the ARB, might be forgiven for wondering whether they are either substantial or necessary. Goodwill and commonsense could easily resolve these problems – if it were not for the rivalry and mistrust that periodically surfaces between two august institutions, one dignified by a Royal Charter of 1834, the other created by Acts of Parliament of 1996 and 1997. What is to be done about it?

There can be no question of winding the clock back to the beginning of the 19<sup>th</sup> century and proposing the renunciation of any kind of R&R for architects, with the abolition of both the ARB and the RIBA. The RIBA is here to stay, and rightly so. Is it also true that the ARB is a permanent fixture? Not necessarily. Parliament – and the profession – has a choice. There seem to be five logical alternatives:

- a) abolish the statutory protection of titles and disband the ARB; or
- b) maintain statutory protection of title and transfer the task from the ARB to the RIBA (with the disbanding of the ARB); or
- c) maintain the status quo and encourage the two bodies to find a better modus vivendi by either
  - (c,i) persuading Parliament to make some statutory clarification of the role of the ARB in relation to the RIBA; or
  - (c,ii) persuading the DCLG to issue some extra-statutory guidance to the same effect; or
  - (c,iii) arranging meetings (if necessary, with the help of a friendly mediator) to establish a common formulation to enable them to avoid conflict and improve co-operation in the future.

It is my view that any of these options could be made to work – with goodwill and effective leadership from the relevant bodies. I have little doubt that the public interest would continue to be well served, whichever option were chosen. But the profession of architecture has more to gain (or less to lose) from finding the best choice from these alternatives. If it were my job to advise the government, I would – following the excellent Warne Report – suggest (a) or (b), in that order, arguing that the profession (and the public interest) would benefit from a reduction in external regulation and consequent expectation of increased responsibility.

If the government was minded to review and revise the statutory arrangements for the R&R of the architectural profession, it might also want to consider some of the related issues raised at various places in this Report: the need for care in the drafting of any new Act (to ensure that its effect matches the intentions of the legislators); the question of whether to provide protection of title or function, and the issue of architecture as just one of the professions that contribute to the construction industry. Does it require special treatment, and (if so) why? For example, the small client might wish to be able to seek redress in some kind of ‘small claims forum’ which could deal with claims against other construction professionals, as well as architects. If protection of title is to be maintained through new legislation, the government might consider the relatively simple formulation of the Legal Services Act protecting the title of barrister.

However, this Report is addressed to the RIBA – whose membership, apparently, is not prepared to approve (a). It is not even clear that a majority of all architects, some 15 - 25% of whom are not members of the RIBA, would be prepared to approve (b). As a result, my first proposal to the RIBA is that it should institute a nation-wide public consultation of all architects (whether or not members of the RIBA), and other interested parties, perhaps using this Report as a background paper, to discover whether there is today a consensus in favour of (a) or (b). If so, it should lobby parliament to legislate accordingly. If not, it should be prepared to accept the legislative status quo, and investigate the possibility of achieving (c,i) or (c,ii) – as, I understand, it has sought to do in the past, but with no success to date.

After the next election, a new government might be more sympathetic to the case for (limited and controlled) deregulation. Global competitiveness depends on a number of factors, of which seven are thought to be particularly important: (i) ready access to large markets; (ii) low interest rates; (iii) a good infrastructure; a workforce that is (iv) keen to work, (v) well educated and trained, and (vi) relatively inexpensive – and (vii) an economy that is not over-regulated. In world-class competitive nations, the government and the people co-operate to achieve these benign conditions for wealth-creation, so that everyone can benefit. In the UK, deregulation and the quality of the workforce are arguably the two of these that most need further attention. Architecture provides a paradigm example of a competitive workforce, but probably requires a degree of deregulation, if it is to continue to be a world-leader, as it has been for so many years in the past.

However, I should also advise the RIBA on the best course of action in the event that neither (a) or (b), nor (c,i) or (c,ii) prove achievable. I suggest that (c,iii) should be explored, not just as the default option, but as a perfectly acceptable route to a modus vivendi between the RIBA and the ARB. Perhaps the two bodies could discuss the

question of finding the best balance between regulation and responsibility. Perhaps they might debate the different natures of their accountabilities. Perhaps they might consider how best they could seek to balance this reliance on charter or statute against the duty of rethinking what is best for the public and the profession in a new century. Perhaps they could discuss how the 1997 Act might be interpreted more flexibly in the interest of both the public and the profession. Perhaps they should seek to establish shared professional standards and a common code of conduct for themselves, not for the architects, but which the two bodies could agree to accept as binding. Perhaps they could even agree on a system of non-binding mediation to guide them in cases of dispute.

