



Department for
Communities and
Local Government

Architects Regulation and the Architects Registration Board Call for Evidence

Context document

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Introduction

Government is interested in understanding people's views on architect's regulation to inform a completely independent review for Architect regulation and the Architects Registration Board.

This call for evidence sets out in simple terms the basic considerations which form the basis of the review process, and asks people to respond to specific questions as well as providing the opportunity to submit wider ranging comments and views.

The call for evidence questionnaire considers;

(1) The Case for Architects Regulation

(2) Different Models of Architects Regulation

(3) Evaluation of the existing regulatory functions and the Architects Registration board

The terms of reference for the periodic review is at Annex A to this document. Government has no preferred outcome to this review process. The following commentary is intended to establish a context for the call for evidence to help inform responses. Wherever possible we would be grateful if responses could be submitted using the digital media provided, but we will accept and consider submissions in most formats. Respondents should be aware that all submissions are subject to the Freedom of Information Act.

Contact Point for the Review

ARB.Review2014@communities.gsi.gov.uk

Please be as open and honest as possible. All responses will be anonymised and summarised. All responses will be treated in the strictest confidence and no individuals will be identifiable from the analysis. All personal data will be handled in accordance with the Department's obligations under the Data Protections Act.

(1) The Case for Architects Regulation

Statutory protection of the title Architect was first introduced in 1931 and over the intervening period has been maintained and developed through a range of statutory and legislative devices. The current legislation – the Architects Act 1997 – was introduced following a major review of the Architects Registration Council United Kingdom (ARCUK) which was the predecessor body to the Architects Registration Board, fulfilling a very similar role. The review findings were published in the Warne Report of 1993-4. Statutory protection in its current form consists of protecting the title ‘architect’. In effect, this means that it is a criminal offence to use the title ‘architect’ in business unless the person doing so is registered with the Architects Registration Board. The Architects Registration Board itself is established under the Architects Act 1997 (as amended) and an unofficial consolidated version is available at the following link:
www.arb.org.uk

As part of this review Government needs to decide whether statutory i.e. Government legislation establishing regulation of architects should continue.

The purpose of this section of the call for evidence is to explore the issue of whether people support regulation of architects in the United Kingdom. Regulation in this context refers to some form of statutory regulation imposed by Government in the public interest. These considerations are not predicated in the first instance on the nature of regulation – it is more about the choice which Government faces as to whether it should continue to maintain some form of statutory regulation or not.

Some of the reasons given in favour of regulation previously are listed below for information:

- Architects are highly trained construction professionals with rigorous educational standards which should be recognised.
- Architects have tremendous responsibilities to clients in leading and managing large projects with significant budgets in an appropriate manner.
- Consumers – particularly private clients – should have confidence that when they appoint an architect, that person is suitably qualified and competent.
- If anyone could call themselves an architect, the profession itself would not be able to compete with those who could use the title but provide much lower levels of service.

There are also arguments against continued regulation which have been put forward previously and some of these are listed here for information:

- Regulation can have negative impacts on the ability of the profession to adapt to a changing business environment.
- Consumer protection is now provided by other forms of legislation if someone pretends to have competencies they do not possess.
- The architectural profession is not a high risk profession and doesn’t justify statutory protections.

- Other construction professions, such as engineers and surveyors, provide professional services without being regulated.

Government needs to take a balanced view as to the advantages and disadvantages of continuing to regulate the architectural profession and we are interested in your views as to which option Government should pursue, and why.

(2) Different Models of Architects Regulation

Statutory Protection of Title and/or Function

There are two typically accepted ways in which professional roles are regulated:

Protection of title is the current form of regulation for architects in the UK and also applies to some other professions such as solicitors. Protection of title means that it is an offence to hold out services as an architect in business unless registered. However, there are no restrictions on people designing buildings or undertaking the same type of work as architects, providing they do not use the title in doing so.

For some other professions in the UK – typically those where the work involves direct and significant risks to life or health – there are restrictions on who is able to undertake a given function – doctors being a good example of a profession who are regulated via protection of function.

