



Subject Progress update against Periodic Review recommendations
Purpose For Note
From Karen Holmes, Registrar & Chief Executive

If you have any enquiries on this paper, please contact Simon Howard at simonh@arb.org.uk or on 020 7580 5861

1. Summary

To update the Board on the progress made in delivering the recommendations of the DCLG's Periodic Review.

2. Open

Open Session

3. Contribution to the Board's Purpose and Objectives

Architects and the public will have confidence that ARB is delivering the Act in an effective and transparent manner, taking into account Government expectations.

4. Key Points

- i. The DCLG's Periodic Review made a number of recommendations. Some of them proposed action on issues related to the Directive¹ and the process and requirements for accreditation, while focussed on modernising existing structures, improving processes, reducing costs and increasing transparency.
- ii. The Review made clear that those recommendations relating to the Directive and the accreditation of qualifications will not be taken forward until it is known what arrangements will be in place once the UK has left the EU. Changes relating to governance and structure are to be taken forward to ensure that existing regulation and its administration remains cost effective, light-touch and proportionate.
- iii. Whilst the majority of the recommendations fall on DCLG to deliver, ARB has identified six recommendations unrelated to the Directive that require action on its part. A workplan has been prepared which contains a timeline and implementation dates, and the Executive continues to work closely with the Department as to the delivery of those recommendations. This paper is a progress update of work taken so far.

¹ Mutual Recognition of Professional Qualifications Directive (2005/36/EC)

Recommendation 4

Following discussion between ARB and the Department to assess whether the reshaped board should be 11 or 9, the legislation to be changed to reflect that.

- iv. The Board has recommended to DCLG that the membership of the reshaped Board should be 11. The rationale for this view was that a Board of 11 would be preferable because:
- it would assist with the transitional arrangements, reducing the risk of ARB not delivering its statutory duties in an efficient and effective way;
 - a larger Board would enable the ARB to better meet the challenges taking place in the wider environment;
 - the risk of the Board being inquorate for or during meetings would be reduced;
 - it would be possible to achieve a greater range of representation across the membership. This includes from across the four nations and in terms of diversity;
 - it would allow for flexibility in terms of the organisation's functions and responsibilities; and
 - it would allow for a greater depth of expertise within the Board.

In addition to the statement above, the Board felt that by opting for 11 members, it would enable the new Board to populate its committees with people with the right skills and experience mix more easily.

- v. ARB continues to offer DCLG its assistance in preparing for the legislative change necessary to bring about the restructure of the Board envisaged within the Review. Accordingly, this recommendation can be regarded as completed.

Recommendation 6

For the regulator to work with the sector to review, refresh and update all aspects of the guidance for complaints handling.

- vi. ARB continues to update all of its complaints handling guidance for both architects and the public to ensure that it is clear, helpful and transparent.
- vii. ARB's Professional Standards department has commenced its review of how it delivers its statutory obligations to investigate complaints about architects under section 14 Architects Act 1997.
- viii. That Section 14 Review will involve widespread consultation with the public, the profession and other key stakeholders. Its recommendations are planned to be brought to the Board for decision in early 2018.

- ix. Once that Review has been completed there will follow a complete update of ARB's guidance, to ensure that it reflects any changes made to the investigations process.

Recommendation 9

The Regulator to consider use of an in-house lawyer for all but the most serious complaints and / or specialist advice to reduce costs.

- x. Following consideration by the Investigations Oversight Committee, a business case for employing an in-house lawyer will be brought to the Board for decision at its September meeting.

Recommendation 10

To review the composition and practice of the PCC in line with the principles developed through the call for evidence

- xi. There was no additional commentary or explanation in the Review, so ARB has assumed that this recommendation was a response to its submission to the call for evidence which highlighted the need for an expanded PCC.
- xii. The membership of the PCC is provided for by Schedule 1, Part 2 of the Architects Act 1997. It is three legally qualified persons, three architects, and three lay persons.
- xiii. It also provides that seven Board members sit on the Committee; however good practice and case-law means that Board members do not take any active role in the work of the PCC. In essence, this means the membership of the PCC is limited to nine.
- xiv. In its submission to the call for evidence from the Review, the Board highlighted the pressure on the availability of this limited membership of the PCC, and the impact there will be if the case-load continued to increase in coming years.
- xv. Because DCLG has committed to amending Schedule 1 of the Act in relation to Board members, it necessarily follows that amendments will have to be made to the paragraph concerning the membership of the PCC – as it refers to 'elected' Board members.
- xvi. ARB has therefore reiterated its proposals in meetings with DCLG that the Department should use this opportunity to provide greater flexibility to the membership of the PCC, either by expanding its membership to 12, or 15 – or preferably providing for a minimum number of members and allowing future appointments to reflect the demand.
- xvii. There would be no change to the proportion of architects, legally qualified and lay persons

on the Committee.

- xviii. Having provided DCLG with the rationale and suggested legislative wording for change, ARB considers this recommendation as being completed.

Recommendation 11

For all reference to spent sanctions (suspensions from the register) to be removed once the designated time has elapsed.

- xix. ARB's position has always been that spent sanctions are removed from its website once the designated time has elapsed, but that being public proceedings they will always remain on the public record.
- xx. It is understood from discussions with DCLG that it may be its intention to put the requirement for spent sanctions to be removed into legislation, and ARB will assist in whatever way it can.
- xxi. In absence of any additional commentary from DCLG, it is assumed that ARB's responsibility in respect of this recommendation is complete.

Recommendation 17

For the Regulator to explore co-location opportunities or the possibility of operating from outside London as lease opportunities permit (next break 2019)

- xxii. This item is in ARB's 2017 Business Plan for delivery.

Recommendation 18

For the Regulator to continue exploring opportunities for streamlining through appropriate collaboration with the consumer, academic and professional institutions, for example in promoting awareness of the register.

- xxiii. This recommendation aligns with ARB's core objectives, and while it remains a key part of the 2017 Business Plan (and likely future Business Plans), it is a recommendation that will continue to be worked on rather than ever completed.

5. Resource Implications

There will be staff time and legal costs involved in assisting the DCLG in any legislative change. A larger Board and/or PCC would mean a modest cost increase in terms of induction, training and appraisals.

6. Risk Implications

Whilst the Board has considered some of the risks associated with reshaping of the Board as part of its discussions regarding the future size of the Board, further work will need to be undertaken in this area to identify and monitor the potential risks which could arise during the transition from the outgoing Board to the new Board.

The annual number of PCC cases has doubled in the past 10 years. A similar increase with no membership expansion would render the Committee unable to meet its statutory duties properly.

7. Communication

ARB is committed to working with Government and other key stakeholders to ensure that it remains an effective, transparent organisation with the ability to meet future challenges.

8. Equality and Diversity Implications

Whether the Board is reduced to a membership of 9 or 11, there will be an increased challenge to ensure that it is appropriately diverse; however a larger Professional Conduct Committee will provide greater flexibility in this area.

A review of how ARB investigates complaints about architects will address whether its current procedures create any unfairness or obstacles to accessibility.

9. Further Actions

ARB staff will continue to liaise with DCLG in relation to all of the above, and continue to report to each Board meeting on progress.