

JOINT COMMITTEE ON THE ENVIRONMENT, HERITAGE AND LOCAL GOVERNMENT

Registration of Architects: Discussion

Vice Chairman: Members will recall a request from the Architects' Alliance to discuss with us its concerns regarding the registration of architects as laid out under Part 3 of the Building Control Act 2007.

I am pleased to welcome spokespersons for the Architects' Alliance, Mr. Garry Solan, officer, Mr. Michael O'Neill, officer, and Mr. Brian Montaut, spokesperson, to give a short presentation. I also welcome representatives of the Royal Institute of Architects of Ireland, RIAI, Mr. John Graby, registrar, Ms Margaret O'Flanagan, admission director, Ms Kathryn Meghen, assistant director, and Mr. Tony Reddy, former RIAI president. I thank all the witnesses for attending.

The format of our meeting will involve a brief presentation by the witnesses on their findings followed by a question and answer session.

By virtue of section 17(2)(l) of the Defamation Act 2009, you are protected by absolute privilege in respect of the evidence you are to give this committee. If you are directed by the committee to cease giving evidence in relation to a particular matter and you continue to so do, you are entitled thereafter only to a qualified privilege in respect of your evidence. You are directed that only evidence connected with the subject matter of these proceedings is to be given and you are asked to respect the parliamentary practice to the effect that, where possible, you should not criticise nor make charges against any person(s) or entity by name or in such a way as to make him, her or it identifiable.

Also, please note we will devote an hour to this item on our agenda, so witnesses are asked to keep presentations brief. I invite the Architects' Alliance to begin.

Mr. Brian Montaut: Architects' Alliance welcomes this opportunity to present the real concerns we have for our families and our futures. We are very grateful to the committee for scheduling this meeting at such short notice.

I am spokesperson for Architects' Alliance. My name is Brian Montaut. I have earned my living and been acknowledged as an architect in Ireland since 1983. With me is Mr. Gary Solan, who has been in business as an architect for 20 years with projects at home and abroad, and Mr. Michael O'Neill, a graduate architect also with more than 20 years working experience. Subject to agreement with the Vice Chairman, I am sharing time with Mr. Michael O'Neill who will address the committee after I finish.

Our membership and support comes from across the State, for example, Margaret Kirwan is from Nenagh; Thomas McMenamin from Raphoe, is studying part-time for a UK MSc in architecture; Christophe Krief from Dublin already holds a masters degree in arts and architecture; Tom Byrne from Ennis is the recipient of this year's green apple conservation award; and Liam Hazel from Skibbereen, in practice for more than 32 years, hopes the Act will be amended to include a "great-grandfather clause", if the committee so desires. In addition, we are authorised to speak on behalf

of the 50 members of the Galway Architects and Engineers Group, established in 1996 and whose standing should be unchallengeable.

Traditionally, there have been several alternative routes to becoming an architect. In Ireland that diversity is coming to an end, but for now it remains alive among our membership. We are all fervent about architecture. In our home communities we are known as successful, competent architects and we long ago satisfied the legal requirements for using that hard-won title. Today, however, we are all similarly excluded, threatened with fines and imprisonment. This is because we do not meet new standards tailored to suit our competitors.

Unlike most members of the Royal Institute of Architects of Ireland, almost every one of our members is self-employed and therefore no financial safety net is available from the State during periods of slack business. Consequently, last November's sustained RIAI radio campaign was inevitably and directly harmful to us. Only a few listeners will know that the Broadcasting Authority of Ireland later found the so-called public notice to be misleading, and an apology was subsequently broadcast by RTE.

The damage continues and cannot really be ended while the register remains prematurely open to public inquirers. The immediate problem is that the registration system is still not fully operational even now, six months after the publication of the register. As it stands, we are excluded from the commercial benefits which RIAI architects receive through being named automatically in the statutory register of architects. The proposed registration fees have not been agreed nor the exorbitant technical assessment charges. The alternative and permanent mature entry route, PRAE, does not exist. The selected technical assessors are novices and cannot claim competence. Complaints made against RIAI architects cannot be processed and are on hold.

The road to regulation of the profession was paved in the 1997 report of the strategic review committee on the construction industry, *Building Our Future Together*, published by the Department of the Environment, Heritage and Local Government. A recommendation was made for protecting the titles of "architect" and "quantity surveyor". The relevant part of clause 3.29 reads, albeit clumsily, that the proposals should acknowledge, via a grandfather clause, the established right of those in practice for many years without formal qualifications. This vital provision was neglected in the Building Control Act 2007, despite two attempts made during the guillotined readings of the Bill to introduce a grandfather clause. Instead, an uncertain and costly technical assessment procedure has been devised by our competitors which is open to us only if we first prove that we are already long established, market tested architects.

It should be plain that the fundamental difficulty with the Building Control Act 2007 can be remedied by the inclusion of a self-extinguishing grandfather clause, as is found in other legislation. This is not open-ended as our numbers are necessarily finite. The troublesome and irrational difference in academic standard set by the Building Control Act 2007 and by the directive is also an easily made correction, provided only that vested interests are duly ignored. The statutory option of becoming a member of RIAI Ltd., the institution, should be purged from the Act. We endorse the Competition Authority's recommendation for an independent registration body.

To make this realisable, we support the creation of a single, self-funding registration body for all construction professionals whose responsibilities to consumers, after all, are alike. Closing the register until registration becomes fully operational will stem the harm caused by its premature publication. In case the tabling of amendments on behalf of non-RIAI architects seems troublesome, the RIAI Ltd. should be asked whether it is true that it has been suppressing knowledge of its own essential amendment to the Act.

