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The Architects Registration Board,
8 Weymouth Street
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Dear Board Members,

Consultation 2009/01 – Amendments to the Board's Criteria at Part 1, Part 2 and Part 3

You have invited comment on all three parts of your Criteria which are described as setting the learning outcomes that must be achieved by those successfully gaining the qualifications in architecture that ARB prescribe at Part 1, Part 2 and Part 3 level. Such a consultation is valueless if the premise on which the consultation is based is faulty, and my purpose in writing to you is to demonstrate that the Board's governing statute, the Architects Act, permits the Board under section 4(1)(a) to engage in no activity beyond prescribing the qualification – whereas the Criteria to which you refer either in their present form or in any revised version are clearly intended to provide the means of validating courses rather than prescribing qualifications. The Board has a statutory duty to do no more than to prescribe qualifications and it follows that these Criteria are extraneous to the purposes of the Act.

The Act

The relevant part of the Act for the purpose of this consultation is section 4(1):

> *A person who has applied to the Registrar in the prescribed manner for registration in pursuance of this section is entitled to be registered in Part 1 of the Register if he holds such qualifications and has gained such practical experience as may be prescribed...*
>
> and the Board's prescribing duties are permitted by section 6(3):
>
> *The Board may prescribe the information and evidence to be provided...*

So it is that the Board has a power no more than to *prescribe* the qualifications and practical experience necessary for and as a precondition to registration. There is little guidance in the Act over the interpretation of the word *prescribe*, providing as it does only the following for interpretation:

> *'prescribed' means prescribed by rules made by the Board and 'prescribe' means prescribe by rules.*

It is therefore useful to consider the background to the Act to discern the intention

given to it by parliament.

Background

When enacted the Architects Act 1997 was an Act that consolidated the legislation formerly contained in the Architects Act 1931, the Architects Registration Act 1938, sections 118 to 125 of and Schedule 2 to the Housing Grants, Construction and Regeneration Act 1996, the Architects Qualifications (EEC Recognition) Order 1987 (S.I. 1987/1824) and the Architects Qualifications (EC Recognition) Order 1988 (S.I. 1988/2241). All of these were later repealed.

The most recent substantive parliamentary debate on the provisions of the Act took place in respect of the Housing Grants, Construction and Regeneration Bill in 1996, when the replacement of the Architects Registration Council of the United Kingdom by the present Architects Registration Board was proposed.

In preparation for the parliamentary debate, the Government entered into public consultation. The proposals stemmed from a request, made by ARCUK to the Government in 1992, that the Architects Registration Acts 1931-69 be reviewed. Mr John Warne carried out that review after wide consultation, and his review was published in 1993.

The Warne Report concluded that the main weaknesses of ARCUK included excessively prescriptive and inflexible legislation, and an imprecision in the definition of the duties and responsibilities of the Council. The Government's proposals aimed to overcome these perceived weaknesses in a way that was generally acceptable to the public and the profession alike. As was stated in the public consultation paper issued by the Department of the Environment on 19 July 1994:–

> *The main objective of the reforms is to create a small, focussed and effective registration body which represents the interests of both the profession and the general public. Its purpose would be to: set criteria for admission to the register; prevent misuse of the title "architect"; discipline unprofessional conduct, and set fee levels.*

The Bill was introduced into the House of Lords by Earl Ferrers who said at the outset of the debate on 20 February 1996, that –

> *Our intention is that these changes should make the registration council a more representative and, dare I say it, a more efficient body which will work better for the benefit of both architects and their clients.*

The debate ran over several days and amendments were proposed. Earl Ferrers fell ill and his position as the government spokesman was promptly taken up by Lord Lucas. Lord Lucas said (on 1 April 1996):–

> *The aim of the amendments is to ensure that the new Architects Registration Board does not spawn several new large and expensive committees. We are certainly sympathetic to that aim. We have established a new professional conduct committee but, having abolished the Board of Architectural Education and the Admissions Committee, the last thing we would wish to see is large new committees rising from the ashes, as it were, to take their place. I accept that such committees may be bureaucratic and expensive to run, and one of our aims in reducing the size of the Architects' Council of the UK was to reduce*

registration costs.

