



Subject Request for additional resource to regulate the title
Purpose For Decision
From Simon Howard, Head of Professional Standards

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1. Summary

The Board is requested to commit additional resource to regulating the title ‘architect’, both in terms of raising awareness of the Register of Architects and case-managing complaints about non-architects misusing the title.

This additional resource would be in the form of two additional fixed-term posts: a regulation of title project-lead and caseworker.

2. Recommendation

It is recommended that the Board:

- (i) increases funding to its regulation of title work by £185,000 over two years (£95k year 1 and £90k year 2); and
- (ii) Funds the work by a further £2 increase in the annual retention fee for 2019 (increasing the retention fee to £111)

3. Background

Terms of Reference

- i. Under Section 20 Architects Act 1997 (“the Act”), only those registered with ARB are legally permitted to use the name, style or title containing the word architect in the course of business or practice. Those who breach section 20 are committing a criminal offence, under section 21 of the Act.

The current approach

- ii. For the last 10 years ARB has taken a more passive, reactive role to regulating the title – investigating all complaints it receives through to a successful conclusion¹, but not undertaking any pro-active regulation.
- iii. Instead, ARB’s approach has been to raise awareness of the Register of Architects – particularly the online Register at www.architects-register.org.uk - and to encourage those who want to appoint an architect to carry out their own checks to secure an authentic individual or practice. We have done this through various campaigns of website promotion, partnering with directories and local authorities, and getting publicity via articles.

¹ Either a criminal prosecution or confirmation that the breach has been resolved and won’t be repeated

The issue

- iv The Board discussed the issue of how best to regulate the title at its development day in May 2018. The Executive advised that the levels of misuse of title, particularly on the internet, were rife. Despite ARB's own caseload increasing by 20% in the last five years, a sample study showed that there were an estimated 7,500² cases of individuals of practices holding themselves out as architects when they are not. In addition to this, it is estimated that mislistings on verified and unverified online directories now likely stretch into the tens of thousands, although the significance of these mislistings have not been assessed.

- v. While visits to the online Register continue to increase year on year, the ARB staff team does not have the capacity or the marketing skills to maximise the impact of the Register. Projects such as the Local Authority Planning Portal project³, the strike off project⁴, and the online directories⁵ project have not enjoyed sustained success because of a lack of a dedicated resource to maintain initial momentum.

The discussion

- vi The Board discussed a number of options as to how it might tackle the problem. These included:

Option 1: Rein back resource committed to regulating the title, and instead focus entirely on raising awareness of the Register so that clients can make their own checks;

Option 2: continue with the current approach of investigating complaints made, and endeavouring to use the current staff resource to collectively look for opportunities to raise awareness of the Register;

Option 3: employ additional resource to proactively look for misuse of title cases, and be more robust in prosecuting offenders; or

Option 4: employ a dedicated resource to raise awareness of the Register.

- vi The Board indicated that it preferred Option 4, and that more should be done in respect of regulation of title. It considered that simply increasing the levels of case management and prosecutions would be an inefficient use of resource, but that additional money committed to raising awareness of the Register would be to the benefit of the public and the profession.

² By way of context, ARB investigated 431 title cases in 2017

³ To have all Local Authorities (418) have a link to the Register of Architects on their planning portal

⁴ To annually audit all those who are removed from the Register for non-payment of their retention fee, to ensure that they are not continuing to use the title in business or practise

⁵ To have all of the major online directories verifying their own data against the Register to avoid mislistings under the Architects heading

The proposal

- vi It is therefore proposed that ARB employs a new Regulation of Title project-lead. This role will hold responsibilities for raising awareness of the Register, building relationships with partners, liaising with online directories, seeking innovative solutions and encouraging the profession to raise awareness of their own registered status.

- ix. In addition to this, we are proposing an additional administrative role in this area. The reasons for this are two-fold. Firstly, because many of the projects we are likely to want to initiate (such as the annual strike-off audit and the local authority project) are administratively burdensome and additional staff time will be required. Secondly; if the new approach to raising awareness of the Register is effective, then it logically follows that there will be an increased number of title cases as well as conduct complaints about registered architects. The greater the exposure there is of ARB and the Register, the greater the amount of casework that will be generated. It would be folly to put in place a regime that will increase the number of cases without making preparations for dealing with them. There is no capacity in the current staff team to deal with an increase in caseload.

- x. The proposed increase in resource would represent a significant escalation in ARB's response to title misuse, but with no guarantee of making an impact commensurate with that investment. Because of this, it is proposed that these appointments are made – initially – on fixed-term contracts of up to 2 years which is sufficiently long a period to attract the right calibre of candidate to the roles, and to allow them enough time to devise and deliver appropriate strategies. It is, however, not so long that ARB would be left with an expensive liability if this strategic move proves unfruitful.

6. Resource implications

The posts could be funded by a further £2.00 increase on the recommended 2019 annual retention fee (See agenda item 7). This will leave approximately £15k to be met from the reserves, the surplus for 2019 or from within reserves.

Agenda item 7, Annex G (tables 4 and 5) demonstrates the impact on the budget and likely fee increases for the next 3 years.

7. Risk Implications

There are risks in both adopting the proposed approach and in maintaining the status quo.

There is an expectation from amongst both public and profession that ARB is the body for ensuring, as far as it can, that those looking to use an architect can do so with the reasonable assurance that they are using a properly qualified, experienced person. If there is an insufficient awareness of the Register, and no effective means of regulating those who use the title, then all the other work of ARB is arguably rendered pointless.

Feedback from the profession is that architects expect ARB to act strongly in this area, and would be willing to tolerate an increase in their retention fee if they knew it was to be committed to the protection of their hard-earned title.

The DCLG's (now MHCLG) Periodic Review included the recommendation for ARB to:

“continuously explore opportunities for appropriate collaboration with consumer, academic and professional institutions for example in promoting awareness of the register to ensure that continuous improvement with robust but light touch processes agreed in partnership with sector stakeholders where possible remains a central focus for the regulator”

However, ARB has no statutory duty to raise awareness of the Register or to regulate those who breach the Architects Act 1997, although it has an agreed historical approach of doing so. Furthermore, given that the principles of better regulation require regulatory activity to be proportionate and targeted, the Board must also be assured that ARB's carefully husbanded resources are being spent in a way that will have an impact on the problem identified. By way of illustration, the appointment of one additional case worker is not going to have a significant impact on the overall numbers of misuse of title cases on the internet (although that is not what they would primarily be employed to do).

8. Communication

It is firmly in the interests of the public and the profession that those looking to find a genuine architect are able to do so. ARB is committed to doing all it can to raise awareness of the Register of Architects, and deal appropriately with those who hold themselves out illegally.

9. Equality and Diversity Implications

There are no direct equality and diversity impacts identified in either accepting or rejecting the recommendation. Any recruitment activity will be undertaken by appropriately trained staff in line with ARB's equality and diversity plan.

10. Further Actions

If the Board agrees to the increase in headcount and expenditure, new staff will be recruited to the positions by the end of 2018. Reports on the effectiveness of any new regulatory activity will be monitored and reported to the Board.