

ARMA INDEPENDENT REGULATOR & REGULATORY PANEL

PUBLICATION OF DISCIPLINARY DECISION

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| Case No. | 2014 (6) Bridgeford & Co. Ltd |
| Member Firm | Bridgeford & Co. Ltd |
| Regulatory Panel | Right Honourable Keith Hill (Chairman), Claire Andrews, Steve Winfield Clerk to the Regulatory Panel: Jane Forsyth |
| | Details of Complaint(s) |
| Complaint No (1) | <p>On 21st October 2014 the Member Firm was successfully prosecuted by Kent Fire and Rescue Service (KFRS) after pleading guilty to four offences relating to fire safety management at Canterbury Magistrates Court.</p> <p>The Member Firm was fined £10,000 and had costs of over £16,500 awarded against them by the Magistrates Court.</p> <p>The fact of the successful prosecution indicated potential breaches of the ARMA rules as detailed below.</p> |
| Rule(s) alleged to have been breached in complaint no (1) | <p align="center">ARMA Bye-Laws – As approved on 4.3.08</p> <p>BYE-LAW 2 - Code of Practice</p> <ul style="list-style-type: none"> . 2.1 All members of ARMA endorse, accept and undertake to comply with the current Code of Practice relating to service charges published by the Royal Institution of Chartered Surveyors and as approved by the Secretaries of State for England and Wales under the terms of Section 87 of the Leasehold Reform, Housing and Urban Development Act 1993. In general terms this code requires members: . 2.2.2 To manage the client’s property in compliance with all the current applicable legislation, terms of leases, contract documentation and good business practice. . 3.1 Every member shall, in all its business dealings, comply with and conform to the content and spirit of ARMA’s Memorandum and Articles of Association, these Bye-Laws and any relevant codes of practice and any rules, regulations or directions made under the general powers of Council and any current legislation that bears a relationship to the profession as well as the rules and regulations of any professional bodies, and most particularly to comply with the Royal Institution of Chartered Surveyors’ Code of Practice relating to service charges and any subsequent amendments thereto. . 3.6 (Extract) A member shall use all due diligence in looking after its clients’ interests and shall take all such reasonable steps to protect and promote the clients’ interests as are practicable, without improper conduct. <p align="center">ARMA Bye-Laws – As approved on 4.3.08 and Bye-Law 6 as amended 12.11.09</p> <p>BYE-LAW 2 - Code of Practice</p> <ul style="list-style-type: none"> . 2.1 All members of ARMA endorse, accept and undertake to comply with the current Code of Practice relating to service charges published by the Royal Institution of Chartered Surveyors and as |

PUBLICATION OF DISCIPLINARY DECISION

approved by the Secretaries of State for England and Wales under the terms of Section 87 of the Leasehold Reform, Housing and Urban Development Act 1993. In general terms this code requires members:

- 2.2.2 To manage the client's property in compliance with all the current applicable legislation, terms of leases, contract documentation and good business practice.

BYE-LAW 3 - Membership Rules - General

- 3.1 Every member shall, in all its business dealings, comply with and conform to the content and spirit of ARMA's Memorandum and Articles of Association, these Bye-Laws and any relevant codes of practice and any rules, regulations or directions made under the general powers of Council and any current legislation that bears a relationship to the profession as well as the rules and regulations of any professional bodies, and most particularly to comply with the Royal Institution of Chartered Surveyors' Code of Practice relating to service charges and any subsequent amendments thereto.
- 3.6 (Extract) A member shall use all due diligence in looking after its clients' interests and shall take all such reasonable steps to protect and promote the clients' interests as are practicable, without improper conduct.

The Royal Institution of Chartered Surveyors (RICS) Service Charge Residential Management Code

3.20 Health and safety policy and risk assessment You must comply with all applicable health and safety requirements that apply. You should devise and maintain, with specialist help if necessary, a health and safety policy and arrange regular risk assessments.