There are many inherent faults in Part 3 of the Act and there is much to complain of in its implementation. The Architects Alliance will, in the question period which follows or at any another time answer all supposed justifications for the non-inclusive aspects of registration. It will correct the confusion of a technical assessment system with a grandfather clause. It will offer a workable and transparent answer for the missing prescribed register admissions examination. It will explain how the Act fails to protect against rogues and positively diminishes the rights of both consumers and architects.

The private and elitist membership requirements of RIAI Ltd., the institution, is now the law of the land. Together with Government, it has succeeded in creating a royal trinity where distinguishing between the supposedly separate parts, or should I say departments, is made uncertain. We have RIAI Ltd. the institution RIAI Ltd. the registration body, and RIAI Ltd. the competent authority. At any difficult juncture committee members will be told: "It's not me; it's him." It is no wonder the Competition Authority warned of conflicts of interest. Today, members might test the explanations they hear by considering whether this describes an inclusive or exclusive approach, who really benefits, and which of the three departments of the RIAI is actually addressing them Last week, the Architects' Alliance asked the EU to investigate the gilding or gold-plating of the directive, a directive that needed no new legislation for its complete transposition into Irish law.

I thank members for their attention.

Vice Chairman: I ask Mr. O'Neill to be brief as the RIAI must make its presentation.

Mr. Michael O'Neill: My name is Michael O'Neill and I am a qualified architect of 20 years' standing having qualified from Bolton Street DIT in 1990. I appear before the committee to address the rights of graduate architects which have not been supported by the Building Control Act 2007. I understand the registrar's position is that one standard should be applied and that it should be MRIAI. To apply this standard universally will be divisive, retrograde and undermine existing established and statutory rights. It fails to support adequately the right to earn a living to which postgraduate and self-taught architects are entitled under Irish law. The basic standard that entitles Irish persons to call themselves "architect" under EU Law is well known to the RIAI and is not that of MRIAI. Four kinds of persons were specifically referred to in the architects directive DIR 85/384/EEC, two persons with qualifications and two persons affiliated to the RIAI, Dipl. Arch. DIT, B. Arch. NUI, ARIAI and MRIAI. This was written into the architects directive DIR 85/384/EEC and the mutual recognition of qualifications directive DIR 2005/36/EC. Irish Statute SI 15 of 1989 transposed the architects directive into Irish law.

The first two persons named, the holders of Dipl. Arch. DIT and B. Arch. NUI, set the bar at the level of graduate. These are people who have passed a full-time five year course. Allow me to spell this out - graduates are entitled to call themselves "architect". The Building Control Act 2007 fails to acknowledge this. It adopts instead the standard of a private organisation. The Building Control Act 2007, and by implication the registrar, is not working to the standards agreed with the EU. Who benefits from this? ARIAI is the associate affix and this can include some non-qualified persons. MRIAI outranks ARIAI in the Royal Institute of Architects of Ireland and the member affix also includes some non-qualified persons. Not only is the MRIAI standard not the right standard, its ranks are known to include non-qualified persons as well. Despite this, the RIAI registrar and the Building Control Act 2007 fail to recognise adequately the rights of self-taught architects. Who benefits from this? DIR 2005/36/EC does not allow the raising of the bar. It consolidates directives on the mutual recognition of qualifications. Within its well-worded provisions is a means of updating the core skills to cater for scientific and technical progress. This does not allow the registrar to prevent natural persons with the required qualifications from accessing the profession. This process of raising the bar above the requirement of the EU directive is known as gold plating and I have written to the EU about it. Who benefits from this? Are there questions to answer at Government level? Yes. How was the Government persuaded to ignore the rights of graduates to use the title and so fail to allow them to be automatically registered? How was the Government persuaded to ignore the rights of established, self-taught architects to use the title and so place their livelihoods and families' well-being at risk? A simple transposition of the persons named in the EU directive into the Act would have addressed the former and the insertion of a grandfather clause would have dealt with the latter issue. Who benefits from the fact that this was not done? These are the questions that must be answered. Failing to answer them and provide the necessary remedies will leave many competent professionals disenfranchised.

Deputy Michael Fitzpatrick took the Chair.

Mr. John Graby: I thank the committee for the opportunity to make this presentation. I want to make some brief comments about the RIAI, consumer protection, minimum standards, the EU context, how the system will operate and its cost. The RIAI was founded in 1839. Since then it has had a major involvement in education and standards. In 1985, the architects directive was introduced and that set the minimum standards for the formation of architects across the EU. Since 1972 the RIAI has had a professional practice examination. It requires a five-year, full-time course in architecture, a minimum of two years' postgraduate experience, completion of analysis of a building project, a course of 15 days of lectures and a written and oral examination. That is the standard. Mr. Montaut has spoken about strategic review of the construction industry, which recommended that the titles of architect and surveyor be registered and that the RIAI and the Society of Chartered Surveyors, respectively, be the registration bodies.

There should be consultation with those who do not have the qualifications. In the context of the forum for the construction industry, there was considerable consultation with four bodies representing those who did not have qualifications. These were the Architecture and Surveying Institute, the Group of Independent Architects of Ireland, the Incorporated Association of Architects and Surveyors and the Irish Architect

Society. That led to an agreement, which was forwarded to the Government and is included in our submission in appendix 2. The agreement with bodies representing those who did not have qualifications is similar to that in the Act.

The Competition Authority has been mentioned. The Competition Authority recommended a separate and independent body but also said that if the State, by legislation, decided RIAI and SCS should be the registration bodies there should be a majority of non-professionals on the key committees of admissions and conduct. That is included in the Act and is independent. The Building Control Bill was published in 2005 and in May 2009, the Minister appointed the non-professionals to the technical assessment board and this enabled the register to be launched in November.

