

Chartered Institute of Architectural Technologists' (CIAT) response to Consultation on proposed amendments to the Architects Act 1997

In response to the Hackitt Review and the subsequent Building Safety Bill (BSB) paragraphs 111 and 112, *“the Government plans to make amendments to the Architects Act 1997 to ensure greater competence amongst UK registered architects and that such provisions will apply to all architects on the Register”*. We have not completed the survey as presented. We consider there are some fundamental issues which must be addressed. As such, we would welcome a meeting with MHCLG and ARB to discuss our comments in detail to ensure consistency in approach and fairness to fellow building designers to prevent any unintended consequences, unfair bias, and distortion of the market.

Our response covers the following key areas:

- The purpose of the Act and the remit of the Architects Registration Board (ARB)
- The alignment of competences as required under the Building Safety Bill (BSB)
- The areas requiring absolute clarity as drawn out from the consultation and the impacts on:
 - architects
 - building designers and their professional bodies
 - practices
- The opportunity to consider new ways of working to plan an industry fit for the future
- The impact of BREXIT

As a starting point for any review, the history, understanding and rationale for, and jurisdiction of, ARB is necessary. ARB's three aims are Registration, Discipline and Protection of the title of architect.

- It is important to take cognisance that: the Architects Act does not provide for the protection of function.
- ARB is not a Regulator, it is a Registration body only.
- Design is not restricted to one single profession.
- Restrictive practice must not be created.
- Reference to Architects in the Building Safety Bill must only be contained to the additional competences which will be required to act on “in scope” buildings, such as a Principal Designer or Designer.

Architects Act and remit of ARB

1. The background and remit of the Architects Act is important. Any proposed changes to the Act must be in line with the primary functions of ARB, registration, discipline and protection of title and not function. Consequently, any proposed changes to the Act must be in line with primary legislation and the role of ARB in this regard. The role of ARB and the jurisdiction of the Architects Act are clear within the legislation and subsequent discussions on this matter.

Any move to change ARB's role must go through full review and consultation in its own right with a comprehensive need and impact assessment. It would need to be broader than the one presented in Annex A, which is narrow in focus and purpose, and should not be pushed through as a subset of the Building Safety Bill (BSB) under a Statutory Instrument.

The BSB has a very specific intention to ensure that those who work on “in scope” projects will have the necessary competences to do so. This consultation must not lose sight of this intent. It is CIAT’s opinion that this must be holistic across the industry and must consider all other design professionals who would be directly impacted and who should be afforded the same considerations in terms of recognition under the Building Safety Bill.

2. ARB is not a regulator. It is important to note that the terms *regulator* and *regulation* are not used in the Act. Any move to change ARB’s role must be subject to a thorough review and consultation of the Architects Act in its own right and not as a subset of the Building Control Bill under a Statutory Instrument. The BSB has a very specific remit, being to ensure that those who work on “in scope” projects will have the necessary competences to do so. This consultation must not lose sight of this intent.
3. Design is not restricted to a single profession, nor can it be defined as such. Many professions undertake and provide different roles and functions within the design of a building, therefore this proposal conflicts with existing practices and professions, including the role of Chartered bodies which represent design professions. As Architect is not the only discipline with the skills and competences to lead on technical performance, or run a project from conception to completion, in use or post completion operation and maintenance, it is essential that there is not a two tier system introduced, and that there is no unintended bias in favour of one profession.
4. If there is any intention to protect function, this must be undertaken in a transparent and holistic way and include all competent professionals who lead projects from conception to completion to ensure fairness and fair competition in the market to all.
5. The issue of building safety in legislation is best addressed by the safety regulator which can set regulation, conformance and competences for equity, transparency, compliance and enforcement.

With the above in mind, it is our opinion that the Architects Act is not the vehicle to set such conditions. It is important to understand that there are architects who will specialise in different areas, as with all design professions, who may not need the extent of skills suggested, which would in turn alienate those working in different fields. For example, a particular discipline would obtain the core underpinning knowledge and experience necessary for them to become qualified, and then dependent on their chosen route of practice would gain the additional levels of expertise, this could be fire, conservation, environmental.