13.15 Health and safety

There are extensive health and safety codes and regulations that affect the management of residential property. It is important that you take steps to identify the ones that are applicable. Appendix 3 indicates some which may be relevant, but the list is not exhaustive. These regulations exist to ensure that, among other things: all places of work are maintained in a safe and healthy condition; all entrances and exits are safe, without risks and unobstructed at all times; all plant and equipment is maintained in a safe and healthy condition; all employees are provided (where appropriate) with protective clothing and/or equipment and given proper instruction on their use; all appropriate signage and safety notices are properly displayed; all necessary instruction, training and supervision of employees is provided to ensure health and safety; competent people are appointed to assist in health and safety matters; and fire regulations are complied with.

Managers should satisfy themselves that all buildings under their management meet the relevant standards under the health and safety regulations. Where they do not, property managers should ensure that corrective action is taken or that problems are brought to the owner's attention.

Occupying tenants should be aware of their responsibilities under the

ARMA INDEPENDENT REGULATOR & REGULATORY PANEL

PUBLICATION OF DISCIPLINARY DECISION

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| | <p>lease/tenancy. Employees and subcontractors of the managing agent should have been properly advised and provided with appropriate training. Managing agents should have office procedures in place to ensure that health and safety matters are referred to in any paperwork involving the employment of contractors.</p> <p>Additional Advice to landlords, tenants and agents</p> <p>11 Fire escape Consideration should be given as to whether tenants in blocks of flats should be advised of means of escape and other action they should take in the event of fire. You should be aware of the requirements in relation to the <i>Fire and Furnishing (Fire) (Safety) Regulations 1999</i>. You should also be aware of the <i>Regulatory Reform (Fire Safety) Order 2005</i>.</p> |
| | <p>Decision Complaint No (1)</p> |
| | <p>Bridgeford & Co Ltd was successfully prosecuted by Kent Fire and Rescue Service after pleading guilty to four offences relating to fire safety management at Canterbury Magistrates Court.</p> <p>The ARMA Regulatory Panel's duty is to determine whether or not there were breaches of the ARMA Bye-laws by the Member Firm. The Panel notes that the terms of membership of ARMA require compliance with current legislation and the exercise of due diligence in looking after clients' interests. ARMA membership also requires compliance with the RICS Code, which is highly specific on the health and safety requirements to be implemented by residential property managers. In addition, ARMA Guidance is emphatic on the responsibilities of block managers in relation to fire safety.</p> <p>The Panel notes that the current applicable legislation is the Regulatory Reform (Fire Safety) Order 2005 (under which the Member company was prosecuted).</p> <p>The Panel has reached its determination after careful consideration of the history of management of the property in relation to fire safety. The Regulatory Panel holds Bridgeford & Co Ltd to be in breach of the following rules:</p> <ul style="list-style-type: none"> (a) ARMA Bye-law 2.1 (b) ARMA Bye-law 2.2 (c) ARMA Bye-law 3.1 (d) ARMA Bye-law 3.6 (e) RICS Code 3.20 (f) RICS Code 13.15 (g) RICS Code 11 |
| | <p>Sanctions Complaint No (1)</p> |
| | <p>The Regulatory Panel considers there to be strong evidence of neglect of Bridgeford & Co Ltd's responsibilities and clear breaches of the ARMA Byelaws, the RICS Code and disregard for ARMA guidance. The Panel recognises the challenging nature of the occupants of the property, but considers that if anything these behaviours reinforce the need for a highly precautionary approach to fire safety. The Panel also notes that the</p> |

ARMA INDEPENDENT REGULATOR & REGULATORY PANEL

PUBLICATION OF DISCIPLINARY DECISION

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| | <p>appropriate fire precautions have been installed and apparently maintained successfully since the fire. The Panel welcomes this evidence of better practice.</p> <p>In the light of these considerations, and recognising the possibility of more severe sanctions, the Regulatory Panel imposes the maximum fine available.</p> |
| Costs | Costs were awarded against the Member Firm in accordance with the Operating Procedures for the Independent Regulator and Regulatory Panel |
| Status | No appeal pursued. |

Signed: Jane Forsyth
Pp Right Honourable Keith Hill, Independent Regulator

Date: 14th January 2016