The Building Control Act marks a key shift in widening access to the profession by introducing access to those who have not pursued the standard higher education route. There is a registered admission examination and technical assessment. Up to 1966, entry to the architecture profession could be gained through the RIAI examination system but there has been a general shift towards formal qualifications. The pendulum has swung back to some degree with the shift to an outcomes-based assessment in higher education and away from the input model. The Building Control Act has both models, input from qualifications and output based on the assessment obtained without formal education.

There are many reasons a demonstration of the minimum standards is essential but consumer protection is the main reason. Having a standard means consumers can be assured that any person using the title “architect” has demonstrated a specific level of knowledge, skill and competence and can be judged against that standard if problems occur. A defined standard ensures those subject to the code of conduct and investigation by the statutory professional conduct committee have demonstrated they have attained a level of knowledge, skill and competence and one can reasonably expect them to follow the code. One might ask whether this is really a problem. The reality is that most members of the public believe the title “architect” is protected and means a person has formal qualifications. As late as October 2009, a Red C poll showed that less than one fifth of those surveyed knew the title was not protected and that the word “architect” did not refer to qualifications. There is a significant consumer information gap in this area. Members may recall the issue with Mr. David Grant, where the title “architect” was used. He misrepresented the possibility of being granted planning permission in this State and consumers lost thousands of euro. He moved to the UK, was stopped from using the title legally and has been fined.

Regarding the EU context, the professional qualifications directive is a minimum standard and in the directive seven sectoral professions benefit from automatic right to registration - architects, dentists, doctors, midwives, nurses, pharmacists and veterinarians. Automatic rights means that if one has the necessary qualifications, one cannot be prevented from establishing. These sectoral professions are listed on the basis of significant public interest and public health implications of their work. The directive lists relevant qualifications of architects in the 27 member states in Article 46, which is included in the submission to the committee at appendix 3. These are the minimum standards that underpin all standards across Europe. It is important that any standard for the registration of architects is aligned with European minimum standards. If persons are admitted to the register who do not meet the standards, the

qualifications of all architects in this State who might seek to migrate or provide services in Europe will be questioned. The failure to require minimum EU standards has the potential to undermine regulation of occupations in this State.

Have other countries done this or is it an entirely new idea? In the 1990s, the Netherlands moved from no regulation to regulation of architects. It carried out an assessment process successfully and the system used is similar to that in the Building Control Act. It is successful and has not been challenged. Systems such as this can be challenged by member states and the Commission.

How will it work? It is portfolio based, with ten years experience and at least four projects. A separate panel of architects will assess this and give an opinion to the independent statutory technical assessment board. The board can accept, reject or carry out further interviews and ask for additional information. There is an internal appeals board and appeals to the court. There is a belief that there was a grandfather clause in the Building Control Act and that it was dropped during the debate on the Bill. An amendment was introduced only to the definitions section, where practical training experience was to be replaced by a reference to the grandfather clause. Ultimately, the then Minister, Deputy Dick Roche, did not accept the amendment. At no time was the system of assessment changed or modified.

My submission provides a range of examples with regard to the timescale for technical assessment of architects with qualifications and EU graduates. The time it takes to process an application from someone with automatic qualifications and the technical assessment are about the same. There is no great difficulty. To date, there are 2,850 architects on the register. There is a choice of being an RIAI member and going on the register or going on the register alone. Some 150 architects have been admitted to the register after the launch and 20 to 30 are coming each month. So far one architect has opted not to join the RIAI.

The question of cost has been raised, which is understandable. The costs put forward by the RIAI are based on a pilot scheme carried out to assess actual costs. This is not theoretical. The Minister must approve the costs, a process that is under way. The committee will appreciate that I cannot submit all the material provided to the Minister but my submission provides a breakdown of the full cost of technical assessment. Already, we are €500 over the budget we suggested. The direct cost to the RIAI of the pilot scheme was over €73,000, with an income of €39,000. Some €4,000 should have been charged per applicant. Taking in the layers of administration, members can see where this figure comes from. The RIAI's position on costs is open to change. If someone can show that these figures are incorrect, they will be reduced. If it is found that we can work at a lower rate, or that the costs are excessive, that will be done. I have also provided information on benchmarking, which is important in making comparisons. An OECD report on the recognition of prior learning has been completed in Ireland. It identified the cost of an exemption from the standard third level module, usually involving five credits at between €1,000 and €1,500. An architecture course has a minimum of 300 credits in the five-year course. The LIONRA project is funded by the Higher Education Authority and identified a cost of €6,000 per application in one module of the course. I have also given examples of the cost of full-time education in architecture, the Bologna process and postgraduate courses. I have also provided the charges in the UK of the Architects Registration

Board for similar but less complex processes. In summary, we are saying these costs are comparable and will change if the evidence is there.

Everyone knows there is hardship in the field of architecture. The RIAI cannot pay for this process. The process was set up on the basis that it would be self-funding, paid for by architects. The OECD report makes a strong case for state support. The RIAI is prepared to put up some €50,000 as part of a solidarity fund, provided the states put up €100,000 or €200,000 more to deal with those who suffer genuine hardship.

The RIAI is the registration body with responsibility to the State, the European Commission, the public, consumers and architects and those applying for registration recognise its responsibilities. This is a period of change for those working in the field of architecture and those with lesser qualifications have understandable concerns. The system of technical assessment is not a new proposal but was formulated as early as 1999 and agreed with many other bodies. It was also in the Building Control Act 2007.

I have given members of the committee the example of the successful system in the Netherlands. So far, we have held six briefing sessions around the country, attended by over 200 potential applicants. We prepared standardised documentation, CV forms and verification forms to make it as easy as possible to make an application. I have a sample of successful applications which members are very welcome to examine. This shows that the application form is not formidable nor excessive. There are no guarantees that everyone will be successful but this does not prevent a person offering architectural services in the future. However, they will not otherwise be able to use the title.