Statutory Regulation by a Professional Body

If Government decides to continue statutory regulation in some form, one option could be to make a professional institute responsible as the regulatory body. This is the approach to architects registration adopted in the Republic of Ireland.

Those who support this approach feel that the main advantage comes from one body undertaking all of the roles associated with professional registration and membership. On the other hand other professions in the UK operate with regulatory bodies separate from professional bodies and opponents of this possible approach often cite that separation of duties in this way helps to ensure that the regulatory function is seen as impartial and not unduly influenced by the self-interest of the profession itself.

Very different requirements are imposed on statutory regulatory bodies in the UK compared to bodies undertaking a self-regulatory function. Government typically seeks a range of reassurances as to the use of money raised under statute (such as registration fees) and statutory powers. Government would most likely need to consider what additional duties and responsibilities would apply to a professional body undertaking this role such as becoming subject to the Freedom of Information Act. This is because a body exercising statutory powers is likely to be classified as a public body. If this model of regulation were to be adopted, the precise nature of the governance and reporting required would need to be evaluated in further detail.

Statutory Regulation by an Independent body

Another option is to continue to provide statutory protections of one form or another by establishing an independent regulatory body under legislation. This is the model typically adopted in regulated professional services such as medicine and law, because the independence and impartiality of the statutory organisation can be more easily defined and maintained, and professional bodies remain at liberty to promote their sectorial interests unhindered by the need to avoid conflicts of interest.

If this model of regulation were to be adopted the precise role and structure of that body, and associated governance and reporting mechanisms would need to be considered, as the final part of this review process. However, for the purposes of this part of the review, it should not be assumed that an independent regulatory body would necessarily have the same form or role as the existing regulatory body – this could be modified in line with the overall findings of this review process.

Self Regulation (non statutory)

If it is decided that Government should not continue to regulate architects, self-regulation is an alternative. Typically this relies on Professional Bodies to drive and main standards, but without statutory regulation or protection of title or function. This is the model adopted in the rest of the construction industry, and it is likely that architects would rely on Chartered Status under the RIBA (or other professional institutes in the devolved administrations) to shape education, standards and competency and to differentiate their services from other building designers.

Self-regulation is often mistakenly thought to include statutory regulation by a professional body – this is not the case. Self-regulation is only relevant where there is no statute or legislation.

Note: We are interested in the first instance as to whether this is the best approach in principle, rather than the specific form that this might take.

(3) Current Model of Regulation and the Architects Registration Board

The third element of the call for evidence is intended to look at the effectiveness of the current approach to Architects Regulation, as set out under statute, and to consider what governance arrangements, if any, are necessary in the future.

Currently regulation of architects in the UK is undertaken by an independent regulatory body, the Architects Registration Board.

The Architects Registration Board

The Board's structure, powers, function and duties are set out in the Architects Act 1997. The Board's primary functions are:

- To maintain a register of architects
- To prescribe qualifications for registration
- To maintain a code of conduct
- To deal with complaints made against architects
- To take action against those who falsely hold themselves out as architects
- To act as a European Competent Authority for free movement and provision of services by architects.

The Architects Registration Board's activities are overseen by a non-executive board consisting of 15 members, with 8 lay (non-architect) members being appointed by the Secretary of State for Communities and Local Government, and 7 being architects elected by members of the register. The Chair is elected by the members of the board on an annual basis.

The governance arrangements and the expectations of the Department for Communities and Local Government are set out in a Framework Agreement which is intended to expand on the legislative basis by explaining how the Department and the Architects Registration Board will work together on a day to day basis.

The Government is interested in seeking people's views on two aspects of the current governance arrangements:

- whether the duties, powers and structure set out in legislation provide the right framework for statutory regulation
- how people view the performance and value for money of the services delivered by the Architects Registration Board.

Note: whatever the outcome of the review, European obligations under Directives in relation to the need for a UK Competent Authority for Architects and ensuring free movement and provision of architect services will need to continue to be carried out.