It would be a better approach for ARB to work with RIBA and other representatives for architects to enable them to continue to practise along with other design professions. This would ensure a common approach across all of the professions affected, rather than either introducing a two-tier system or one system for one profession only, resulting in bias, and a potential monopoly. Such actions would impact other professions who have the knowledge, skills and competences to lead on projects from the concept design stage such as Chartered Architectural Technologist. By the very nature of Chartered Architectural Technologists’ qualification, they possess the specialist skillset in the technology of architecture and the technical performance of buildings and are therefore equally capable of undertaking such work.

Alignment of competences as required under the Building Safety Bill (BSB)

Any proposed changes to: the Act; the remit of ARB; or to the requirements of architects **must** align with Working Group 7's Architect and Building Designer Framework and also the work currently being undertaken via BSi in the Flex 8670, and PAS for the Principal Designer and Designer.

Working Group 7's Architect and Building Designer Framework

The purpose of this Framework is to enable assurance of competence for those acting as the lead designer on buildings, and to enable lead designers to assess and ensure that those working under their direction are also competent to do so. It is also to ensure that professionals are not subject to numerous validation/registration requirements unnecessarily, which would do little to assure clients and the public that levels of competence are consistent.

It is possible that the Framework will be used to assure/set standards of competence for all types of building work given the expanded scope of the proposed duty-holding regime, and to take into account competence requirements for the roles existing under CDM 2015 in respect of site health and safety, or to explore other ways that this could be considered. The Existing Construction, Design and Management Regulations 2015, which the BSB is largely based on, works effectively, has been through 3 iterations amended as a direct result of experience in use. Its requirements are proportionate to risk and broad enough to encompass relevant Skills Competence and Experience to undertake the roles such as Principal Designer. The primary qualifications of those discharging Principal Designer duties are varied, and they will have additional capabilities as commensurate with the risk attached to the buildings they are working with.

We note that this consultation does not make reference to the Framework. Implementing changes to the Architects Act and remit of ARB would be undoubtedly premature given that the Framework is still under development. Its scope and purpose is to be reviewed to take into account potential overlap of multiple separate, but similar competency frameworks and requirements (Principal Designer, Designer, ARB, Professional Bodies, Flex 8670). Furthermore, it is possible that **all** competence frameworks (including the Architect and Building Designer Framework) will need to demonstrate compliance with the Flex 8670 framework to satisfy the Building Safety Regulator. This must also be noted prior to implementing changes to the Architects Act, or there must be confirmation it will be developed in conjunction with this work.

Comments on Consultation

1. Impact on architects

The information provided in the consultation document states that **all** architects would have to be competent under the Building Safety Bill (BSB); neither the BSB nor this consultation provides any information of substance to clarify to what extent.

Clarity is therefore necessary on the following issues:

1. Whether or not **all** registered architects will be automatically listed on a separate Register to act as a Principal Designer under the BSB, and if the mandatory competences would form part of the architects' statutory training and assessment process.
2. If so, on what basis this would it be considered fair to those architects who may not wish to work on "in-scope" buildings and to all other professions who are not supported by statute and a registration body.

3. Under the BSB requirement, how **all** registered architects would be assessed to meet the new competences and reassessed to retain registration.
4. What the implications would be for those who do not pass any necessary additional assessment, and how this would impact their ability to practise as a registered architect as opposed to Principal Designer under the BSB.
5. How the mandatory third-party accreditation of the Register would be operated, and by whom under the new regime. (If there was no requirement for third party accreditation this would lead to an uneven playing field in comparison with other bodies which intend to operate BSB Accreditation Schemes).
6. Whether or not there is an assumption that ARB as a statutory body would be exempt from the requirement for third party accreditation.
7. How mandating that **all** registered architects must attain these additional competences can be a viable solution to the new regime. (Registration of an architect should relate to their specific area of practice and their role and function rather than being prescribed generally. For example, in the medical profession not all doctors sit on one Register as competent to undertake high risk activities or defined specialisms).