The Bill then passed to the House of Commons where it was introduced by the Minister for Construction, Planning and Energy Efficiency, who said on 7 May 1996:–

> *The reason for reforming ARCUK is that since it was established in 1931, it has grown large and cumbersome and it has taken on functions that are not strictly concerned with registration.*

Before returning to the Lords for its third reading, on 5 June 1996 a private member Mr Elfyn Llewyd secured parliamentary time to debate compulsory indemnity insurance, provision for which he called for urgently. In reply, the Parliamentary Under-Secretary of State for the Environment referred to the Bill, saying:–

> *Current legislation will reform the structure of ARCUK and make minor changes to admission criteria. However, the changes to the criteria remain firmly based on the ability of the individual to function as an architect, and do not extend to any of the criteria to cover financial or insurance matters. We believe that this is as it should be. The reforms, which gained widespread support during public consultation, are based firmly on the idea that ARCUK should be a minimalist body concentrating on the core functions of registration and discipline.*

The Bill was then returned to the Lords for approval of Commons' Amendments. A particular set of amendments concerning a requirement to consult bodies of chartered architects before prescribing qualifications and experience needed for entry onto the register was approved. Lord Lucas, speaking for the Government, said:–

> *We recognize that the RIBA plays a predominant role in architectural education and we do not wish the Board to duplicate that role.*

In summary, the intention of parliament was therefore:–

- To create a minimalist body setting criteria for admission to the register; preventing misuse of the title "architect"; disciplining unprofessional conduct, and setting fee levels;
- To reduce costs accordingly;
- To ensure that the Board concentrates on the core functions of registration and discipline;
- Not to extend the functions of the Board to cover financial or insurance matters, and
- To allow the RIBA to continue in the predominant role in architectural education without the Board duplicating that role.

That is how the Act was written and enacted, and those extracts from speeches explain beyond peradventure the intention of the Parliament at that time.

Mistaken interpretation of the statute

In a letter to the Chief Executive of the RIBA dated 24 January 2002, the then Registrar said:

> *"Leading Counsel's view was that whilst the Architects Act makes no express provision for monitoring compliance with the Code, such a power was to be implied on the basis of a purposive approach."*

Despite the public function of the Board, the Registrar refused to elaborate the legal advice received by the Board beyond the broad explanation given in his letter. However, it is understood that an officer of the Board informed a person on the Register that there were three cases that supported the Board's position, being:

> *A v. B (Governor of Bank of England Intervening)* [1991] 1 Bank Law Reports.
>
> *R v. Security Investments Board ex parte Independent Financial Advisers Assoc. & another* [1995] 2 Butterworths Company Law Cases
>
> *R v. Personal Investment Authority ex parte Lucas Fettes* [1995] Occupational Pensions Law Reports

At the induction meeting for new members of the Board held on 7 April 2003, the Board's solicitor also referred generally to "a number of railway cases in the nineteenth century", and with reference to Chancery, which allowed the court to imply terms into an Act and thereby to ask the question: "Are these implied things a reasonable understanding of the statutory purpose?". But none of these cases provided authority for a purposive approach, and in respect of railway cases, the only relevant case is *London and North Eastern Railway v Berriman*[1], a twentieth century case where members of the House of Lords came to slightly differing conclusions on the meaning of the word "repairing"[2]. All of their Lordships were however pursuing the ordinary meaning of the word which does not assist in support of the purposive approach.

Authority for this purposive approach is provided unequivocally by the House of Lords in the landmark case of *Pepper (Inspector of Taxes) v. Hart*[3]. In judgment of that case Lord Griffiths said (at 617):

> *"The days have long passed when the courts adopted a strict constructionist view of interpretation which required them to adopt the literal meaning of the language. The courts now adopt a purposive approach which seeks to give effect to the true purpose of legislation and are prepared to look at much extraneous material that bears upon the background against which the legislation was enacted."*

From this it is to be accepted that it is only *the background against which the legislation was enacted* which may be brought in support of the proposition of a purposive approach to statutory interpretation.

The Board's past desiderata – its "wider remit" – are by the rule of *Pepper v Hart* demonstrably alien to the intentions of parliament when it enacted the present Architects Act; or indeed, all of the relevant preceding statutes. At the induction meeting of April 2003, Owen Luder CBE, the immediate past chair of the Board, on being reminded of the intentions of parliament of the time with quotations from

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1 [1946] A.C. 278.

2 "Fair and ordinary" per Lord MacMillan at 275; "Natural and ordinary" per Lord Wright at 301.