A balance has to be struck as between consumer protection, requirements for compliance with minimum EU standards and access to the register by having a fair, reasonable and open system of assessment for all. It is possible that, with the concerns being expressed, the real opportunities offered by the Building Control Act 2007 may not be appreciated. The Act would provide open transparent mechanisms for those who do not have listed qualifications. Rather than closing up the market, registration will open up the market at all levels of practice. It will provide one standard for architects in Ireland, access for those who do not have listed qualifications to perform as architects in the State sector, access to appointments as architects to State-funded building projects and access to the equivalent of a level 9 masters qualification which, for teaching, can be very useful in terms of income. It will also provide access to the EU market through automatic rights of recognition and to full professional recognition. With one minimum standard for all architects everybody is working in the same environment and competing at the same level.

Mr. John Graby]

Finally, the registration of architects has not been set up for the benefit of architects but for the benefit of the consumer and the quality of the built environment. It is not intended to exclude anybody but, rather, to include all those who meet a defined minimum standard. Registration, however, must not place the position of architects who need to migrate or provide services in the EU at risk by the admission of persons who have not been assessed to a defined EU minimum standard. There is a potential

to undermine existing regulation systems and future systems. There have to be defined minimum standards of assessment to protect the consumer and the national and EU credibility of the register.

Deputy Phil Hogan: I thank the representatives of the Royal Institute of Architects of Ireland and the Architects' Alliance. This matter has been the subject of considerable correspondence involving Members of the House and, in particular, this joint committee so it is an opportune time to hear both sides of the story.

There is a perception that the Royal Institute of Architects of Ireland is operating a closed shop and an exclusive club because of the registration fees and the technical examination methodology it uses. Can Mr. Graby comment on that? Who is on the appeals board? Are the majority of the members of that board members of the RIAI? Who is on the technical assessment board and who signs off on all the paperwork which sets the standards to be met in order to become a member of the institute? Mr. Graby will know that the question of self-regulation versus State regulation has been the subject of a lot of open debate among Members of the House, and not only in respect of architects but doctors, dentists and accountants too.

Mr. Montaut spoke of not meeting new standards tailored to suit our competitors. Has the scope of the new standards gone beyond the scope of the Building Control Act 2007? If so, how? Standards appear to be an important criterion for deciding who is included and who is excluded. The proposed registration fees, taking into account the examination and the technical assessment, could be as high as €20,000. How does that compare to other jurisdictions?

Mr. Montaut also said the technical assessment procedure had been devised by the institute to compound the perception of a closed shop. How did he come to that conclusion? I am not sure what he means by the "missing prescribed register admission examination".

Is Mr. Montaut saying that the implementation of the Building Control Act 2007, in respect of architects, has gone outside both the letter and the spirit of the legislation? If so, how?

Deputy Johnny Brady: I welcome both organisations. In common with Deputy Hogan, I have some concerns about the situation. I have dealt with architects for almost 36 years, especially during the boom times when there were difficulties for young people in rural Ireland getting planning permission. There are some excellent architects. The Architects' Alliance referred to self-taught architects and some of the finest businesspeople in this country have been self-taught. It is not always the people with the highest standard of education who are the best people to do a job. I know people in the Architects' Alliance and in the RIAI and they are fine people. The self-taught people are very understanding.

Vice Chairman: I do not wish to interrupt the Deputy but he should confine his contribution to questions.

Deputy Johnny Brady: I compliment the people who trained themselves because they understand the problems young people have getting planning permission. For

those people, the grandfather clause should be included as it would be unfair to exclude them. In other European jurisdictions and in America a grandfather clause was introduced for those people and I would certainly support one.

Vice Chairman: I call Deputy Lynch and ask all members to confine their contributions to questions.

Deputy Ciarán Lynch: I have some experience of situations where accredited prior learning is accepted by educational institutions, such as when the then Department of Education and Science brought on board HETAC and other agencies to arrive at a qualification which was needed. Having gone through the process of putting portfolios together for this purpose, I was interested to hear what both groups said. I understand Mr. Graby has brought a copy of the portfolio and I would be interested to see it.

There was a time in Ireland when anybody could put up a sign outside the door saying “Architect” and operate accordingly. That was a difficulty in the area in which I was working. We had to sort it out. In some areas, however, the net outcome of the introduction of new structures can be that qualified people are not recognised.

I listened with great interest to Mr. O’Neill’s comments. Courses often become franchises or business operations. Those who provide them can earn money. To what extent is the franchising of qualifications taking place under the guise of an educational structure? I suggest that it is a stand-alone enterprise or industry. People in my industry were careful to ensure that ownership of the course remained within the Department of Education and Skills. I am at a loss to understand why the accreditation of architects is not based in some area of academia, rather than in a stand-alone company. I have been trying to answer that question since the beginning of this debate.

I would be interested to hear from both groups about the difficulties and hindrances in the registration process. Do they have suggestions in that regard? Mr. Graby referred to comments made by the then Minister for the Environment, Heritage and Local Government, Deputy Roche, when the Building Control Bill 2005 was debated in the Dáil. I understand that two Ministers dealt with the Bill as it went through the Oireachtas - the then Minister of State, Deputy Batt O’Keeffe, and the then Minister, Deputy Roche.

A document commissioned by my party colleague, Deputy Quinn, who is an architect by profession, is available in the House. It provides a detailed insight into what happened when the grandfather clause was proposed during the debate on the Building Control Bill. It clarifies what the proposed grandfather clause, which was in the Bill for a period of time, would have involved specifically. I would like to correct Mr. Graby in that regard. At that time the Bill provided that “the registration body shall establish a register for architects”. It set out the categories of person who were “eligible for registration in the register”, one of which was “a person who has at least 7 years’ practical experience of performing duties commensurate with those of an architect in the State, is at least 35 years of age, and has passed a prescribed register admission examination” and another of which was “a person who has been assessed

as eligible for registration by the Technical Assessment Board in accordance with the practical experience assessment procedures”.

