

ARMA INDEPENDENT REGULATORY PANEL

ANNUAL REPORT FOR THE PERIOD 1 MAY 2017 TO 30 APRIL 2018

Introduction

In 2014 ARMA introduced a new self regulation regime for its members known as ARMA-Q which aimed to raise standards and the quality of service across the residential leasehold management sector. ARMA-Q has now evolved into ARMA Accreditation and, since the Government seeks to formally regulate this sector, a consultation has commenced under the heading of “Protecting consumers in the letting and managing agent market: call for evidence”. The Chief Executive Officer of ARMA, Dr Nigel Glen, sent ARMA’s responses in October and November 2017.

On 15 March 2018 members were advised of an important change to ARMA audits in conjunction with the RICS Regulation team, the primary aim of which is to ensure systems, controls and processes are being conducted in accordance with the ARMA Consumer Charter and Standards and to provide advice and assistance to improve existing methods if thought necessary. Desk based reviews will be carried out on member firms who manage fewer than 2,000 units and who are not RICS regulated, which will reduce the cost of expenses incurred by the audit team. Member firms which are combined ARMA/RICS regulated will still be subject to a site visit, as will members who are not RICS regulated and manage over 2,000 units. Desk based reviews could still result in a site visit if relevant member firms fail to provide all documentation and/or comply with the requirements.

An accreditation review was carried out on 13th April 2018.

With that background the Independent Regulatory Panel strengthens its commitment to provide a public service.

Duties of the Independent Regulatory Panel

Under the ARMA-Q self regulation regime set out by the Council, the duties of the ARMA Regulatory Panel are as follows:

- (a) To determine disciplinary outcomes of cases brought before the Panel;
- (b) To review the operation of the regulatory regime and report to ARMA's Council on its effectiveness with recommendations for improvement in the light of experience;
- (c) To advise Council on adjustments to Standards in the light of experience and lessons learned;
- (d) To oversee the accreditation of new members;
- (e) To submit an annual report to ARMA's Council on the operation of the regulatory regime and any decisions on disciplinary cases

Overview

This has been a very challenging year for the Independent Regulatory Panel due to the substantial structural changes in the implementation of the regulatory regime. Following a review of the number of complaints being made to ARMA and of ARMA's finances the previous structure was no longer justifiable and the Regulator's contract was officially terminated on 12 July 2017 with a three month notice period. However, the Regulator resigned from her post in August 2017 as did a member of the Panel. The Clerk to the Regulator was issued with redundancy notice and subsequently resigned from ARMA in September 2017. This created much uncertainty.

The Independent Regulatory Panel continues as from November 2017 but without a Regulator and with a new structure. The Clerk to the Panel has been replaced by Ombudsman Services: Property (OS:P). Although the OS:P service is due to finish in August 2018, the Panel has been informed by ARMA that OS:P will continue to provide services to the Independent Regulatory Panel until further notice.

There may have been a change of name, from the Independent Regulator and Regulatory Panel, but not a change of substance. Six of the previous Panel members make up the new Independent Regulatory Panel thus providing continuity.

The Independent Regulatory Panel is informed that the ARMA Secretariat is now established in its system of triaging enquiries. This means that requests for advice, enquiries about how to make a complaint and other similar routine queries are handled by ARMA staff and complaints are passed via the OS:P to the Independent Regulatory Panel.

The Independent Regulatory Panel is only able to report on the work which it has carried out since November 2017. There were five complaints which were passed to the OS:P for the period 1 May 2017 to 30 April 2018. These complaints are understood to still be open. None of the complaints have been referred to the Independent Regulatory Panel and no hearings have taken place.

The Panel's remit is limited to investigation of cases where a complaint has been made under the current ARMA structure. The Independent Regulatory Panel is currently unable to consider cases against members where the facts are already in the public domain and possibly disclose breaches of ARMA regulations, but have not been referred to the Panel.

Accreditation Process Review

The Independent Regulatory Panel has a role in the review of the ARMA accreditation process of new members. The remit of the Independent Regulatory Panel is to check the application process only; it is not required to look at audit reports received for individual firms.

The application process is checked by way of:

- (i) Carrying out an annual review on the accreditation process by way of reviewing a sample of applications;
- (ii) Council may request input and comment on any particularly difficult or borderline cases before they are determined for acceptance as a Member; and
- (iii) Having the opportunity to comment on the procedure for assessing applications for accreditation.

The Independent Regulatory Panel, which will comprise at least two and not more than three Panel members, will be provided with documents in advance of the annual review by ARMA's Technical Officer. The documents will comprise samples of two small, two medium and two large firms and one of each of these samples will have an improvement plan. The documents which are to be provided to the Independent Regulatory Panel are set out in Clause 6.2 of the Accreditation Review Process.

Two members of the Independent Regulatory Panel, Alan Walker and Jan Wilcox, together with the assistance of ARMA's Technical Officer, Helen Christie, met to carry out the Review on 13th April 2018. This provided the opportunity for the Panel members to ask questions of ARMA's Technical Officer relating to: (a) review and evaluation of the mechanics of the process; and (b) closer examination of specific themes emerging from the sample documentation provided. It was an informative meeting and the final report, including recommendations, was sent to ARMA Council on 27th April 2018.

The final report was produced after the Panel members had reviewed three previous reports of the Independent Regulator in order to understand the context of the present Review and to ensure continuous improvement in the accreditation process.

Conclusion

The year under review has been challenging, but it is felt that the Independent Regulatory Panel has carried out its role in as robust a manner as possible in order to assist not only the ARMA Council and members but also to assist the wider public in raising and monitoring standards.