

Board Meeting

Minutes of Board Meeting held on 9 February 2022

Location	Present	In Attendance
Online	Alan Kershaw (Chair) Mark Bottomley Emeritus Professor ADH Crook Will Freeman Professor Elena Marco Derek Bray Dr Teri Okoro Cindy Leslie Liz Male Stephen McCusker	Hugh Simpson (CEO and Registrar) Emma Matthews Simon Howard Brian James Rebecca Roberts-Hughes Marc Stoner Irene Moisis (DLUHC Observer) Hayley Tucker (Minutes) Alice Pun (Observer) Helen Ransome (Observer) Richard Beet (Observer) Suzanne Ensor (Observer)

OPEN SESSION

1. Apologies for Absence

The Chair welcomed Stephen McCusker who had initially sent his apologies.

The Chair welcomed Irene Moisis, Policy Lead, from the Department for Levelling Up, Housing and Communities (DLUHC).

The Chair introduced new staff member Richard Beet, Education Policy Manager, who would be helping to deliver the review and modernisation of ARB's Initial Education and Training requirements.

2. Members' Interests

The Chair noted that all members had an interest in item 16, Feedback on Board Members' and Chair's Annual Reviews.

The Chair declared an interest in item 3, Extension of Appointment of Temporary Chair. He would withdraw from the meeting for this item and Mark Bottomley, in his capacity as the Senior Independent Board Member, would chair the discussion and decision.

STANDING ITEMS:

3. **Appointment of Temporary Chair**

The Chair left the meeting and Mark Bottomley took the chair.

The Board had originally appointed Alan Kershaw as Chair of the Board on a temporary basis, with effect from 11 June 2020 in line with the provisions of Rule 11 of the Board's General Rules and until such time as the DLUHC made a permanent appointment. Alan Kershaw's appointment had previously been discussed by the Board on 19 May 2021 and an additional tenure of six months, up to 10 December 2021, had been agreed.

An item to extend Alan Kershaw's tenure had been omitted, from the Board's agenda on 1 December 2021, as a result of an administrative oversight. The CEO apologised and confirmed the Director of International and Governance had led a review of all Board member and non-executive appointments to ensure this issue did not reoccur.

The Board unanimously agreed to extend Alan Kershaw's appointment as its temporary Chair to 10 June 2022.

4. **Chair's Update**

The Chair re-joined the meeting.

The Chair and CEO had recently met with the Royal Incorporation of Architects in Scotland (RIAS) to discuss ARB's proposals on Initial Education and Training. They were understanding of what ARB was trying to achieve although they were keen for duplication with other bodies to be avoided.

On Thursday 10 February, the Chair would be meeting with Jack Pringle, Chair of the Board at the Royal Institute of British Architects (RIBA). The purpose of the meeting was to advance both organisations' understanding of the profession, their regulation and ARB's regulatory functions.

Simon Allford, RIBA President would be attending a session at the ARB Board workshop on 23 March 2022 to explain more about the RIBA's work and to continue to develop the relationship between the two organisations.

The Chair confirmed that the 2021 Board Members' Annual Reviews had all been completed in line with ARB's policy.

5. **Minutes**

The Board unanimously approved the open session minutes of the meeting held on 1 December 2021.

6. **Matters Arising Report**

The Director of Policy & Communications informed members that RIBA's interim Director of Education's role had been extended until March 2022. There would shortly be an open recruitment process for the permanent role.

A member noted that the university where he was a non-stipendiary member had planned to invite the RIBA President and Immediate RTPI past President to a lunch event as they were architecture alumni of the university. The Chair thanked the member and reminded members to inform the office of any such events to ensure that members could be briefed if necessary; they were representatives of ARB even if it was not in a formal capacity.

The CEO and Chair confirmed that they would be meeting with the Chartered Institute of Architectural Technologists (CIAT) the following week and the Chair was meeting with the CIAT President the week after. The CEO had also met the CIAT CEO recently.