The concept of a grandfather clause was in the Bill at one stage. An extensive debate on that clause took place when the Bill moved into the Seanad. I suggest that the RIAI and other groups lobbied politicians during that time. Many Senators started to adopt a position that was similar to what the RIAI has presented at this meeting. I would be interested to hear whether the groups participated in the lobbying of Senators during that period. If so, what was the purpose of such lobbying? It seems to me that on foot of lobbying, the then Minister, Deputy Roche, changed the landscape by comparison with what was done in the Dáil.

I understand, on the basis of my own educational experience, that three routes can be used by somebody who wants to become an architect. If I were to decide this afternoon that I want to become an architect, I could proceed on an academic journey. I could accumulate enough credits over a period of time to obtain a degree or qualification in this area. Other routes are available to those who have been practising for more than ten or 15 years, and to those who have been practising for five or six years.

I would like to ask the representatives of the Architects’ Alliance a question. There will be no grandfather clause for people who have been practising for five or six years. I do not think such a clause is being promoted. Does the alliance have suggestions for such people? The RIAI may be accused of pulling up the ladder, but it could equally be suggested that the alliance is pulling up the ladder for those with less than ten years’ experience. What solutions can the alliance offer to those under the ten-year limit?

I ask Mr. Graby to indicate in his response the cost of each of the three types of approach that may be taken. What is the cost per person of each approach? What kinds of funds are generated each year? Can he indicate how many tutors, examiners and assessors are participating? I understand that 48 people are going through one of the registration processes each year. Although no tutorials are taking place, the cost of the course is approximately €500,000. There is no teaching delivery on the course. It merely involves an examination of portfolios. I find it hard to understand how an educational programme can cost €500,000 per annum without any teaching being delivered.

Deputy John O’Donoghue: I think we all agree that if a consumer employs an architect, he or she is entitled to assume that the professional concerned is not a dentist or doctor. How does the Architects’ Alliance envisage that the legislation, as it stands, will affect its businesses across the State? Does it see this as a devastating blow? Does it regard it as something that will drive many of its members out of business? Do they see a way of salvaging something from what they may regard as the wreckage? They may feel the rules are being changed in the middle of the game. If that is the case, I do not think any serious democrat can support it. Is that what the representatives of the alliance consider to be happening here?

I recognise that the members of the RIAI are highly qualified. Does Mr. Graby acknowledge that the members of the Architects’ Alliance are excellent at their jobs

and deserve to continue to work? Does he agree that they are entitled to make a living, as they have for several decades in many cases?

I would like to conclude by asking Mr. Graby about a matter of academic interest, at the very least. Some 80 years after the War of Independence, and more than 60 years after the declaration of the Republic, why does his organisation insist on calling itself a “royal institute”?

Deputy Michael Fitzpatrick: I believe the Architects’ Alliance’s claim that its members are long established and have been tested in the market. I agree that their livelihoods have been taken from them by the new requirements for the registration of the word “architect”. People with a track record of service in the business - it was mentioned in the presentation that some of them have service of ten years or more - should be accepted into the association. People who have been practising for more than ten years - some of them have grey hair, like me - should not be asked to do further tests to demonstrate their qualifications. They have been practising all their lives. There should be a grandfather clause to allow them to become full members.

Deputy Seymour Crawford: I welcome the opportunity to listen to both sides of this story. I have received a great deal of correspondence from extremely worried people who have been in business for many years. One of my friends is the architect behind some of the best buildings in County Monaghan. This person’s future is threatened by the present situation, which needs to be re-examined seriously. It is interesting that two of my colleagues from the main Government party have emphasised the need for a grandfather clause. I hope they can ensure the matter is reconsidered. The Mullaghmatt housing estate in Monaghan town was designed by a very prominent architect. After it was built they received awards for the wonderful job. We all know how this has worked out. I would prefer someone with experience rather than letters.

I refer to people of a different generation who went through training outside the State and now find themselves, as Irish citizens, having great difficulty registering here. They have the option of applying for a UK passport and that will make it easier. I have received a letter advising this course of action. The writer of the letter apologises for the distress caused to the person concerned and refers to attempting to arrange a meeting with the Department to deal with the issue. It is interesting that in most other walks of life, someone can be educated - whether in the UK or elsewhere - and have qualifications accepted in this country. Like Deputy O’Donoghue, I ask how many of these people are likely to be thrown on the dump as a result of this regulation. As Members of this House, are we seriously going to allow this to happen?

Can Mr. Graby tell me how or why the grandfather clause was removed from the Bill? Can it be reintroduced? The cost of this is enormous. I refer to Mr. Noel McGuigan of Castleblayney, who has a proud record and was involved in setting up C.S. Pringle, whose future is at stake. He is one of many who have written to me and I am sure Deputy Conlon has had the same correspondence.

Deputy Margaret Conlon: I welcome the opportunity to contribute because I do not regularly attend this committee. I have had a major level of correspondence from my constituency and further afield. People are genuinely worried about their futures, their livelihood and the future of their families. I agree with Deputy Brady and others, who

referred to people who are self-taught, and the evidence is that these architects made wonderful decisions. One can have as many letters after a name as one likes but sometimes life experience is equally important. These people feel aggrieved and rightly so because they have had no action taken against them for negligence or malpractice. Their work is to a very high standard yet they feel their future and the good work they have been doing is under threat. I seek some common sense and for a realisation and acceptance of the high standard of work of these people. I do not suggest we should have cowboy practitioners or rogue architects allowed to carry out work but where expertise and a high quality of work exists, common sense needs to prevail.

