



Report to: The Board
From: Prescription Committee
For: Consideration and approval
Subject: Maintenance of competence

Status
History

Parent Committee	First Submitted	Topic	Revision No.
Prescription Committee		Maintenance of competence	

1. Purpose

To consider:

- A proposal for a change to Rule 20 of the General Rules
- Proposals for a scheme through which ARB can be assured that those on and returning to the Register maintain an appropriate level of professional competence

2. Contribution to the Board's Objectives

To give assurance to the public that those on or returning to the Register have maintained their competence.

3. Consultation

The Board is under a statutory obligation to consult on any changes to the General Rules. In addition, registrants will be invited to take part in a consultation about the proposals. Those who have previously expressed an interest will be contacted, together with bodies representing architects, consumer groups and other interested bodies.

4. Key Points

- (i) A change in the General Rules is proposed both to clarify the Board's current expectations regarding maintenance of competence under Section 9 of the Act, and to remove anomalies in relation to the present rule and the Board's policy (Annex 1).
- (ii) At its meeting in May 2005, the Board decided that registrants should be required to demonstrate, under a suitable scheme, that they have maintained their competence to practise. No decision was made regarding the form of the scheme, but the Board was concerned that:
 - it should be light-touch and proportionate
 - it should not unnecessarily duplicate activities already undertaken as part of a CPD scheme through membership of a professional body
- (iii) As around 70% of registrants are also RIBA members, it was agreed to hold discussions with the RIBA to learn more about their procedures for monitoring their members' CPD. Following a series of meetings that explored the RIBA scheme and its Core Curriculum, the Prescription Committee agreed that RIBA members applying for renewal of registration who comply with the new Core Curriculum are likely to meet the requirements of s 9 of the Act as regards competence to practise.
- (iv) Four possible schemes have been included in a regulatory impact assessment (annex

2) for consideration, first by the Prescription Committee and subsequently by the Board:

- Option 1: Annual self-declaration with monitoring of a random sample
- Option 2: Annual self-declaration with monitoring undertaken by a body other than ARB
- Option 3: Annual deemed declaration with risk-based monitoring
- Option 4: No action

- (v) Should the Board decide to proceed with either Option 1,2,or 3, it will be necessary to review the current guidelines on maintenance of competence. This will clarify the position of CPD in relation to maintenance of competence, and provide clearer guidance and examples as to the type and extent of the activities a registrant would be expected to undertake (including reference to RIBA's Core Curriculum under its CPD scheme) in order to satisfy the Board's requirements for recent practical experience under s9 of the Act.

5. Resource Implications

These are dependent upon which of the proposed options is approved.

6. Communications

These are dependent upon which of the proposed options is approved.

7. Regulation Implications

N/A at this stage

8. Recommendations

That the Board approves for consultation:

- (i) the proposed changes to Rule 20 of the General Rules;
- (ii) Option 3, deemed declaration with risk-based monitoring, as a proportionate and cost-effective method of assuring the public and the profession that those on or returning to the Register maintain an appropriate level of professional competence

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ANNEX 1

Change to General Rules

1. Proposal

To amend Rule 20 of the General Rules to re-state the Board's requirements on practical experience and competence in relation to retention and re-entry to the Register under s9 (1)(a), (b) or (c) of the Architects Act 1997. S9 of the Act reads:

- '9(1) Where the Board is not satisfied that a person who –*
(a) applies for registration in pursuance of section 4 or 5;
(b) wishes his name to be retained or re-entered in the Register under section 8; or
(c) applies for his name to be re-entered in the Register under section 18,
has gained such recent practical experience as the Board may prescribe, his name shall not be entered or re-entered in the Register, or shall be removed from it, unless he satisfies the Board of his competence to practise.'

2. Purpose and intended effect of the measure

The objective of this proposal is to define "recent practical experience" and how the Board might be satisfied regarding competence to practise in relation to s9 of the Act.