2. Impact on building designers and their professional bodies

If the suggestion is that **all** registered architects will be required to meet certain new competences, then there must be an assumption that there would be no need for RIBA (or other appropriate Institutes) to set up an Accreditation Scheme under the BSB and have third party accreditation.

As previously stated, we would welcome an impact assessment of this proposal which would include how all other competent professionals such as Chartered Architectural Technologists have been considered, to ensure that there is no negative impact on them, with no unfair advantage presented to registered architects. We note there is an impact assessment under Annex A of the consultation, however the scope is very narrow and does not consider other professionals in industry who may be affected by these proposals.

3. Impact on practice and in practice

The consultation document states that *'...these proposals intend to change architectural practice, the Government invites all architects, as well as those involved in the wider education or practice of architecture, to consider and voice their opinions on the changes in the ARB's regulatory responsibility'*. It is important to note that:

1. architectural practice is also undertaken by competent professionals other than architects, therefore changes to architectural practice will affect other professionals, and these professionals must be treated equally and fairly without having to navigate any unintended consequences. It is essential that fair competition is maintained, no monopoly is established and there are no barriers to practise for other competent professionals such as Chartered Architectural Technologists.
2. although ARB oversees the statutory register of architects, it is **not** a regulator, and the terms 'regulator' and 'regulation' are not used in the Act; its operation is that of a Register only.

It is not clear why there was a need to specifically reference architects and the ARB within the BSB, yet other built environment professionals are not specified. This suggests a lack of understanding of the wider industry and should be corrected to include all. It does not give due consideration to the industry holistically, nor does it consider the effect on other legislation; for example, legislation relating to procurement and contracts makes provision for fair competition by placing an absolute obligation on the procurer to allow tenders from all competent professionals. This particular legislation should be applying the same basic principles by ensuring a common system. Any legislation or regulations affected by the Draft Building Safety Bill should be considered as a whole to ensure its workability and effectiveness.

New considerations | Fitness for the future

1. Extending the Architects Act

Extending the Architects Act, under the proposed new transformational regime, could pose additional issues both in terms of bias and unnecessary duplication of registration of competence. The BSB requires professional bodies to take action to ensure professionals are competent to work on high-risk buildings, through Registers and third-party accreditation. This would be singling out only one profession of many for different, favourable treatment.

A review of the legislation in itself and its relevance in today's industry together with its place in the wider built environment may be more constructive., This would ensure that all professionals are treated equally and work collaboratively as highlighted as necessary in many reports including Latham and Egan and most recently the Government's initiative to encourage BIM working, and demonstrate to clients and the public a consolidated approach.

2. A new Overarching body

An alternative suggestion would be for relevant professional bodies to align to form a new, overarching body which issues licenses to professional bodies who wish to register their members as Principal Designers (and Designer) under the BSB. This would be a longer term and more holistic proposition and would make it easier for clients/public and building users to understand. Each professional body could be granted a license to assess and register their own members having had its processes scrutinised by the overarching body. Examples of this include the Society for the Environment, the Science Council and the Engineering Council; again, this would demonstrate to clients and the public a consolidated approach.

Impact of Brexit

The Ministry of Housing Communities and Local Government (MHCLG) and the ARB are working to develop a long-term plan for the recognition of architecture qualifications as a consequence of Brexit. As noted earlier, there is a range of professionals qualified to undertake architectural practice or specific functions which may sit under architectural practice, who are recognised as having parity with the architect in the UK. If international architecture qualifications are to be considered, it is surely time to consider the UK construction and built environment industry more holistically, to include other associated professions with relevant qualifications and experience already in the UK in this plan. Ideally, a long-term plan to recognise *adequately qualified and competent professionals in the built environment* to ensure fair competition for all appropriate professions should be implemented.

Furthermore, the fact that architects are on the Shortage Occupations List as set by the Home Office, means it is already easier for international architects to obtain a visa and then attain ARB recognition, which increases competition with other professions in the UK.

END

January 2021