Annex A:

Terms of Reference: Periodic Review of the Architects Registration Board

Objective of the Review:

To carry out a “Periodic Review” of the functions and form of the Architects Registration Board (ARB) and its establishing legislation the Architects Act 1997 (as amended) in accordance with Cabinet Office guidelines on the review of arms length bodies.

Background

The Architects Registration Board (ARB) is the statutory regulator of architects acting for the UK and by consent for Northern Ireland in holding a register of architects. ARB’s key objectives are to protect the public and support architects through regulation. ARB does this by setting the standards for entry to the public register.

Key activities include

- Prescribing (recognising) qualifications needed to become an architect
- Keeping the UK register of architects
- Ensuring that architects meet our standards for conduct and practice
- Investigating complaints about an architect’s conduct or competence
- Making sure that only people on the register offer their services as an architect
- Acting as the UK’s competent authority delivering Government obligations under two European Directives.

Approach

Regular review of regulations and regulatory bodies is a fundamental part of Government’s policy on better regulation. For Non Departmental Public Bodies (NDPB’s), Cabinet Office Guidance requires that these are undertaken on a three yearly basis. For those organisations not classified as Non Departmental Public Bodies – which includes Public Corporations such as the Architects Registration Board - the requirement for review is set out as being at a ‘suitably regular interval’. The Architects Registration Board was last reviewed as part of the Cabinet Office Public Bodies Reform Programme in 2010, and then a commitment to undertake a further review in 2014 was set out in the DCLG-/-Architects Registration Board Framework Agreement. Periodic Reviews use the Cabinet Office guidance on triennial reviews as a starting point and are intended to review the form and function of Public Corporations, the appropriateness of the body’s delivery mechanism and its governance arrangements.

The two principal aims for the Periodic Review are:

- To provide a robust challenge of the continuing need for individual Public Corporations covering both their functions and their form, in this case considering whether or not it is in the public interest to continue regulating the architects' profession.
- Depending on the outcome of the initial challenge to consider the most appropriate model for architects' regulation. If statutory regulation remains an option to then consider the control and governance arrangements for this.

The Review will be conducted in an open and transparent way working closely with the ARB executive and Board Members, other Government Departments and seeking the views of a broad range of consumers and stakeholders including relevant professional bodies, those with regulatory expertise and the devolved administrations.

Scope:

A Periodic Review consisting of two stages in line with Cabinet Office guidance:

Stage 1: Assessment of the Continuing Need for Architects' Regulation

The Review will:

- Identify and examine the key functions of architects' regulation and ARB including consideration of their purpose, how these functions contribute to the core business of the Department for Communities and Local Government and, where appropriate, other Government Departments such as the Department for Business, Innovation and Skills.
- Assess the costs and benefits of deregulation including an evaluation of the impacts of deregulation on consumer protection and the public interest, Value for Money and potential financial or legal liabilities.
- Consideration of whether the requirement for the various different forms of statutory regulation to continue is in the public interest, including taking into account cost and benefits and value for money analysis of the different possible delivery-models.

Stage 2: Detailed Assessment of Delivery Model and Control and Governance Arrangements

Should Stage 1 conclude that statutory regulatory functions are still needed, this Stage of the Review will:

- Make a full and detailed assessment of delivery options
- Review Control and Governance arrangements in line with the recognised principles of good corporate governance, as set down by Cabinet Office, covering:
 - Accountability
 - Roles and Responsibilities
 - Financial Management
 - Communications
 - Conduct & Behaviour

Review Governance

The Review is conducted on behalf of the Secretary of State and will be overseen by the Minister responsible for Building Regulations and the DCLG Executive Team. The Director General of Finance & Corporate Services is the Senior Responsible Officer for the Review. An independent Challenge Panel will test and challenge emerging findings.

Projected Review Timetable

- online call for evidence and 1-2-1 interviews to ensure all stakeholders and interested parties are able to submit views - April to May 2014
- reviewing evidence using working groups consisting of representation from ARB, bodies representing the architect professions, other Government Departments and the Devolved Administrations – June to August 2014
- initial findings and recommendations for consideration in September 2014 with a final report to be produced and published by the end of the year

Review Contact Point

ARB.review2014@communities.gsi.gov.uk