



Role of Professional Bodies – revised Guideline

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At its meeting in Marrakech on 11.12.08, the UIA Professional Practice Commission asked the Drafting Panel charged with revising the UIA Accord Guideline on the Role of Professional Organisations to

- a) compile and define, as completely as possible, a list of the tasks to be accomplished on behalf of architects, whether regulatory or advancing professional goals;
- b) not to select a current model enumerating what type of body performs which tasks, since so many legal variations occur between member sections, all of which have positive and negative implications;
- c) look at the actions required for Professional Goals and Regulatory Goals and evaluate the relationships between these ends and how they might best be met with the least negative consequences.
- d) Have particular regard for the ability to discipline, which is necessary for most tasks to be effectively implemented;
- e) Re-visit the wording of the UIA “Policy on the Role of Professional Institutes of Architects” which is problematic in the light of the above.

Accord Policy on the Role of Professional Bodies of Architects (reminder)

“In countries where professional bodies do not exist, the UIA should encourage members of the architectural profession to form such bodies in the public interest. Professional bodies should seek to ensure that their members:

- *adhere to the UIA’s international standards, the minimum requirements of the UNESCO-UIA Charter for Architectural Education and the UIA International Code of Ethics & Conduct;*
- *keep up to date their knowledge and skills as required by the list of “Fundamental Requirements” (both current, and as they evolve in the future); and*
- *generally contribute to the development of architectural culture and knowledge, as well as the society they serve.*



General remarks

1. Accord Policy on the Role of Professional Bodies of Architects: the title is problematic. Given the existence of another Guideline on Registration of the Practice of Architecture (see below) we must assume an intention to draw a distinction between Registration bodies and Professional bodies.

The *Policy* on the Role of Professional Bodies pre-supposes a degree of self-determination in so far as it encourages “members of the architectural profession to form such bodies”.

2. Accord Policy on the Role of Registration: in contrast, this Policy advocates that registration should be by statute - “*to promote the registration/licensing/certification of the function of architects in all countries. In the public interest, provision for such registration/licensing/ certification should be by statute*”
3. Overlaps: in view of what has been said about Registration bodies in the Guideline on Registration, it would appear that the intention, in the Guideline on the Role of Professional Bodies overlaps somewhat, and could have been clearer if it had just focused on Professional Institutes of the AIA, RIBA.

While at it simplest, one can one might start to make a distinction between the governance role of the Registration Body and the representational role of the Professional Institute, one does not proceed very far with an analysis of the functions of either type of organization before encountering roles that are shared by both bodies.

4. Combining the two Guidelines: that being the case, it is recommended that the two guidelines be included as two parts of a single Guideline e.g. on the Governance of the Profession (Regulatory & Professional Bodies).
5. Source of authority: clearly, the powers and responsibilities of any professional body will be greater or lesser depending on whether it derives its authority from:
 - A legislative act investing it with statutory powers.
 - Some form of legal incorporation (e.g. Royal Charter) investing it with a public interest role;
 - A decision of “members of the profession’ (to pursue activities in the interests of the profession);



6. Regulation of title, regulation of function (practice): in countries where professional bodies do not exist, the energies of members of the profession might be best used to lobby their Government to introduce legislation to regulate the title “architect”, and with this regulatory aim in mind, to establish appropriate structures to ensure that the title is only used by qualified persons, in the public interest. They might even go further and push for regulation of function (practice) as in the earlier Registration Guideline.
7. Representation of the profession: Members of the profession in countries where professional bodies do not exist, might also wish to coalesce to establish other professional structures either for the promotion of the art and science of architecture (also in the public interest) or to promote their own members’ interests (trade association/trade union interest).
8. Separate or combined functions: the Registration and Professional functions could be dealt with by separate bodies or a single body, always bearing in mind that in certain cultures (e.g. because of anti-trust or competition laws) it is necessary (or more convincing/credible) to
 - maintain distinctions between the regulator and the regulated, to avoid any suspicion of collusion or self-interest;
 - ensure that the profession is represented by an independent body (as opposed to quasi-non-governmental organizations – quangos).

However, this is not always the case (cf. German model outlined later).

Suggested structure for a combined Guideline on the Governance/Regulation of the Architectural Profession, combining the UIA Guideline on Registration and UIA Guideline on the Role of Professional Bodies.

1. Introduction/background statement on the Principles of Professionalism and Regulation

A profession is an occupation in which an individual uses an intellectual skills based on an established body of knowledge and practice to provide a specialized service in a define area, exercising independent judgement in accordance with a code of ethics, in the public interest.



Some areas of work are reserved to member of a profession for the protection of the public, on the basis that the profession's governing body will ensure that those licensed to practice are properly qualified and conduct themselves in a proper manner.

Architectural governing Bodies may be established by Statute, Royal Charter or otherwise incorporated e.g. as a limited liability Company. They are accountable to the public they serve and should be independent of all other interests;

Architectural Governing Bodies support a fair and competitive market in which the public can make informed choices between the providers of architectural services, as well as between the qualified and the unqualified.