This will clarify the Board's current expectations under the Act, and will also pave the way for the introduction of a scheme to monitor maintenance of competence should the Board decide to proceed with this. The proposed Rule is sufficiently general to accommodate any of the schemes under consideration by the Board, including the option for no action.

3. Proposed Change to Rule 20

The existing Rule reads:

"Any person who falls within the categories described in Section 9 (1)(a), (b) or (c) of the Act who has not been engaged in the practice of architecture for a continuous period of two years immediately prior to the date of application, may be required by the Board to satisfy them of his or her competence to practise."

The proposed Rule is:

"Any person who falls within the categories described in section 9 (1)(a), (b) or (c) of the Act and who is engaged in the practice of architecture must have gained such recent practical experience as prescribed by the Board.

The prescribed practical experience for the purposes of this Rule shall be that they have undertaken sufficient activities, including CPD and active engagement in the practice of architecture, during the period of two years immediately prior to the application, in order to maintain their competence to practise in accordance with the Board's guidelines which shall be published from time to time.

Where the Board is not satisfied that a person has gained such recent practical experience, they may be required to satisfy the Board of their competence to practise."

4. Benefits

- The proposed Rule will clarify how an architect might satisfy the Board regarding practical experience for the purposes of s9 of the Act.
- The proposed changes would accommodate the implementation of any of the options outlined in the Regulatory Impact Assessment on schemes for the maintenance of competence, including "no action", if this is the Board's decision.
- The current Rule regarding continuous practice in the two years prior to admission, retention or re-entry applies to everyone on the Register, including those who declare themselves as non-practising under the Board's Professional Indemnity Insurance regime. Despite the Rule as it stands, the Board's policy is such that it does not need to be satisfied of competence to practise if the architect is not currently practising. The proposed Rule, on the other hand, accords better with the Board's current policy. The proposed rule will accommodate career breaks and changes in practice status more readily than the existing rule, as nobody is required to be in continuous practice for two years.
- It has not been Board policy to monitor compliance with the existing Rule, as to do so would prove costly and unwieldy. Compliance with the proposed rule could be more easily monitored.

But:

- Some may view the proposed rule as diluting the current requirement that all on the Register should either be in continuous practice for two years, or satisfy the Board of their competence to practise, rendering the Register a less useful source to the public in identifying those who are competent to practise as architects.

5. Costs

Costs to ARB:

The primary costs to ARB would be for the re-printing of the General Rules.

Costs to the architectural profession:

There are no costs associated with the change in the Rule because it is for clarification purposes only.

ANNEX 2

Proposals for a scheme for the maintenance of competence: Regulatory Impact Assessment (RIA)

1. Title of proposal

A scheme to assure the Board that individual registrants maintain an appropriate level of professional competence in areas relevant to their practice as an architect.

2. Purpose and intended effect of measure

(i) Objective

The objective of these proposed measures is to give assurance to the public that registrants are competent to practise in areas relevant to their professional work in accordance with s9 of the Architects Act. Professional and regulatory bodies in the UK and other countries consider that these schemes, and in particular that mandatory schemes, have a positive effect on consumer confidence and professional standards.

(ii) Background

Under s9 of the Act, where the Board is not satisfied that an individual applying to be retained on the register under s8 has such recent practical experience as it may prescribe, their name will either not be re-entered, or will be removed from the Register unless the Board is satisfied of their competence to practise. There is also a duty under Standard 6 of the Architects' Code: Standards of Conduct and Practice (the Code) for registered architects to maintain competence in areas relevant to their professional work.

Currently, the Board does not actively seek assurance of appropriate recent practical experience under s9, nor does it monitor compliance with Standard 6. Action would only be taken if failure to maintain competence became a disciplinary matter.