3 [1993] A.C. 593

Hansard, said: "that was all history", clearly illustrating the mistaken approach that the Board had hitherto adopted to its interpretation of the Act, and which has led to the Board's acceptance of the illegitimate "wider remit".

The development of the law in this respect of statutory interpretation is clear, as can be well understood according to the guidance of established legal authority going back as far as *Heydon's Case*[4] in 1564 when it was held that the "mischief" itself (or the wrongs intended to be redressed) might aid in interpretation. This was (and remains) a remedy for dealing with ambiguities and absurdities in the wording of an enactment.

But if the wording of the statute is clear – that is without ambiguity or absurdity – then a literal approach to interpretation as elucidated by the Lord Chief Justice in *The Sussex Peerage Case*[5] is the correct approach, and in this regard the case remains authoritative:–

> *"My lords, the only rule for the construction of Acts of Parliament is, that they should be construed according to the intent of Parliament which passed the Act. If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case, best declare the intention of the lawgiver."*

This binding legal *dictum* was further elucidated and extended by Lord Scarman in *R v. Barnet London Borough Council ex parte Nilish Shah*[6] when he said:

> *"[A purposive interpretation may only be adopted if judges] can find in the statute read as a whole or in material to which they are permitted by law to refer as aids to interpretation an expression of Parliament's purpose or policy."*

That "material" has been held to include the Preamble, the Short Title, Headings and Side-Notes. None assist the Board in justification of the powers and duties it has assumed that have exceeded its statutory functions. The words of the Architects Act are unambiguous, certain, capable of implementation and should therefore have been taken only so far as their natural and ordinary sense allows. The wording of the Act corresponds precisely with what is recorded of the intent of that parliament which passed it. The purposive approach has no application because there is no misalignment between the intention of that parliament and the enactment; anything other than the literal approach to interpretation cannot be justified because the Act is clearly and unambiguously worded.

Section 23(1) of the Architects Act states:–

> *"The Board may make rules generally for carrying out or facilitating the purposes of this Act."*

Clearly, such "purposes" do not include any extraneous purpose that the Act itself does not introduce. It cannot therefore be argued that this clause gives the Board general or unfettered prescriptive or regulatory powers over registered persons. The rules may not be used either to change or distort the ordinary interpretation

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4 (1584) 3 co.Rep. 7a, 7b.

5 (1844) 11 Cl. & Fin. 85, 143.

6 [1983] 2 A.C. 309, 348.

of the words used in the statute, particularly where the intention of parliament was given so clearly. Wherever the Board has by rules duplicated the RIBA's role, such as with the *validation* of schools of architecture, it has acted in contravention of the intention of parliament and beyond the remit of the Act. "Prescribe" means prescribe. It does not mean anything else.

Powers assumed beyond those provided by the Act

The misapprehension concerning the interpretation of the Act arises from a partial consideration of *Attorney-General v. Great Eastern Railway Company*,[7] which has led some to conclude, including it would appear the Board's solicitor, that express statutory powers generally carry with them implied ancillary powers. In that particular judgment are two apposite *dicta*–

In the Lord Chancellor's speech at page 478:

> *[The doctrine of ultra vires] ought to be reasonably, and not unreasonably, understood and applied, and that whatever may fairly be regarded as incidental to, or consequential upon, those things which the Legislature has authorized, ought not (unless expressly prohibited) to be held, by judicial construction to be ultra vires.*

Then in Lord Blackburn's speech at page 481:

> *Those things which are incident to, and may reasonably and properly done under the main purpose, though they may not be literally within it, would not be prohibited.*

Thus the doctrine of *ultra vires* is to be maintained, but applied reasonably. The rule does not impinge upon interpretation, but allows implied powers over those matters which are fairly incidental to the main purpose of the legislation. In *Great Eastern Railway,* the question was whether the company might contract for the supply of rolling stock and other materials to another company even though the act of parliament did not expressly provide for it. There was no question of disturbance of the rule set earlier in the Sussex Peerage case.

In the present instance, just as there is no need to bring a purposive approach to the interpretation of the Act, so also is there no need to imply any term to give effect to the intention of the legislature. It is all there. It is not necessary for the Board to validate a course itself in order then for it to prescribe a qualification. To use the word *prescribe* as if it also incorporates the meaning *validate* goes beyond what may be permitted either by a purposive approach to interpretation or by implying terms. The head-note to *Great Eastern Railway* in Appeal Cases says:

> *In an Act of this kind granting special powers, what is not permitted is prohibited.*

That is the constraint upon the Board in relation to the operation of Section 4 of the Act.