The purpose of regulating the architectural profession is to assure the quality of services in the public interest. This involves the setting of standards of professional qualifications and practice; the keeping of a register of qualified persons and the award of titles; over-seeing the conduct of registrants, investigating complaints and imposing disciplinary sanctions for misconduct.

Provided always that regulatory procedures are open, transparent, accountable/ auditable, consistent and proportional, involving lay persons where appropriate, and provided procedures are in accordance with Article VI.e of the GATS i.e.

- transparent and based on objective criteria such as professional competence and skills;
- not more burdensome than necessary to ensure the quality of service;
- do not restrict service provision”.

regulation is not, and should not be seen as, a barrier to free movement.

(I Moreau to expand)?

2. Registration

One could reiterate the Registration Guideline in its entirety, or focus on key elements NB. the five criteria indicating when registration is appropriate viz. *“occupational licensure is an exercise of the State’s inherent police power to protect the health, safety and welfare of its citizens.*



Five generally accepted criteria indicate when licensure is appropriate:

unregulated practice of the occupation poses a serious risk to the consumer's life, health and safety or economic well-being and the potential for harm is recognizable and likely to occur;

the practice of the occupation requires a high degree of skill, knowledge & training;

the functions and responsibilities of the practitioner require independent judgement and the members of the occupational group practice independently;

the scope of practice of the occupation is distinguishable from other licensed and unlicensed occupations;

the economic and cultural impact on the public of regulating this occupational group is justified".

Registration of title vs. registration of function (practice)

Differentiate between registration of title and registration of function (practice). We should then consider whether we wish to retain the recommendation that function (practice) should be regulated – or simply indicate that some jurisdictions regulate title, others regulate both title and function (i.e. remain neutral, and highlight various models, as we have agreed to do in relation to the Guideline on the Role of Professional Bodies).

De minimus role of the Registration Body

Agree an outline statement on the minimal role of the registration body e.g.

regulation of title (and function?) of architect and maintain a register;
 prescribe the content of architectural training (diploma, practical training, examination) and regularly review standards (peer review);
 other qualification criteria for registration (interview, statement of good character)
 impose adherence to a Code of Conduct;
 apply a disciplinary functions;
 impose CPD requirement on registrants

Additional functions for the Registration Body

registration of non-residents (reciprocity) for establishment;
 registration of non-residents for provision of services;
 admission of non-residents for the purposes of entering a design competition
 Practice Registration (corporate entities)



Construction administration services
 Regulation of unregistered persons
 Other consumer-related activities e.g. mediation/ arbitration, expert witness work to help consumers deal with disputes more quickly, while avoiding the burden of going to the courts?
 (I Moreau to expand?)

3. Other Regulatory models (optional?)

Consider the nature of regulation and new regulatory models e.g the EU concept of better law-making, differentiating between self-regulation and co-regulation (the latter requiring the intervention of the legislator). We could then elaborate on the delegation of powers to such bodies by public authorities – and the notion of independence.

OECD thinking is useful in that it recognizes that while governments need to ensure that service providers are qualified, they do not need to control economic aspects such as number of firms, size,, prices etc. The OECD also calls for a better balance to be struck between the interests served by regulation – and the need to ensure competition.

Regulations relating to entry to the profession are covered both by OECD texts and GATS (i.e. not more burdensome than necessary etc.)

Note, this ground is covered in the UIA Draft Disciplines on Domestic Regulation.

Quote here from the Inter-institutional Agreement on better law-making to underline that there may be opportunities for associations “to adopt amongst themselves and for themselves, common guidelines [at European level] particularly codes of practice or sectoral agreements”.

(A Sagne’s contribution – to be developed?)

4. Definition of the Role of independent Professional Institutes

Activity contributing to the promotion of professional interests;

Activity contributing to the advancement of science and art of architecture, in the public interest

Representation of the profession (e.g. advocacy)



cf. other elements of current Guideline on Professional Bodies e.g.

- Consumer interest (list functions)
- Public interest (list functions)

5. Organisations combining regulatory and professional functions

Describe tri-partite role of the German Chambers i.e.

- supervision of conduct and standards, in the public interest;
- representation of the common interest of the profession, within the framework of public law i.e. with regard to the public interest;
- promotion of the profession and of the public interest

6. Summary of most prevalent organizational models

The models contained in the earlier Guideline should be described. However, it might be worth retaining a broad distinction between Statutory Registration bodies, on the one hand, and independent Professional Institutes, on the other hand – each divided into sub-categories e.g.

