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4.0 Boundary disputes

4.1

The Firm undertook the determination of a boundary for C. C complained the information provided was inaccurate, they were overcharged and there was a conflict of interest. The Firm explained the job was carried out diligently and professionally taking photographs of the evidence and taking into account all the available information in order to determine the boundary. The Firm said C was not overcharged nor was there a conflict in interest.

The Ombudsman explained a determination could not be made as to where the boundary should be but would decide whether or not the Firm had taken into consideration all the available evidence when reaching its conclusion as to the location of the boundary. The Ombudsman found the Surveyor had taken into account the information available. Therefore, no further action was required. With regard to costs there was no evidence C had been over charged; therefore, no further action was required. With regard to conflict in interest there was no evidence of any; therefore no further action was required. It was found the Firm did not have an up to date Complaint Handling Procedure; it was recommended this was to be amended in accordance with the RICS CHP Helpsheet December 2007. The CHP was not sent out until sometime after C had complained. It was recommended in future the Firm sends its CHP whenever it receives an expression of dissatisfaction from a valid complainant; as described in the RICS CHP Helpsheet December 2007. C had also raised a query which was not acknowledged in the instructions; it was recommended in future the Firm included all details of the work that was to be undertaken in the instructions to avoid any future misunderstanding.

5.0 Building Surveying

5.1

The Firm undertook a Building Survey; three years later C discovered an infestation of Death Watch Beetle in some external beams. C wanted the Firm to cover the cost of the remedial works. The Firm advised there was no evidence there was an active infestation at the time of the inspection and the cost of the remedial works is insignificant when balanced against the purchase price.

The Ombudsman found based on the available evidence it probable there had been signs of an infestation for some time and had the Firm inspected the area as thoroughly as it should have done this could have been identified and reported. The cost of the remedial works was minimal compared with the purchase price. However, the Firm was required to award a gesture of goodwill in recognition that the reporting of the beams was not as clear as they could have been. It was also found the Firm had not followed

its CHP or adhered to the timeframes in which to respond. It was recommended it do so in the future.

5.2

C obtained a Building Survey which did not include a full inspection of two chimneys. Advice was given that the chimneys should be swept prior to purchase. It was not considered realistic to expect a vendor to allow such work before purchase. Upon attempting to have chimneys swept after purchase it was discovered that the flue on a wood burner was not connected and was hazardous. This was confirmed on re-inspection by the firm. This was considered poor customer service. In addition further poor customer service was experienced when complaining as considerable delays were faced when progressing through the complaints process.

The firm was required to provide a sincere letter of apology for the poor customer service experienced in failing to provide a fully inclusive Building Survey and failing to discharge its duties within a reasonable timescale and to provide a goodwill gesture in the form of a cheque.

5.3

C instructed the Firm to conduct a Building Survey. On the strength of the report issued, C purchased the property. Upon moving into the property, C noticed that there was cracking to the interior wall of the kitchen which was visible as bowing to the exterior wall. The firm reinserted the property and accepted that there was cracking. However, in initially reporting, the Firm advised that C should consult a Structural Engineer to comment on movement to the front porch, the rear utility and the movement to the wall. C did not do so as the intention was to demolish the front porch and rear utility. The Firm paid for a Consultant Structural Engineer to attend the property who advised that the external wall should be attached to the first floor joists thus preventing further movement. C argued that the Firm should have reported this. The Firm maintained that it had made the appropriate recommendation and had C followed it through, the problem would have been identified.

The Ombudsman directed that the Firm should take no further action.

18.0 Homebuyers Survey/Valuation

18.1

C instructed the firm to carryout a Homebuyer Survey and Valuation on a property. On the strength of the information contained in the report, C purchased the property. On moving in, C discovered that the property was a timber framed construction as opposed to a masonry built one. Consequently, C argued that the property was overvalued. In addition C reported a number of significant defects to the property, namely leaking

showers and a dangerous staircase. C complained that this should have been reported in the Homebuyer Survey and Valuation. The Firm accepted that an error had been made in describing the method of construction of the property; however, this was a typographical error as the site notes confirmed the correct construction. The other defects complained of were not deemed to be significant

The Ombudsman examined the report prepared by the Firm and an independent report prepared in the course of the complaint. It was decided that whilst the nature of the construction had not been reported correctly, it had been identified in the site notes and whilst this was a shortcoming in the report, it did not affect the valuation of the property. With regard to the showers that did not work, it was established that the surveyor would not test the services and therefore, it would not have been known that the showers were not working. In addition, photographs were considered that did not show corresponding areas of staining that would have been caused by leaking showers. It was determined that such defects were not significant and did not require reporting. With regard to the staircase, it was established that there was a loose newel post on the staircase that needed re-fixing. It was decided that this was a minor repair and therefore was not deemed to be significant and did not require reporting. It was decided that the failure to report the true nature of the property's construction was a shortfall in customer service. The firm was therefore required to make a payment to C as a goodwill gesture. The Ombudsman made a recommendation that the Firm update its Complaints Handling Procedure and ensure that information in site notes was included in its final report.