Many regulatory and professional bodies within the construction industry and other professions, have made the maintenance of competence - or CPD - a mandatory requirement rather than merely a disciplinary issue. Such bodies include the Royal Institution of Chartered Surveyors, the Institution of Civil Engineers, and The Chartered Institute of Building. This position appears to be in line with current expectations among the general public that members of all professions maintain an appropriate level of competence. It is also beneficial to architects that the Register is associated in the public mind with high standards of competence.

At its meeting in May 2005, the Board decided that architects should be required to demonstrate that they have maintained their competence to practise. While no decision was made as to the form this should take, views were expressed that any scheme should be based on the following principles:

- it should be light-touch and proportionate
- it should not unnecessarily duplicate activities already undertaken as part of a CPD scheme through membership of a professional body
- financial costs to registrants in the form of any increase in retention fees should be kept to a minimum.

The Board also agreed that discussions should commence with the RIBA to find out more about the changes to its scheme for CPD, as around 70% of registrants are also RIBA members. Several meetings have taken place with the RIBA, during which the RIBA expressed its willingness to work with ARB to develop a scheme. A representative of the RIBA has attended and usefully participated in discussions at the Board and the Prescription Committee. As a result the RIBA has made some revisions to the Core Curriculum (which is at the heart of the scheme) in order to meet points made by ARB.

The Core Curriculum is tied back into key areas of the Criteria which are held in common by ARB and RIBA. Thus, the requisite levels of competence in these essential areas should be maintained by an architect who meets those requirements.

Under the RIBA scheme, a chartered member is required to do the following each year:

- 35 hours of CPD
- 100 points of CPD
- Keep track of the activity via the RIBA's CPD record sheet
- At least 50% of the 35 hours should cover areas of the Core Curriculum, and the entire Core Curriculum should be covered within a five year cycle
- At least 2 hours should be spent on Health and Safety

A random sample of members are monitored each year. Members who refuse to comply with requests to see CPD record sheets could, after a series of warnings, be suspended from the RIBA.

The Prescription Committee has agreed that registrants who have complied with the RIBA Core Curriculum requirements of its CPD scheme are likely to satisfy the Board of their competence to practise, but noted that the RIBA does not monitor the quality or appropriateness of the activities undertaken.

(iii) Risk assessment

Failure to maintain competence may result in a failure to meet required professional, legal and/or contractual standards. Professional incompetence, or where there is a general perception that this is commonplace, has a negative effect on consumer confidence and brings the Register of Architects into disrepute.

The fact that many professional and other bodies consider that a professional person must maintain general competence as well as competence in any specialism, is sufficient evidence in itself of the need for some such scheme. In the architectural profession, the Code recently adopted by the Architects Council for Europe requires continual maintenance and development of competence. Some years ago, the International Union of Architects agreed a policy that called for the establishment of regimes for CPD so as to maintain professional skills, etc. "as a duty of membership, in the public interest". Its policy also states:

"Architects must be sure they are capable of providing the services they offer, and codes of conduct must oblige architects to maintain a known standard in a variety of areas described under the "Fundamental Requirements of an Architect" and in future variations thereof."

Literature searches have been undertaken, but so far there appears to be no research into levels of consumer confidence in the Register of Architects, or levels of competence amongst registrants which might substantiate the perceived correlation between maintenance of competence schemes and consumer confidence. However, other professions have had schemes for many years, some quite onerous, and consider them to be justifiable (see section 3 below).

3. Options

The following options have been considered for the purposes of this impact assessment, including the favoured proposal, Option 3:

(i) Option 1: Annual self-declaration with monitoring of a random sample

Registrants would be required to keep a record of the activities they have undertaken to maintain competence in accordance with the Board's guidelines, and to make an annual declaration to ARB that they have taken appropriate steps to maintain their competence.

A random sample would be asked to submit evidence that they have taken steps to maintain their competence over the previous year. The methodology for sampling would be according to generally accepted principles, and may be refined as risk factors become evident.

Where there are concerns, the registrant would be required to submit a more detailed record with supporting evidence to a panel of assessors.