Statutory Registration bodies

- with other professional/cultural functions (e.g. Chambers, Colleges , Orders);
- with no other professional functions (e.g. ARB, NCARB)

Self-regulatory Professional Institutes

- Established by Royal Charter (i.e. with a public interest role)
- With a quasi-regulatory role e.g. by virtue of reputation, a dominant market position in the absence of any other regulatory body
- Trade Association (narrower objective, promoting the profession)

Note, in some jurisdictions it is important to clearly distinguish between what is done for the profession from what is done for the public e.g.

- Government regulators have most frequently attained the public's confidence when they have avoided any appearance of being beholden to the industries they regulate



- Trade/professional organizations have flourished most where they have been free from Governmental intrusion/domination, and have been able to speak without any trace of coercion to the issues affecting their members;

However, these distinct tasks can either be provided by separate organizations, or by different parts of a single organization (e.g. operating an internal division of some sort, or by varying the composition of various elements of its governance apparatus).

7. List of tasks to be accomplished by professional bodies

It has been suggested that we develop a list of tasks to be accomplished by professional bodies. This could be divided into

- what is done to protect the public/consumer e.g.
 - in the area of Education standards
 - in the area of Professional Conduct;
- what is done to improve architects' practical skills/competence;
- what is done in terms of outreach, to campaign for better regulation and promote awareness of architecture to the public



List of tasks to be accomplished by professional bodies

to protect the public/consumer/society by ensuring that only those with appropriate qualifications are able to call themselves architects (Education)

- develop (and keep under review) content of initial training;
- determine content of professional training up-dating as necessary;
- determine nature of pre-license professional experience;
- maintain register of qualified architects/maintain list of qualified members;
- determine standards of qualification for entry to membership or to professional register/authorization to practice;
- pursue those who unlawfully describe themselves as architects;
- develop/apply measures for maintaining competence

to protect the public/consumer/society by promoting optimum standards of practice (Conduct)

- maintain a Code of Conduct to which registrants/members must adhere;
- provide complaints system for consumers (means of assessing professional conduct, investigating complaints and applying disciplinary sanctions);
- offer alternative forms of dispute resolution;

to contribute to the improvement of the knowledge/skills of architects (Practice)

- monitor and develop standards/forms of practice (fields of intervention);
- provide 'learned society' function (centre of learning; resource for acquisition of knowledge);
- develop technical documentation (forms of contract, guidance etc.);
- promote research & development NB. sustainable development, quality of life;
- develop/organize events for architects' CPD;
- organize architectural competitions;

Comment AS: what about team work, complementarity and efforts to promote co-operation with sister professions pursuing the same goals?

to promote the art & science of architecture (Cultural & Outreach)

- represent the profession vis-à-vis Government,
- campaign for optimum legislative conditions for a better quality environment;



- promote architecture policies;
- develop the public's awareness of architecture, to produce better informed future clients;
- represent the profession at regional, national and international levels;
- to provide services to other audiences: clients, Government, public;
- promote the role of architects in ensuring integrated and holistic strategies and approaches?

Actions required to achieve Regulatory/Professional Goals

Regulatory goals (registration/licensing)	Professional goals (professional body/TA)
Protect the consumer, in the public interest	Advance architecture, in the public interest; Promote architects' interests
Safeguard the reputation of architects	Promotes/represents the profession
Regulate the title 'architect'	maintain value of designatory letters/suffix (e.g. AIA, RIBA or Chartered Architect)
Maintain register of qualified architects	Maintain list of qualified members
	Promote higher standards of qualification
Prosecute those unlawfully using the title	
Prescribe standard of initial training for entry to register (education, training, experience)	validate schools of architecture (with/without registration board or QA body); review
Publish Code of Conduct & Ethics	Publish Code of Conduct
Deal with complaints; apply sanctions	Deal with complaints; apply sanctions
Offer alternative dispute resolution systems	Offer alternative dispute resolution systems
	Develop standards/forms of practice
	Provide professional services to members



	Promote R&D
Develop on-going competence requirements	Develop/organize CPD events
	Organize architectural competitions
	Provide knowledge resource
Provide 'competent authority' function	Represent the profession to Government
	Campaign for a better quality environment
	Promote architecture policies
	Develop public awareness of architecture
Participate in regional, national and international organizations	Represent the profession in regional, national and international organizations

The list is not exhaustive

Note, we are also asked to

- evaluate the relationship between these goals;

While stating no preferences, I really think it is worth saying something about the credibility of the various systems e.g.

- if one is to combine functions from both models, how to avoid the impression of collusion between the regulator and the regulated?

- if Government regulators are to win public confidence, how to avoid any appearance of being beholden to the industry they regulate?

- and if professional institutes are to represent their members, is this not best done when free from Government control, speaking without trade of coercion?



- consider how these goals might best be met with the least negative consequences

perhaps this would be the place to insert something on new regulatory models? e.g. . Ireland, where the Government has invested the professional institute, RIAI, with a regulatory function; RIAI, in turn, has to operate a Chinese Wall to prevent any overlap between its regulatory and professional functions – this is called “co-regulation” – but actually emphasises the differences between regulatory and professional activity);