Questions like these need to be addressed before any attempt is made to resolve the specific difficulties described in Chapter III. Both the public and profession would be well served if, once these issues have been dealt with, the two bodies could review more awkward questions, like the length of architectural training and cost of qualification in the UK, and discuss whether it makes best sense to try to persuade the rest of Europe to adjust its training to the UK model, or whether some compromise solution should be sought, which might make it easier for young people from poor families to enter the profession. But such questions are probably outside my terms of reference!

### Summary

In summary, the relationship between the RIBA and the ARB looks like a bad marriage. If the analogy is fair, Parliament – which arranged the marriage – must bear some responsibility for the unhappy outcome. The question now is whether the partners could be helped to find a way of living together without serious dispute, or if divorce of some kind is the only practical option. In practice, the clean break provided by options (a) or (b) may not be available. Moreover, neither Parliament (c,i), nor the DCLG (c,ii), may be prepared to use their powers to resolve the situation. In which case, the partners must find their own way forward (c,iii), possibly relying on some form of mediation, or even seeking a judicial review. None of these options can be completely ruled out at this stage of the debate. Any one of them could be made to work, with goodwill and wise leadership.

## V Conclusions and Recommendations

‘In my end is my beginning.’

Four Quartets, T. S. Eliot

### Consultations

Reflecting on the issues and arguments set out in the earlier chapters, I feel bound to say that this independent observer has been inclined at times to conclude that it is all a bit of a storm in a teacup. But that would be unjust. The issues are not unimportant; the problems are real and irritating; the best solution is neither obvious, nor (once identified) necessarily achievable. What seems certain, at the very least, is that the present arrangements entail some degree of unnecessary duplication, and cost. But in the wider scheme of things, the question of the registration and regulation of architects is relatively minor. Indeed, within the profession of architecture it is hardly as significant as such pressing issues as finding new clients, designing better buildings, or completing contracts within budget and time constraints. Some of the architects I have consulted have said much the same thing.

As a result, I have come to feel that a resort to new legislation (as required by options (b) and (c,i) might seem like taking a sledgehammer to crack a nut. This is my first conclusion. Perhaps, at least as a first step, talks should be held between the RIBA and the ARB, together with invited representatives of the DCLG, to explore options (c,ii) and (c,iii), recognizing that goodwill and wise leadership can work wonders. These discussions might start by reviewing some of the ideas set out in this Report, and consider how far the interested parties agree or disagree with these propositions:

- i. The regulation of a profession needs to find a balance between rules and responsibility. In the case of architecture, there is too much regulation.
- ii. The dual system of R&R, involving two equal bodies, inevitably leads to dispute. What is required is a clearer understanding of where the leadership should lie in regulating such key functions as qualifications and the code of practice.
- iii. The public and the profession would perhaps be best served if the professional body (RIBA) took the lead in questions of education, qualifications and CPD, while the independent body (ARB) is better placed to oversee the code of conduct and disciplinary issues. The pecking order needs to be related to function.
- iv. There needs to be agreement on a way to settle disputes between the two bodies, possibly including a shared code of conduct, or a mechanism for non-binding mediation, or (as a last resort) recourse to a judicial review.

I therefore recommend that:

1. The RIBA should invite the ARB to a joint discussion of the issues identified in this Report, and any other areas of disagreement or friction, seeking the presence at these talks of representatives from the DCLG. At a later stage it might be advantageous to invite representatives of SCHOSA to attend a second round of talks.

The second conclusion I draw from this study is the lack of a clear consensus among architects, whether or not members of the RIBA, about the best way forward. I do not find that surprising. It is indeed difficult to determine which of the possible options set out in Chapter 4 would work best. My own view is that with goodwill and wise leadership any one of them would work reasonably well – and, without these qualities, none of them will prove satisfactory. The evidence I have gathered from a range of consultations, admittedly neither exhaustive nor representative, suggests that the profession is not only divided in what it wants, but (more seriously – but quite understandably) has an imperfect grasp of the issues. Most architects have more important concerns to attend to than the question of registration and regulation of their profession. But a divided and confused profession is unlikely to persuade a government to legislate to help it.

I therefore recommend that:

2. The RIBA should undertake a comprehensive consultation of architects (whether members or not), possibly using this Report as the basis for the exercise, to determine what architects really want, and whether there is a consensus (or, at least, a clear majority) in favour of pursuing one or other of the options.