This option is similar to CPD schemes that have been introduced or are about to be introduced by, among others, the Royal Institute of British Architects, the Chartered Institute of Building, the Royal Institution of Chartered Surveyors, the Health Professions Council, the General Dental Council, the General Medical Council, the General Osteopathic Council, the General Optical Council, the General Chiropractic Council, the Royal College of Veterinary Surgeons, the Royal Pharmaceutical Society of Great Britain, the Nursing and Midwifery Council, the Law Society, the Faculty and Institute of Actuaries and the Institute of Chartered Accountants in England and Wales.

Some of these organisations have more stringent rules, requiring all registrants or members to submit an annual summary of the activities they have undertaken, rather than a declaration. Some require, or are considering, the introduction of revalidation or recertification.

(ii) Option 2: Annual self-declaration with monitoring undertaken by a body other than ARB

Similar to option (i), registrants would be required to declare annually to ARB that they are maintaining competence in accordance with the Board's guidelines. In addition, they would declare that they belong to a prescribed scheme whereby this is monitored – registrants who are in practice would be required by ARB to belong to such a scheme.

ARB would prescribe schemes run by other bodies for monitoring the maintenance of competence, but would not monitor this itself. Bodies running such schemes would periodically submit to ARB material to give ARB confidence that those falling within the scheme were maintaining their competence and would report instances where their members had failed to meet the required standards.

(iii) Option 3: Deemed declaration with risk-based monitoring

Registrants would be reminded each year in their retention fee advice that architects in practice are expected to maintain their competence in accordance with the Board's guidelines. Applying for retention would be deemed as confirmation that competence has been maintained in the previous year by undertaking sufficient appropriate activities and recent practical experience, in accordance with the Board's guidelines, and that it would be maintained in the year for which renewal is sought.

No specific declaration would be required (even by ticking a box), so no registrant would be required to complete anything that is not already called for.

If a registrant falls within one of the groups where there is a risk that competence has not been maintained, the Board would require the registrant to provide details of the activities undertaken so that recent practical experience may be assessed by a competency standards panel.

If the panel considered these to be inadequate or inappropriate, the Board might require the registrant to draw up a development plan to address any deficiencies. Where the registrant is unable or unwilling to do this, the registrant could be required to undergo a formal assessment of competence. Ultimately, the Board could exercise its power under s9 and refuse to renew the registration of the architect where it was not satisfied that competence had been maintained.

However, ARB would not monitor compliance except where a registrant or registrants fell within one of the groups where there was a risk that competence had not been maintained.

(iv) Option 4: No action

In the current climate, because of the general trend towards mandatory maintenance of competence and CPD amongst the professions, rather than having no impact on the objective, this is likely to have a negative effect on consumer confidence and public perception of the profession. From a public relations perspective, it is important to be seen to be moving into line with the standards upheld by other regulatory and professional bodies. This in turn is beneficial to architects by ensuring that the Register is associated in the public mind with high standards of competence.

Guidelines:

For each of the options 1, 2 or 3, guidelines will be required to provide guidance and examples as to how a registrant may satisfy the Board that they are undertaking sufficient and appropriate activities to maintain competence.

These will include:

- a description of the scheme and reasons for its introduction
- a summary of the principles on which it is based
- an indication of the level of competence that architects will be required to maintain.
- an outline of the areas that will be of particular interest and concern to the Board
- reference to the RIBA Core Curriculum and confirmation that registrants who have complied with its requirements are likely to satisfy the Board.
- examples of the types of activities that might be undertaken
- how a registrant might plan their activities

4. Benefits

(i) Option 1: Annual self-declaration with monitoring of a random sample

- This option is the most thorough, and would result in monitoring a statistically valid proportion of the Register.
- ARB could be confident that any conclusions it may draw about levels of competence and compliance are representative of the register.
- ARB would be able to tackle individual transgressions, ultimately by refusal to re-register.
- **It is likely that consumer confidence would be reinforced because ARB is proactively ensuring maintenance of competence.**