MATTERS FOR DECISION

7. **Investigations and Professional Conduct Committee Rules and Guidance**

The Head of Professional Standards invited members to consider the outcome of the consultation on the Investigations and Professional Conduct Committee Rules (the Rules), Acceptance Criteria, and Sanctions Guidance, and to agree the final drafts for implementation on 1 April 2022. There were three additional amendments to the Rules following helpful discussion with a Board member earlier in the week. These amendments were:

In the Professional Conduct Committee Rules at Rule 44 'the decision of the consent order panel' would be replaced with 'any reasons given by the consent order panel. This was to make clear that there was no separate decision document issued by the consent order panel, but brief, accompanying reasons were usually provided alongside the rejected order.

In the Acceptance Criteria at paragraph 7 it would be added that ARB could investigate matters only where the events complained about took place during the architect's period of registration with ARB.

In the Sanctions Guidance ARB would improve the consistency of wording in the document by adopting 'upholding public confidence in the profession' throughout. This was to replace varying references to the 'integrity of the profession', 'confidence in the profession' and 'the reputation of the profession' in the previous draft.

In advance of the implementation date all relevant information, guidance and correspondence would be updated to reflect the changes.

The Chair thanked the Head of Professional Standards for the update. He asked that the word 'expect' be replaced, wherever possible, with 'must' or 'should'. He recognised that in some places it was necessary to reflect the wording of other documents; but was anxious that documents of this kind avoid ambiguity.

Concerns were raised about the possibility that a customer of an architect could approach ARB directly with a complaint without first discussing the matter with the architect. The Board enquired whether there was a process, mandated by ARB, for architects to follow. The Head of Professional Standards informed members that under the Code of Conduct architects were required to ensure there was a complaints procedure in place; and ARB would be encouraging people to try to resolve issues directly with the architect where they could be dealt with safely at a local level.

Members asked if there was a procedure in place for cases where part of a complaint had occurred when an architect was not on the Register. For example, if a project had begun when the architect was recently out of education and then joined the Register during the project. The Head of Professional Standards confirmed that the team had seen cases of this nature previously; the team of investigators were good at aligning dates and identifying when people were on the Register to ensure only the right matters were investigated.

It was asked if a complaint could be made against an individual if they were not registered but the senior partner in the practice was registered. The Head of Professional Standards explained that it would depend on the circumstances, but that the architect at the practice would have professional responsibilities in relation to supervision of work under their control.

There was a discussion about how best to sign-post complaints which were related to disputes, rather than the competency or conduct of a registrant. The CEO reminded the Board that ARB was not a dispute resolution body. It was important to be clear on ARB's role and how it interacted with consumers. The Chair agreed that it was important for ARB to act where it could; and point people in the right direction where it could not.

A brief discussion was had in relation to the origins of complaints, in particular whether ARB received complaints from hard-to-reach groups. There was also a discussion about trends in relation to the practice size of architects who became subject to PCC hearings.

The Board approved the recommendations to:

- a. issue the Rules with an implementation date of 1 April 2022;
- b. issue the Acceptance Criteria with an implementation date of 1 April 2022; and
- c. issue the Sanctions Guidance with an implementation date of 1 April 2022.

8. **Professional Indemnity Insurance (PII) Guidance**

The Director of Standards thanked members for sharing their own experience of PII in the context of their individual circumstances in this complex area. He stressed the importance of making regulatory decisions with a good evidential basis, recognising the impact of the PII crisis on architects' ability to practise. He explained that, while the issues relating to PII were global and sector-wide, ARB needed to review its guidance as feedback and engagement had indicated that registrants were struggling to comply with its requirements.

ARB had extensively engaged with the sector, including gathering information through surveys, working with leadership bodies and facilitating a round table with experts from the PII market. Participants in that discussion had all seen the draft guidance and informally provided support to it, though reserving any formal position awaiting the consultation.