Prescription or validation?

The Act provides ARB with neither the power nor the duty to give itself the means to ascertain whether a prescribed qualification meets any kind of standard, and yet that is precisely what it has done through its Criteria. ARB has thereby created yet another conceptual difficulty arising from the proclaimed ambition of the Board's

7 (1880) 5 App Cas 473.

first chairman to adopt a "wider remit" than that provided by statute. The jactitation of this particular responsibility has been persistently advanced by the Board since 1998, and there is now in consequence a great deal of unwinding to be done.

Duplication of the RIBA's validation process is widely accepted as having given rise to the unfortunate and dysfunctional relationship between the Board and the RIBA. The cause of this has been never so evident than has been revealed in the correspondence between the then Chair of the Board Dame Barbara Kelly and the Heads of Schools of Architecture on 9 December 2000, when she said:–

> *"I am writing to all schools of architecture to clarify a number of issues relating to the validation of courses of architecture in the UK. As you are aware, courses are approved by ARB and RIBA under agreed procedures and criteria. The continued validation of courses is dependent upon courses fulfilling the criteria and that procedures are followed relating to revalidation, changes in course provision, and the initial validation of new courses."*

That Dame Barbara spoke (accurately) of *validation* rather than (as later became the norm) *prescription* gave the lie to the incorrect later use of the word when, it seems, the Board appeared tacitly to have accepted that the grant of *course validation* was beyond the scope of the Board's statutory function *per se*. The Board's expansion of interest into this area can by no means be justified; for on this the Act is silent. It is doubly unfortunate that concerning these activities the Board has behaved as if it was a professional institute in direct competition with the RIBA.

What then may the ARB prescribe, and how may it do it? In 2001 and 2002, the RIBA drafted a set of criteria which they suggested to the Board might be included in a Prescription of Qualification. It appears that even a prescription along these lines – more complex than those originally set by the EU Directive 85/384 – was beyond the statutory function of the Board. However, the then chairman in his preface to those criteria said:–

> *"The criteria contained in this booklet will come into use in September 2003. They will be used in conjunction with the document, 'Procedures for Validation', published by the Architects Registration Board and the Royal Institute of British Architects in August 2000"*

demonstrating that the Board, despite the suggestion of the RIBA, intended not to revert to prescription of qualifications but to continue with its mistaken involvement in the validation of courses; and having decided, albeit erroneously, that 'prescription' was to include in its meaning not only the power to prescribe qualifications but also to provide criteria for the assessment and validation of the quality of courses, the Board was able to embark upon an unnecessary incursion of doubtful legality into the area of responsibility that RIBA had been operating successfully since 1901 (expanding to the Empire and Commonwealth in 1924).

From September 2003 the Board no longer took part in visiting schools, leaving that function to the RIBA. Nevertheless it has kept in place a process of paper validation, and requires schools of architecture to "apply for the prescription of a qualification"[8]. This, to ensure that it may be confident that "all students /

8 "Procedures", paragraph 2.3.1.

candidates awarded the qualification since the qualification was prescribed must have met all the criteria"[9].

Ultimately, the Board has decided that in considering an application from a school it will decide either:–

> *"To accept the application in whole or in part and to prescribe the qualification or qualifications sought (or any part of it) to four years (or other period as it sees fit);*
>
> or
>
> *"To reject the application in whole or in part".*[10]

Once "prescribed" (for which, of course, read "validated"):–

> *"Annually and by a date set by the Board, the institution will be required to provide the Board with information of the nature set out in Appendix 2 to enable the Board to see that all its criteria are being attained by students who have been awarded the qualification prescribed and the institution's resources remain as set out in its application and are adequate. ..."*[11].

And finally:–

> *"If as a result of the information provided ... the Board considers that ... criteria are not being met by students awarded the prescribed qualification ... then the Board may notify the institution that it is of the opinion that the prescription* ("validation") *should be suspended or revoked in whole or in part, together with its reasons for that opinion. The institution shall within three weeks ... make any representation in writing to the Board as to why it should not so act. On receipt of such representations ..., the Board shall decide within four weeks whether or not to suspend or revoke the prescription of the qualification in whole or in part..."*[12].