I have been contacted by Mr. Noel McGuigan, who asked me to contact the committee. I was delighted to do this on his behalf because many of those in my constituency who have contacted me have carried out a standard of work that speaks for itself. This work remains a monument to them. The Architects Alliance referred to the fact that their numbers are necessarily finite. What kind of numbers are they talking about?

Deputy Joe Carey: I am not a member of this committee but I have received much correspondence from people who are fearful of the future. One constituent referred to having 27 years experience and having employed 30 people over the years. He has made a wonderful contribution to architecture in County Clare. His opinion has been relied upon in court and in arbitration. This clause casts that to one side and that is not right, just or fair. Deputy Conlon referred to common sense and both sides need to get together. It is only fair that a grandfather clause was inserted and I would like to know why it was removed.

Deputy O'Donoghue's comments were helpful. What impact will this have? Perhaps the delegation should indicate how many self-trained architects will be affected by this.

Deputy Seán Barrett: I am not a member of this committee but I have received numerous e-mails and correspondence about this matter. I came to this meeting to educate myself. Having read the correspondence I received, it strikes me we are in a new situation with an EU directive that set out very standards entitling Irish persons to call themselves architects. We must differentiate between those who have been practising for a number of years and have attained standards that are acceptable and those starting afresh now. That is the only way to deal with the situation. We must set standards while taking into account that, 30 years ago, it was not possible to attain the standard of education now required. We often forget this point.

I grew up in a generation where we had to pay fees to go to secondary school. It was a struggle for people in Ireland to get second level education. To receive third level education in my early years was an extraordinary thing. One had to come from an elite group of people. Thankfully things have moved on and we now have free second level education and third level education except for the imposition of registration fees, which is another excuse for charging a fee. I hope that we can deal with that matter some day. Whatever standard we set for the future, people now have the opportunity and we should conform to the standard in Europe. This is set out in the directive but we must deal with the situation that exists because of the circumstances Ireland

experienced in the past. We cannot throw people out on the street and prevent them from practising. They have obtained as high a standard as if they had completed degrees. Common sense should prevail. We should not set impossible barriers to keep people out but reasonable barriers to ensure the consumer has the standard of professionalism he or she is entitled to expect. There should also be no barriers in the area of fees. In Canada and the US the registration examination costs \$1,250 while the Dutch register examination costs €3,065. The ARAE examination in the Republic of Ireland costs €13,500 and the technical assessment of architects fee is €6,500. I do not know if that information is 100% correct as I am not fully *au fait* with the details but, while we have to set standards for people going to college, we need a reasonable fee in line with the European standard. The last thing we want is for this to end up in the European courts.

I hope that common sense prevails. It would be a good idea for the Minister to come before the committee to discuss the situation.

Vice Chairman: Witnesses will see that the committee is struggling to come to a conclusion that will solve this problem. Can they tell me why the RIAI fees are so excessive? Everybody, including Government members, wants to know why a grandfather clause was not inserted into the Act. Do witnesses want this committee to prevail upon the Minister to introduce regulations or guidelines to enable long-practising building professionals to become registered without having to pay excessive fees?

Mr. Brian Montaut: I have tried to keep track of the various questions. One route into the profession is the mature entry system for people who are partly self-trained and partly academically trained but have taken a latter-day apprenticeship route. This allows for examinations to be taken by people whose practical training can be credited against alternative types of examination. It can be done on an ongoing basis and this is proposed in the Act. An alternative route, which is supposed to be for grandfathers, is not actually a grandfather clause as contained in other legislation, such as the Finance Act 2010 in which there is a provision for existing forms of contract which do not comply with the Act to be allowed to continue.

For people who have already established the right to trade as architects and who, because the goalposts have been moved, need to be measured in some special fashion, a mature entry route involving an examination which meets EU standards would resolve the matter. However, expecting the grandfathers to jump the new hurdles, designed for academically trained people who have spent five years at university, is different. We do not say such people are not as good and practically trained architects can often excel, such as Michael Scott, Frank Lloyd Wright or the Japanese architect invited by the institute to speak to members. The route to professionalism through practical training is completely valid but it is now, unfortunately, out of step. We are asking for that to be recognised and for there to be a provision which does not put us out on the streets because the goalposts have been moved.

We are not demanding that grandfathers be recognised in Europe, which the institute is worried about in the context of the effect on standards. We do not want to be elevated from our current status but want to stay where we are. We are completely recognised in the State as architects and are asking that people do not take that away

from us. A grandfather clause can be constructed which will satisfy that need without conflicting with the aspirations for a Europe-wide level playing field, notwithstanding the fact that the directive makes no demands as to how the profession is conducted in the State.

Mr. John Graby: I am surprised at what I have heard because there is a grandfather clause in the Act. It requires ten years' experience at the average level of architect, verified by references and information about four projects. I have with me an example of a successful application, which members may look at. It is a very straightforward process and is not designed for academic applicants but those who have practical experience. I do not know how often I have to say it but the provision is in the Act.

I hesitate to contradict Deputy Ciarán Lynch but the seven-year ARAE examination is still in the Act. I cannot speak about the costs of that because it has nothing to do with the RIAI, but there is a fair and open process.

Deputy Hogan raised the question of the design of the structure, which the Commission calls "co-regulation" and not "self-regulation". There was institutional agreement among the Commission, the Council of Ministers and the Parliament that, as part of an attempt to speed up the process, a legislative enactment would be delegated to a non-governmental organisation with safeguards put into the legislation afterwards.

The majority on the technical assessment board are non-architects and are appointed by the Minister, while the chairperson is a barrister. The internal appeals board also has a non-architect majority and is totally independent. It cannot be controlled by the RIAI or by architects in general. The chairperson of the technical assessment board is very careful to ensure it is totally independent.

I will address Deputy O'Donoghue's point. His colleague, Deputy Mary O'Rourke, dealt with the subject very well when she was a Member of the Seanad. She said that when she heard the title "Royal" her republican sympathies were stirred but that she came to realise that the reason they have been around for a long time is because they have not made too many mistakes.