### Decision and Action

The third and final conclusion is that, only when the results of implementing recommendations 1 and 2 are known, should the RIBA itself contemplate making a firm choice between the options, and pursuing one or other of (a), (b), (c,i) or (c,ii) to the exclusion of the others. I doubt whether (a) is either practicable, or acceptable to the profession. I have no doubt that the RIBA might be inclined to favour (b), an outcome it has sometimes sought unavailingly in the past. If, after receiving this Report, the RIBA's Council continues to favour (b), work needs to be done to show how in practice the RIBA would fulfil the responsibilities at present entrusted to the ARB. In particular, it needs to explain how it will accommodate all the architects who have not so far chosen (or are not qualified) to proceed to chartered status and become members of the RIBA. These include those who decline to join the RIBA on principle, those who choose not to join because of the cost, and architects from the EC who satisfy the ARB's rules – but are not qualified for chartered status.

I would expect that, while the sole responsibility for overseeing education and training, qualifications and CPD would not create any great difficulty – beyond the possible need to strengthen the staff dealing with that work – the sole responsibility for the code of conduct and discipline would prove more problematic. When a professional body

replaces an independent statutory authority in relation to such issues, the public needs to be satisfied that the new arrangements will permit an independent, fair and well-informed treatment in cases of dispute. This probably requires a disciplinary committee with a lay chair, perhaps appointed by the Secretary of State at the DCLG, and a body of members drawn equally from the profession and the lay community. Any such committee would require a sub-structure of sub-committees which would all need an appropriate lay element within the membership. I understand that the RIBA is preparing its own report to show how it would fulfil its new role, if option (b) prevailed. This should be completed as soon as possible – and certainly before the launch of the consultation process set out in recommendation 2 (above).

The three options (c,i, c,ii and c,iii) will inevitably play a part in the discussions proposed in recommendation 1 (above). In particular, the possibility of progress towards the outcomes envisaged by (c,i) and (c,ii) should be clarified by these discussions. But, equally, these discussions might reduce the need to make any progress towards (c,i) or (c,ii): (c,iii) may prove to be a workable solution. Therefore, I recommend that:

3. The RIBA should wait until after the next election when the political context should become clearer and after the results of implementing recommendations 1 and 2 can be assessed, before reaching a final decision or seeking to initiate action on the question of the registration and regulation of the profession.  
Festina lente.

Nevertheless, I recognise that some of those who lead the RIBA are determined to seek and secure a *permanent* solution to the problems that have bedevilled the relationship between it and the ARB, and may be disappointed that I have not felt able to go further in this Report. I sympathise with this concern, and can understand that (c,iii), even if it provided a workable solution in practice for a time, could hardly be described as a permanent solution. To achieve that, new legislation is required (b or c,i), or at least some firm Extra-Statutory provision provided by the DCLG to resolve the issues (c,ii) – I am inclined to rule out (a), since I doubt whether the profession as a whole would welcome or allow it. If, as I believe, the RIBA favours (b) from among these alternative possibilities for a permanent solution, I have to advise that I see the following as necessary pre-requisites to the pursuit of (b):

a serious attempt to reach an accommodation with the ARB (recommendation 1) – if only to understand better what the problems are and why they seem to be intractable;

a thorough consultation of the architectural profession, both registered and chartered, to establish a clear and well-informed consensus in support of the RIBA's chosen solution (recommendation 2);

a careful study of the costs and staffing implications for the RIBA, if it were to become the Competent Authority for architecture and take responsibility for the functions set out in the 1997 Act, at present the business of the ARB. Recommendation 3 is intended to provide just such an opportunity for analysis and reflection.

## Epilogue

The terms of reference of this Report invited me to find ‘a new model’ of R&R, which would provide ‘a fresh, exemplary approach to what is necessary and proportionate for the regulation of the profession’. I conclude that there are only three possible models for architecture – or any other profession: (a) professional self-regulation, without statutory protection of title (or function), or (b) professional self-regulation with statutory protection of title (or function), or (c) a dual system of the kind that is governing architecture at present. In my view, (a) in principle is the best answer, (b) is a serviceable compromise, while (c) is the least satisfactory – but can still be made to work. If the RIBA (and architects) seek a new model and a fresh exemplary approach, they should boldly contemplate the sacrifice of statutory protection of title. What is required is a reduction in regulation to enable an increase in responsibility. The answers to the larger, and the smaller questions, are similar. Seek a better balance between rules and responsibility.

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