All of this demonstrates that the Board has determined that it shall not be limited to its statutory function of merely prescribing qualifications. It has strayed into the area of course validation for which there is no provision under the Act and which, from Lord Lucas's speech, was clearly intended to be excluded from the Board so that it might remain undisturbed as the proper function of the RIBA.

A proper and prudent exercise of the Board's power would be to prescribe for the purposes of s.4 those qualifications that the RIBA recognizes and validates.

Where the Board's education policy has exceeded its statutory function - the Examination for Equivalence to Prescribed Qualifications

The Architects Act 1997 provides at section 4(1)(b) an alternative to holding a prescribed qualification and practical experience, so that:–

> *A person who has applied to the Registrar in the prescribed manner for*

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9 "Procedures", paragraph 2.5.1.

10 "Procedures", paragraph 2.10.1.

11 "Procedures", paragraph 2.11.1(c).

12 "Procedures", paragraph 2.11.2.

registration in pursuance of this section is entitled to be registered if he has a standard of competence which, in the opinion of the Board, is equivalent to that demonstrated by satisfying paragraph (a).

And at subsection (2)

The Board may require a person who applies for registration on the ground that he satisfies subsection (1)(b) to pass a prescribed examination in architecture.

The Act does not expressly or by necessary implication, nor even by a purposive interpretation, provide the Board with a power to become involved in the assessment of candidates by this alternative route to registration other than by prescribing examinations. Bearing in mind Lord Lucas's speech in the House of Lords, it is clear that it should not do so. Examinations have existed elsewhere; the Board should never have duplicated them and neither should it ever seek to impose standards upon them. It should stand back and leave it to those with expertise in the matter. Its chaotic recent involvement in the "prescription" of examinations is ample justification for this.

The proper approach would be to prescribe for the purposes of section 4(2) the RIBA's and others' examinations in architecture, validated by others.

Europe and the Arb as competent authority

By Article 7 of the European Community Council Directive of 10 June 1985, (85/384/EEC, now superseded) the United Kingdom was required to communicate the list of diplomas, certificates and other evidence of formal qualifications awarded, together with the establishments and authorities that met with the requirements of Articles 3 and 4 of the Directive, together with any amendments to the list as they arose.

Article 3 prescribed certain training, at university level, stating that it must be balanced between the theoretical and the practical, so as to ensure an acquisition of a certain level of knowledge and skills in outlined areas. Article 4 set the minimum length of training to be concluded by an examination of degree standard.

Article 11(I) listed the diplomas, certificates and other evidence of formal qualifications to be obtained in the United Kingdom that are the requirement for mutual recognition in other member states. Rather than list the establishments extensively, the requirement was stated as the qualifications awarded following the passing of examinations of the Royal Institute of British Architects (RIBA), and those of the schools of architecture at universities, polytechnics, colleges etc. recognized by the Architects Registration Council of the United Kingdom for the purpose of admission to the register. Alternatively, certain other routes to registration were recognized, including being an architect member of the Royal Academy or of the Scottish Royal Academy and, alternatively, having been in practice as an architect within two years of the commencement of the Architects (Registration) Act 1931, which was still then in force.

Under section 5 of the 1931 Act, ARCUK was given a duty to appoint a Board of Architectural Education that had as its duty to recommend to ARCUK the recognition of any examinations in architecture the passing or holding of which ought, in the opinion of the Board, to qualify persons for registration under the Act.

The list of diplomas etc communicated under the 1985 Directive, Article 7.

The first substantive list of 'qualifications' and 'establishments' submitted by the United Kingdom was published in the Official Journal of the European Communities on 19 October 1988 (88/C 270/03). The list included diplomas awarded by a number of specified universities, polytechnics, colleges and schools of art, 'degrees in architecture' awarded by others (which are understood to have been the equivalent of diplomas in architecture), the final examination of the Architectural Association, the Examination in architecture of the Royal College of Art and the RIBA's Part II Examination – in each case preceded by a first degree in architecture at one of the named establishments and authorities, or by the RIBA Part I Examination. In this edition of the Official Journal, the step of recognition by ARCUK was omitted – presumably because, having listed the establishments at length, it had become redundant.