But:

- We currently have no information to assess whether this is a proportionate response. This option could be considered over-zealous and heavy-handed.
- If the measures are considered too onerous within the profession, this would have a negative impact on ARB's reputation and relationship with registrants.
- Without objective criteria for assessment, the process will be open to challenge, particularly if it results in removal from the register, which would further add to the costs.
- According to research by the Professional Associations Research Network (PARN) in 2004, measuring outcomes is "complex and expensive, and may require third parties". The majority of bodies involved in the survey (72%) have opted to measure input – that is, to count hours (which is contrary to the original principles agreed by the Board at the outset of this project).
- Experience suggests that considerable costs will be incurred in following up those who refuse or neglect to tick the box to indicate that they are complying with the requirement to maintain competence. This may become a paper-chasing exercise unrelated to maintenance of competence.

(ii) Option 2: Annual self-declaration with monitoring undertaken by a body other than ARB

- ARB would be seen by consumers to be addressing the question of maintenance of competence, thus providing reassurance
- Registrants who comply with the requirements of a prescribed CPD scheme will satisfy the Board's requirements without further action.

But:

- A procedure will have to be developed for the prescription of CPD schemes operated by other bodies. This will take time, both in the development of procedures and in engaging with other bodies so that they put forward their schemes for prescription.
- There will be additional costs for registrants who are likely to have to pay to subscribe to a prescribed scheme.
- A procedure will be required for registrants who are not members of a professional body and who are not prepared to take part in a prescribed CPD scheme.
- This option relies on other bodies wishing to have their schemes prescribed by ARB.
- There are possible data protection difficulties in that ARB would require information from other bodies about their members.
- It would require a willingness on the part of the other bodies to share information about members who were not fulfilling their obligations, or where there were concerns about this.
- It would be necessary for the other body to have a robust system of monitoring that includes both quality and appropriateness of activities and not simply the number of hours devoted to them
- Using a 'tick box' to indicate compliance with the requirement is likely to add to the costs, as indicated in option 1 above.

(ii) **Option 3: Deemed declaration with risk-based monitoring**

- This option is both light-touch and risk-based.
- Many of the systems required to operate the scheme are already in place (although some development may be needed). This will reduce the cost and the time needed to implement the scheme.
- This is likely to be the preferred option within the profession. Market research undertaken by ARB in 2001 indicates that while CPD is considered essential by most architects, the majority is in favour of a "self-certification" scheme.
- It will not be necessary for the registrant to tick a box or to complete any document, as those who pay their retention fee will be treated as having confirmed that they have maintained and will continue to maintain their competence in accordance with the guidelines unless there is good reason to suggest otherwise.
- Registrants will not be expected to do any more than is currently expected of and accepted by the majority. 70% of those on the Register already have obligations as members of the RIBA. The requirements of the Core Curriculum and compliance with this should be sufficient to satisfy ARB. The RIBA has assured ARB that its scheme will be open to non-members to subscribe to if they choose.
- The guidelines will indicate how a registrant might satisfy the Board's requirements, and will also include other eligible CPD schemes that provide the requisite level of maintenance of competence, for example, a scheme of another professional or other body of which the registrant is a member. Such registrants would therefore not be required to do any more than is expected of a member of that body.

But:

- The sample would not be random or sufficiently large to draw any reliable conclusions about general levels of competence in the register.
- ARB would be relying on responsibility within the profession to maintain competence.

(iii) **Option 4: No action**

- The benefits or risks of taking no action depend on the level of confidence among consumers and of competence within the profession.

But:

- When most other regulatory bodies are moving towards monitoring CPD or maintenance of competence, this could further lower the level of consumer confidence.
- This would be a lost opportunity for registrants to establish an assurance of minimum standards of competence in the Register of Architects.

5. Costs

(i) **Economic Costs to ARB:**

Option 1 is likely to incur the highest cost to ARB, both in initial start-up costs and ongoing administration. There would be no financial cost for option 4, and options 2 and 3 are likely to be less costly than option 1.

