Protecting the title "State Registered Architect" : remarks on considering the revising of the code issued by the ARB under s.13 of the Architects Act 1997

from an AARUK contributor, 27 July 2009.

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1. It can hardly be doubted by anyone who has considered the legislation carefully and impartially that the duty of members of the Board is justly and prudently to prevent the abuse of the Board's powers for or against architects (or others) whether registered or not; and that it is not the purport of the Act that the Board's operations shall be enlarged (or developed) into "consumer protection" or "regulation" of the kind prescribed by Parliament (before and after the passing of the Architects Act 1997) to protect the public in respect of activities such as the supply of water, gas or electricity, or from notorious wrongdoings on the part of insurance brokers, banks and other providers of "financial services".

2. Having regard to the provisions of the Architects Act 1997, Schedule 1, paras 1, 2 and 3 what, then, is the purport of: "*...to represent the interests of users of architectural services and the general public...*" in respect of the appointed members? In particular:

   a. what are "architectural services"

   b. who as a matter of fact are "users of architectural services"

   c. what are their "interests" which appointed board members are to "represent"

   d. what are the "interests" of the "general public" which appointed board members are to "represent"?

3. The reason why persons other than registered persons have any interest in the matter arises as a consequence of the unconcealed fact that decisions were made to reject the recommendation of the Warne Report, and instead to perpetuate the statutory monopoly restricting the use of the word "architect", and its enforceability under threat of criminal prosecution (Part IV of the 1997 Act, originating in section 1 of the 1938 Act repealed by Schedule 3 of the 1997 Act).

4. But, whether or not that could in some way be beneficial (as some maintained), it would also tend to have effect (among other things) as a restrictive practice against the interests of those who are "users of architectural services" and the general public (including members of connected professions, persons engaged in the building industry and those who are looking for the education and training leading to a professional qualification for building design and construction).

5. The purpose of such a statutory monopoly could not be to protect the interests of users or the general public in respect of schools of architecture, the design or construction of buildings, or town and country planning, or health and safety of building operations or sites, or "consumer" contracts or housing or shops, offices, schools or other building types, having regard to the fact that those matters are governed more effectually by other policies and statutory requirements, enforcement procedures, and remedies of general application.

6. The interests of users and the general public (as distinct from persons registered or entitled to be registered) are that the powers of the Board shall not be exercised in a way

which will be adverse to private, commercial or public rights such as those in connection with: other professions, the building industry and the education and training which will lead to a professional qualification for building design and construction connected with "architectural services".

7. Policy makers and inquirers are invited to consider (what may be apparent to Board members) whether the matter would be less acutely contentious if the restriction applied to the statutory title "Registered Architect" (as under section 10 of the originating Act of 1931), leaving the professional bodies free both to decide whether or not to require any class of their members, or practising members, to be registered and to set their own requirements for professional qualifications, with no detriment to the public interest (or the proper use of the English language). Or perhaps we have reached a stage when it can now be acknowledged that it will be more appropriate to let the protected working title be "State Registered Architect (UK)", leaving professional bodies free to develop and set common professional standards world-wide.

Footnote:

The draft code as presented by the Working Group's chairman at the meeting of the full Board on 22 July 2009 reads (in the view of this contributor) as if it had been prepared or procured more in the interests of persons employed as civil servants or political bosses, or mainly for the protection of accounting officers and managers, than as being focussed, as it ought to be, on what is appropriate to the day-to-day activities of independent practitioners personally exposed to legal process in the regular courts of law and (as registered persons) to the risk of questionable justice delivered in the name of the Board and its Investigations Committee and PCC, such as described in AARUK Case Study 1, and in the current Case Study 2 in which there has been a High Court order quashing PCC proceedings and requiring the ARB to pay the architect's costs.

27 July 2009