A further edition of the Official Journal, dated 11 July 1998, made no substantive change to the list of qualifications and establishments but added a further requirement of a certificate in the following terms:–

> *These diplomas, degrees and examinations are to be accompanied in each case by a certificate issued by the Architect's Registration Board* (ARB) *confirming that the qualifications comply with Directive 85/384/EEC and are recognized by the Board for admission to the Statutory Register of Architects.*

In this, the following may be noted:–

- The requirement for a certificate uses the language of the 1931 Act in that the certificate is required to confirm that the qualifications are *recognized* by the Board even though that Act had been repealed.
- Neither the Housing Grants, Construction and Regeneration Act 1996 nor the later consolidating Architects Act 1997 gave either power or duty to the ARB to 'recognize' architectural qualifications. This power was repealed, to be replaced by a duty merely to 'prescribe' qualifications, clearly demonstrating that the ARB had no *locus* in the process.

In November 2001 further revisions were made pursuant to Article 7 of the Directive. Contrary to the Directive's express requirement for the communication of the establishments and authorities awarding the qualifications that satisfy the requirements of Articles 3 and 4, those establishments were no longer listed substantively. Instead, the bodies awarding the qualifications were generically listed as 'universities, colleges of art', etc., and the new condition precedent to EC recognition was stated as being:–

> *Certificate of architectural education, issued by the Architects Registration Board*,

even though there was no provision in the Architects Act 1997 that empowered the ARB to issue such a certificate. It is probable that this mistake arose from the widely held misconception that the ARB had the power to 'validate' architectural courses.

This view was substantiated by the wording of the explanatory footnote in the Official Journal, attached to the description of the requirement for a certificate of architectural education, which states:–

> *The diploma and degree courses in architecture of the universities, schools and colleges of art should have met the requisite threshold standards as laid down in Articles 3 and 4 of Directive 384/85/EEC and in 'Criteria for Validation' published by the Validation Panel of the Royal Institute of British Architects and the Architects Registration Board.*
>
> *EU nationals who possess the Royal Institute of British Architects Part I and Part II certificates, which are recognised by ARB as the competent authority, are eligible. Also EU nationals who do not possess the ARB-recognised Part I and Part II certificates will be eligible for the Certificate of Architectural Education if they can satisfy the Board that their standard and length of education has met the requisite threshold standards of Articles 3 and 4 of the Directive and of the 'Criteria for Validation'.*

The position was therefore embarrassing. The communications made to the Council under the Directive resulted in an incompatibility between our domestic and EC law. The ARB, having no power to validate and no power to issue a Certificate of Architectural Education acted *ultra vires* when it did so.

The present position vis-à-vis the EU

The replacement of the 1985 Directive with that of September 2005, 2005/36/EC, simplified the matter in that the new Directive describes the documents and certificates required for registration as an architect in the United Kingdom. Registration must be provided to those who meet the standards described in Article 46, automatically reached by demonstrating a qualification listed in Annex V.7 point 5.7.1: namely to the standard of a diploma in architecture or its equivalent in the RIBA Part II examination. It should be noted that there is no express requirement for the higher level of qualification equivalent to the RIBA Part III examination. These qualifications conform to the Part II requirement of Article 46 of a minimum of 4 years full-time academic study or 6 years of study at least 3 of which are full-time, yet the Board insists both on a longer period of study and its own equivalent of the RIBA Part III.

As long ago as October 2004 the Board had been very well aware that its insistence upon Part III as a pre-requisite for registration could be the subject of a successful challenge on the basis that it is irrational to require a UK based student to possess a higher level of qualification and experience than is required of a non-UK based student or architect. While maintaining this unfair, unlawful and unjustifiable distinction, registration in Part I of the register continues on an unequal and unfair basis.

A proper prescription process

Admission to a mistake is just as tough a call for a corporation as it is for an individual. But if the Board is to revert to its proper function of prescription, then the mistake must be admitted and the whole of its involvement with the assessment of learning outcomes must be unravelled: the validation of courses must be left to others such as the benchmarking QAA and the validating RIBA. The autonomous "prescription" process of the Arb is unnecessary, never once demonstrated by evidence as being necessary, and all the while imposing a wholly unnecessary cost

on registrants[13].

Not even the cost of this consultation process can be justified, for there is no statutory justification for the Criteria which the Board now seeks to revise. The only proper course of action for the Board is to abandon its present course validation process, which is unauthorised, and deliver its statutory duty to prescribe qualifications to the equivalent level of RIBA Part II, and no higher.

Yours faithfully,

[redacted]

Ian Salisbury

13 Comparison of retention fee with the Retail Prices Index, rebased to 30 in 1997.