Costs to the architectural profession:

- Since around 70% of registrants are also members of the RIBA (or other professional body) which has its own CPD requirements, and since ARB's requirements are likely to be satisfied by the same activities and evidence, it is unlikely that there would be any significant extra activity for most registrants.
- Under option 1, those in the group sampled will have to prepare a profile and statement which will have time and cost implications for them and their employers (if employed).
- The financial costs to ARB in operating any scheme will impact on the profession through registration and retention fees.

(ii) Other:

Not introducing a scheme at a time when most other professions are doing so, or not introducing a scheme that is sufficiently rigorous nor adequately enforced would be unacceptable in the public interest, and would be criticised by consumers and consumer groups alike. The annual reports of the PCC indicate how important it is for architects to maintain competence in essential areas.

On the other hand, a scheme that is considered unnecessary or too onerous would not be popular within the profession, while the benefits of a scheme that calls for no more than is expected, is light-touch and based on risk, is more likely to be understood and adopted.

6. Equity and Fairness

The introduction of a scheme for the maintenance of competence could be thought to affect those returning to the register by requiring them to maintain and prove competence while they are not practising (or practising outside the UK). However, this is already called for by s9 of the Act. The numbers involved are not large - around 70 a year - but care needs to be taken to avoid any disproportionate effect, e.g. on those who, for various reasons, take a career break.

Option 3 would put those returning to practice after a career break (but who have stayed on the Register) in the same position as someone who has resigned from the Register. That is, if the break is for more than the current period of two years, they would have to demonstrate how they have maintained their competence. Currently, around 600 architects, who have maintained registration, return to practice each year after a break of two years or more.

The Board is currently considering a change to the General Rules. In considering this change, the Board will look at whether this two year period is appropriate. Recent research undertaken by the Board has shown that 59% of registrants who responded to the questionnaire thought two years the correct length of time. Of the remaining 41% who thought this should be longer, 65% thought five years would be more appropriate. (A full report of this survey may be found on ARB's website - <http://www.arb.org.uk/news/composition-of-the-register-survey.shtml>). It may be possible, in reviewing the two year period, to see if competence could satisfactorily be maintained by compliance with the Board's guidelines, without recent practical experience.

7. Enforcement and sanctions

Under s9 of the Act, the Board must be satisfied that anyone applying to be retained or re-entered on the Register has met its requirements regarding practical experience. The Board shall decide whether that person should either be removed from the Register, or not re-entered.

8. Monitoring and review

The scheme will be monitored and reviewed from its implementation. It is proposed that a formal review be undertaken after, say, four years.

9. Consultation

The Board is under a statutory obligation to consult on any changes to the General Rules. In addition, because the introduction of a scheme for the maintenance of competence would affect all registrants, registrants will be invited to take part in a consultation about the proposals via the website. Those who have previously expressed an interest will be contacted, together with bodies representing architects, consumers and other interest groups.

10 Recommendations and conclusions

Of the four options considered in this assessment, option 3 is preferred because it most closely fits the requirements of being light touch, and registrants need do no more than is currently expected. Option 3 is likely to be the least costly to set up and administer, and thus have the smallest impact on retention fees.

Because monitoring will be risk-based, it is focused on specific groups considered to be at risk rather than random sampling. This is a more effective method of monitoring, and should provide a higher degree of assurance to consumers and to the public in general.

The Board's requirements are likely to be satisfied by the activities undertaken by registrants who have complied with the Core Curriculum under the RIBA CPD scheme, which will avoid unnecessary duplication. Schemes operated by other professional bodies within the construction industry may also satisfy these requirements.

In the current climate, when many regulators and professional bodies have introduced, or are about to introduce mandatory schemes for the maintaining competence or CPD, Option 4 - no action - is likely to be unacceptable to consumers and the general public, who rightly expect the Register to provide an assurance of competence.