Michael Scott took the RIAI examinations in 1936. It is on the archives. That is how it was done in the past. As I suggested in my presentation, in educational circles there has been a movement away from asking people for their qualifications to asking them what they have done and what outcomes they have achieved. This point was echoed by Deputy Ciarán Lynch, who has been through a process of this nature. That is what is proposed here. There has to be some form of assessment. I do not think anybody around this table would say it is enough for one to sign a piece of paper stating that one has been working as an architect for the last ten years. The simple and straightforward system provided for in the Act is fair to everybody. It has to be fair because it will be subject to legal scrutiny and appeal to the courts. It is hard to say more on that point.

I was asked about people who may lose their livelihoods. As I have said, this is an opportunity. If one does not have a recognised qualification and is not an RIAI member, one will not get the majority of State projects. This measure opens up the

market, rather than closing it down. I accept that it will not be possible for everyone to get through this fair and robust process. One can still work in the field of architecture - there is no change there. The consumer is entitled to know that a person who uses the title "architect" has reached a certain minimum standard. If there is no benchmark, there cannot be a code of conduct. In such circumstances, any lawyer would be able to argue that people working in this field cannot be expected to know certain things because they have not been educated to a sufficient standard. There has to be a minimum standard. I do not doubt that many members of the Architects' Alliance are highly competent. Many other people are affected by this system - we have a list of 300 people who are interested in it. I am sure they would have no difficulty in getting through our system. I repeat that all we are looking for is ten years' experience in the field of architecture before May 2008, four projects, a CV and certain verifications. It is not difficult. I ask the members to examine the successful application here.

While it may be possible to provide for an Ireland-only system, it is not provided for in the legislation. I emphasise that the Government, rather than the RIAI, drafted the Act. In doing so, the Government was conscious of the European dimension. This is not a theoretical issue, given that Northern Ireland is just 100 km up the road. I ask members to imagine a circumstance in which one has got an architect to do a job in Dundalk, but when one asks him or her to do the same job in Newry one discovers that he or she cannot represent one there? It is not a theoretical matter. Three of the people who took our pilot scheme have already registered in the UK. We should not deprive people of opportunities. That is why it is important that the minimum standard complies with the directive. It is not gold-plated - it is very basic. That information is provided in Article 46 of the qualifications directive. I do not believe people will lose their livelihoods. I accept that some cases have been cited. Anyone who is experienced and competent will get through the system. Not everybody will do so. It is also confidential. There will be no list of the names of people who do not get through. Such people will be able to continue working but they will not be able to use the title "architect". I return to my point about the survey. Those who believe the title "architect" means qualifications are being misled inadvertently. The consumer needs some certainty. That is all this Act does. I do not think the alliance is suggesting there should be no evaluation. There has to be such an evaluation.

Vice Chairman: Deputy Scanlon has not asked any questions.

Deputy Eamon Scanlon: Mr. Graby has said that applicants will have to provide evidence of four successful planning applications. Will such projects need to have a minimum monetary value? Could the four projects be four bungalows?

Mr. John Graby: There is no limit. This question is often asked. A small project often shows more skill than a major project. The requirement applies to four projects of any kind that demonstrate one has carried out the full range of tasks of an architect, through the design, planning permission and regulation stages to the completion of a project. One does not need to have created huge or particularly remarkable buildings. One has to show that one has carried out four tasks.

I would like to speak briefly about costs. The ARAE examination has nothing to do with us. A person with a qualification who comes to the RIAI pays €145 for a transcript evaluation. If they need to be interviewed, which is very rare, a further €300

is charged. After paying the €145 charge, they pay €490 per annum to stay on the register. I do not know where the €11,500 and €6,500 figures have come from. If one applies for technical assessment, the current figure is €6,500. The breakdown of that is in the papers we have provided. That is the actual cost. The RIAI, as an organisation, cannot take on a task that is not self-funded. The committee may consider whether there is an opening for the State to have a role in supporting people who need to go through this process. That is the cost. The Minister is due to make a decision on this. I have spoken with the Department about reviews and evidence-based discussions. If it is wrong, it is wrong and we will change and refund.



Vice Chairman: Does Mr. O'Neill wish to make a brief remark? I have to leave at 5 p.m.

Mr. Michael O'Neill: Two matters which were mentioned by Mr. Graby may sound the same but, to my mind, are not the same. He referred to the "EU minimum". I made it clear in my submission that the EU minimum was set at the graduate level, rather than at the level of a member of the institute. Mr. Graby also referred in his submission to referred to "minimum standards of assessment". My clear understanding is that the standard equates to the standard needed to become a member of the institute. It cannot be equated to the standard of a graduate. Under the law as it stands, as a graduate I cannot call myself an architect, even though I am entitled under the EU directives to call myself an architect. This is a basic issue. If the institute's membership standard is applied to the kinds of examinations that members of the alliance might have to sit, it may represent an increase in standard.

Vice Chairman: I will allow a final speaker from the deputation to respond.

Mr. John Graby: As Ms Margaret O'Flanagan has more expertise on the directive than me, she can answer that.

Ms Margaret O'Flanagan: I wish to clarify that via the Department of Education and Skills, the European Commission has notified us that the higher level qualification - the professional level qualification - must be listed and will be listed for all states. Very soon, the graduate level will no longer apply. The impression given by the Commission is that the initial listing was erroneous and that the higher level should be applied in all states. That will be happen before the end of this year.

Vice Chairman:   I am anxious not to open up the debate again.

Deputy John O'Donoghue: I understand that. Mr. Graby made an eloquent and erudite contribution. Unfortunately, irrespective of what he says, the bottom line remains that people who are currently practising as architects will no longer be in a position to practice as architects as a result of this legislation, if implemented.