The Board made the following points:

- It was a step in right direction but there was concern that recent Government announcements could lead to this situation getting worse before getting better.
- In reference to paragraph 2.7 of the PII guidance around the wider public interest, ARB's role was to maintain the confidence of the public in the profession and ensure that architects were adequately insured. This was an opportunity to emphasise the point that ARB was a regulator and that the public interest is its primary concern.

- Questions were raised about paragraph 4.4 of the draft. The Director of Standards stated that one of the key aspects of the consultation would be to identify how practice could be carried out with exclusions in place. He wanted to retain the wording on the basis that ARB needed to clearly state what was and what was not acceptable, and to explore through the consultation what was achievable.
- Members asked who would be affected in paragraph 4.16 where it stated that “Some architects may not be able to practise at all”. The Director of Standards noted that the reported difficulties in getting adequate insurance had appeared to disproportionately come from small practices.
- Members asked about the communications strategy for ARB around working with Government and stakeholders to mitigate the situation and engage with consumer groups. The Director of Standards explained that many consumers did not realise the significance of PI until it was too late. It was a matter of engaging with consumers early in the process and that had been difficult.
- The Director of Policy and Communications added that, in the consultation phase, ARB wanted to understand the extent of the detriment and what could be done without PI cover; and to explain more about its role and consumer protection.
- Irene Moisis, DLUHC, reported that this was a much wider issue and a Deputy Director-led team was looking at insurance involving the Treasury and other Government departments. In relation to construction, there had been Minister-led round table discussions with industry leaders to help support an area that was uninsurable. It was hoped that the Building Safety Bill would also help.
- The Chair reiterated the desire to avoid using the phrase, ‘expected to’, wherever possible and be clear about whether it should be ‘must’ and ‘should’ instead. The Director of Standards explained that the Architects Act required the Code to set out the standards of conduct that architects were ‘expected to’ meet. The Chair advised caution as the meaning of those words could alter depending on the context.
- Members noted that it was difficult for single practitioners to operate due to cost, quality and insurance. The Director of Standards agreed that most architects were small to medium enterprises (SMEs) who did find it difficult to get insurance cover and deal with other issues around compliance.

The Board unanimously approved the recommendation to issue the draft PII Guidance for consultation.

9. Procurement Policy

In preparation for commencement of the organisational transformation project, a review of ARB's current procurement policy had been undertaken to ensure that it was up to date and in line with good practice. The policy had been reviewed by the Audit and Risk Assurance Committee (ARAC), at its meeting of 13 January 2022. The Director of Resources noted that previous procurement exercises had been carried out in line with the new policy but fully documenting processes would significantly mitigate the risk of challenge of future procurement tenders.

The Director of Resources referred to paragraph 9.4.1 of the policy and noted that, following recent conversations with the Chair of ARAC, the wording had been amended slightly to the following:

9.4.1 The table below sets out good practice in relation to the tendering and purchasing of goods and services, including the route to market. This, along with variations to existing purchase contracts, maybe varied so long as:

- 1) The reason for the variation is documented and signed off by the Registrar
- 2) Requests by the Registrar for a variation must be signed off by two SLG members
- 3) Procurement processes cannot be varied where the value exceeds £213,477
- 4) Variations above £10,000 should be reported to the Audit and Risk Assurance Committee.

The Chair of ARAC confirmed she was satisfied with this version, which was much clearer.

Members queried the references throughout the policy to European Union requirements rather than UK law. The Director of Resources had confirmed with the procurement expert that the policy needed to refer to EU thresholds, although they may be replaced in time.

Members suggested that it would be helpful to make the policy more accessible for staff. The Director of Resources agreed that it was a lengthy document, but wanted to avoid challenges or disputes around procurement and emphasised the need to keep the full documentation. ARB was about to commence the IT procurement process and it was important to avoid challenges and any delay to future contracts. Briefing sessions for managers and those that procured services had been arranged. Ways to simplify the presentation of the process for staff would be explored.

In reference to section 5.14.3, a Member suggested that it would be helpful if suppliers, providers and contractors could be asked to demonstrate how they were aligned to ARB's

equality scheme. The Director of Resources confirmed that they would be asked to demonstrate this as part of the tender process.