Deputy Phil Hogan: I want to get some more clarification on the costings. Is the technical assessment of architects a requirement for admission to the RIAI?

Mr. John Graby: It is specifically for those who go through the ten-year assessment. If one has qualifications, a transcript evaluation fee of €145 applies, followed by an annual charge of €490. The €6,500 fee only applies to the assessment of those who do

not have formal qualifications. It is important to emphasise that it is not an examination where everybody goes through a set process with set questions. It is a case-by-case individual assessment. It is a difficult process. It has to be done as well as possible. We have invested a great deal of money in training assessors and standardising procedures so that it will withstand any legal challenge. That only applies in cases of technical assessment.

Vice Chairman: I ask Deputy Lynch to be brief because we have to come to a conclusion.

Deputy Ciarán Lynch: I asked a series of questions which have not been answered. I will repeat them briefly. What is the cost of putting together a portfolio? How many people went through the portfolio process last year? How many staff were employed to oversee those portfolios?

Vice Chairman: The Deputy has asked three questions.

Deputy Ciarán Lynch: I asked them all earlier.

Mr. John Graby: The costings are in the documentation.

Deputy Ciarán Lynch: I am asking Mr. Graby-----

Mr. John Graby: Unfortunately, they are based-----

Deputy Ciarán Lynch: I have that-----

Vice Chairman: I ask the Deputy to allow Mr. Graby answer the three questions.

Mr. John Graby: I am not-----

Deputy Ciarán Lynch: The gentleman has the information to hand. He knows it. I am asking him to give it to me. I am not saying he is not the relevant authority.

Mr. John Graby: We have given the Minister a complete hour-by-hour breakdown.

Deputy Ciarán Lynch: Can Mr. Graby not give that to me this afternoon?

Vice Chairman: Deputy Lynch should let Mr. Graby answer the three questions.

Mr. John Graby: I cannot give a complete breakdown to the committee. Every quarter of an hour has been accounted for. It is based on the pilot scheme we ran. It has been referred to the Minister for his approval, or not as the case may be. The papers provide a breakdown of the costs. Members can see them there.

Deputy Ciarán Lynch: Can Mr. Graby talk me through them?

Mr. John Graby: Certainly.

Vice Chairman: Perhaps Mr. Graby can give the Deputy that information after the meeting.

Deputy Ciarán Lynch: No. This is a critical matter. If the Vice Chairman is in a rush, we can get another member to take the Chair. This matter needs to be attended to.

Vice Chairman: All right.

Mr. John Graby: I refer to page 20 of the main submission. Members can see the figures in the submission. I have the figures for the technical assessment board, the total cost of which comes to €54,000 for a full year, and includes administration, expenses and the chairperson's allowance. There are three assessors who are allocated no more than nine hours to complete the full task at a rate of €75 per hour which comes to a total of €1,900. We must record every session and the cost of support and administration includes provision for stationery. Each component has been costed and the information has been given to the Minister. I do not have the full breakdown of costs, but it is with the Minister. As soon as the Minister is happy, we can release these figures to the committee and one will be able to see that each component can be justified. That is based on our pilot scheme. We kept a record of all the times involved in every single phase. Members may notice a figure for additional costs we have incurred since then, for training and so on. If the Department or anybody shows on an evidence basis that the figures are incorrect, we will correct them and refund any money to the candidates.

Deputy Ciarán Lynch: Can Mr. Graby give me a ballpark figure for the cost of compiling a portfolio and how many candidates were successful?

Mr. John Graby: No. I do not know how much it would cost an applicant to put a portfolio together.

Deputy Ciarán Lynch: How much is an applicant charged to go through the process?

Mr. John Graby: It costs €6,500. This information is provided in the submission.

Deputy Ciarán Lynch: That figure of €6,500 is the total cost to the candidate.

Mr. John Graby: Yes, everything, assessment the lot.

Deputy Ciarán Lynch: How many went through that process last year?

Mr. John Graby: The pilot scheme was in 2007 and 2008. This was launched on 16 November 2009 and at present three or four applications are being processed with more to come. We can review those as it runs through. The system was not in place last year, so there were no applications.

Vice Chairman: I call Mr. Solan.

Mr. Gary Solan: I will comment on what the Royal Institute of the Architects of Ireland, RIAI, has said. It is very concerned, as are we, that consumers are protected from rogues and we fully support registration in that aspect. However, I must point out that the RIAI has not told this committee that there is no protection right now for any consumer. One can complain to one's heart's content but there is no process there by which one's complaint can be heard or administered. It cannot get past the front desk in the Royal Institute and it has been like that for several years.

In regard to the fee of €6,500 for the technical assessment process, should an applicant be unsuccessful, and in the pilot scheme, 50% of the applicants were unsuccessful, there is a further fee of €4,000 to appeal that decision. Should a candidate continue to be unsuccessful, one's only recourse is the High Court, where God only knows what the costs would be. When the Broadcasting Authority found that the RIAI's advertising was misleading, the Royal Institute queried its decision and were told that if it did not like the decision, it could appeal it to the courts to which it responded that it was far too expensive.

Deputy Phil Hogan: I propose that the Minister for the Environment, Heritage and Local Government come to the meeting and address some of the concerns that were brought to the attention of the committee and deal with the pilot programme, mentioned by Mr. Graby, and the costs associating with it.

Vice Chairman: Is there a seconder for that motion?

Deputy John O'Donoghue: I second that.

Vice Chairman: We will invite the Minister to come before the joint committee to discuss these issues.

I thank the delegations for the presentations and for taking time to attend the meeting. I thank the members, especially those who are not members of the committee for adding their voice and experience to the proceedings.

The joint committee adjourned at 4.45 p.m. until 3.30 p.m. on Tuesday, 23 May 2010.