The document would be updated to make sure it is consistent in using either 'oral' or 'verbal'.

The Board unanimously agreed the policy as set out in Annex A; and that the Scheme of Delegation be updated to reflect the new procurement policy.

ITEMS FOR NOTE

10. Interim Performance Monitoring Report

The CEO reported that an interim performance management report had been submitted to the Board in December 2021. The goal was to present the performance monitoring updates to the Board on a quarterly basis. The CEO proposed that an interim report was needed to ensure the Board had up to date information on the recent retention fee cycle. The next update on performance was scheduled for May 2022. The team were continuing to work on the accessibility and consistency of the content.

One of the challenges for ARB had been around the high levels of staff turnover, in particular in the Registration team. The CEO was pleased to confirm that three temporary staff members who had been working in the retention fee team had recently become permanent. Members were pleased to note that there was some stabilisation within the team.

The Director of Registration and Accreditation highlighted that the three key areas in the report focused on the size of the Register; the way in which people paid their fee; and the number of people and their reasons for leaving the Register.

The following comments were made:

- Members noted the high level of staff costs involved in processing bank transfers for the retention fee. They were strongly supportive of changes to reduce processing costs which could help to make ARB more efficient.
- Members noted the improved format and diagrams which were easier to read although asked for clarity in future versions in relation to colour coding in the bar charts.
- As there were now clear metrics around the Policy and Communications Directorate, there was a request that the communications section of the CEO report be moved to the performance monitoring report.

The Chair thanked the team for the well interpreted data and narrative.

11. **Chief Executive's Report**

Suzanne Ensor, Project Manager, joined the meeting for this item.

The CEO introduced the new Project Manager and reported that her role was to assist with the procurement phase of the IT transformation programme, and to build effective project management and governance across the key workstreams. Good progress had been made on a number of frontline projects including on the CPD and IET reviews. The CEO's report also contained proposals in relation to the 2022 Board Effectiveness Review as well as the 2023 review. The 2022 review would be conducted internally via a survey, and the 2023 review would be conducted by an independent external consultant, which would coincide with a permanent Chair having been in post for a year.

The Project Manager provided an update on the Strategic Transformation Programme. The invitation to tender for the IT transformation had been sent on Friday 4 February 2022 and engagement with suppliers would be the focus over the next few weeks. The aim was to award the contract to the chosen supplier in the first week of April 2022.

There was a brief discussion on progress to establish an IET reference group and the need for effective Board assurance and external engagement.

Members were reassured to see the right capabilities in place with good governance for major projects. The CEO noted that there was a direct link to the People Strategy through upskilling staff on project management methodology. The new Project Manager had been invaluable in this, and her input was appreciated.

It was asked if the outcomes from the Transformation Project could be articulated clearly so that internal and external stakeholders could see the benefits. The CEO reported that the successful delivery of the Corporate Strategy over next three to five years would be the key outcome. The ways on how best to present the outcomes through key stages in the Project Initiation Document would be explored.

Suzanne Ensor left the meeting.

12. Financial Update

The Director of Resources informed the Board of ARB's financial position as of 24 January 2022, including the year-end forecast outturn.

There was a brief discussion about the relative merits of the ARAC regularly reviewing financial information. The Chair asked the Director of Resources to consider the option of sharing the management accounts with ARAC before the Board meeting to help provide a level of assurance, and to explore whether the terms of reference for the Committee should be adjusted to accommodate this.

In response to a question about the annual report, the Director of Resources confirmed it would be reviewed by ARAC in April 2022 and by the Board at its meeting in May 2022.

13. Any Other Business

No other items of business had been notified.

14. Dates of Future Board Meetings

The next Board workshop on 23 March 2022 would be in person. There would be some formal Board business that needed to be conducted. The Chair reminded members that Simon Allford, the RIBA President would present for a session at the Board workshop.

The Board meeting on 18 May would also be in person. There were no other changes to the schedule of meetings to report.