18.2

C complained the Firm failed to report a hole in the rear external door when a Homebuyer Survey and Valuation was undertaken. C wanted the Firm to pay for what they considered to be an oversight on the Surveyor's part. The Firm was of the opinion that if the defect existed at the time of the Surveyor's inspection it would not be counted as urgent or significant but a minor defect.

The Ombudsman found the defective door could not be described as a significant defect. Therefore, the Firm was not required to cover the cost of the remedial works. However, in light of the fact the report was not as clear as it could have been the Firm was required to provide an apology and award a gesture of goodwill.

18.3

C had instructed a firm to undertake a Homebuyer Survey and Valuation. In addition to the instructions C had requested the firm comment on whether the driveway could be extended. C's complained to the firm that it had failed to report problems which could arise from neighbours claiming a 'right to light' through windows on the boundary wall, the driveway was too narrow for two cars and the rear soakaway drainage did not comply with building regulations. C wanted compensation in recognition of this. The firm advised the Homebuyer Report was undertaken to the standard the RICS expects of its members.

The Ombudsman found that the surveyor was not aware of C's intention to extend the property. C had put in plans to extend the property and the neighbour complained of right to light due to a window being adjacent to C's planned extension. The Ombudsman found the surveyor had recommended C check boundaries etc with their Legal Advisers and was of the opinion the surveyor could not have foreseen C's subsequent problems. A surveyor would not be expected to comment on how many cars could be parked on a driveway. With regard drainage the rear drain was obscured from view; therefore the surveyor's recommendation to instruct a drainage test was considered sufficient. The surveyor adhered to regulatory requirements when undertaking the preparation of the Homebuyer Report and Valuation. Therefore, no further action was required by the firm. However, it was recommended that additions to service are acknowledged in the Contract letter and referred to in the Homebuyer report.

18.4

C complained that they instructed the firm to undertake a Homebuyer Survey and Valuation. After moving into the property C discovered the cold water storage tank in the roof space leaked. C contacted their insurance firm who agreed to cover the cost of replacing the ceiling beneath; however, would not cover the costs of the cause of the leak. C wanted the firm to cover the cost of the plumbing works required. C also complained that the firm failed to respond to a letter and email. The firm explained only a head and shoulders inspection of the roof space was undertaken due to stored items and there had been no signs of water staining/ slight bow to the ceiling below at the time of their inspection.

The Ombudsman found that the surveyor could not have safely entered the roof space so could not have identified the leak with the water tank. However, it was found that the bow to the ceiling and water stains should have alerted the surveyor to recommend a further investigation. However, the cost of the remedial works was not significant and it was considered unlikely in the event this had been reported C would have been successful in securing a further reduction in the asking price. Therefore, the firm was not required to cover the cost of the remedial works. However, the firm was required to make a goodwill gesture in recognition that the report was not as accurate as it could have been and for failing to respond to C.

18.5

The firm carried a Homebuyers Survey and Valuation at a property C subsequently purchased. When C moved into the property, C discovered that one of the roof beams supporting the main garage asbestos roof had come out of its wall socket. The roof was no longer supported and there were zigzag cracks to both party walls. C complained that these issues, and the fact that the roof was asbestos had not been picked up. The firm did not agree, pointing out that the cracks were not visible.

The Ombudsman examined photographs of the property at the time of the inspection. It was decided that the defects and the asbestos should have been reported, but that C had not shown that a) C had relied upon the report b) C would have been able to

negotiate a reduced purchase price and c) the error was of a minor value compared to the cost of the property. Some instances of poor customer service were identified.

The Ombudsman recommended SP pay C a sum as a goodwill award, in full and final settlement of this dispute. The Ombudsman formally recommends that SP responds to customer complaints in accordance with the Complaints Handling Procedure in terms of both content of a response and the timescales set out in that Procedure. SP should check that its Complaints Handling Procedure is up to date and complies with the most recent RICS guidelines.

18.6

C had a Homebuyer Survey and Valuation Report and after moving into their property, they noticed the window frames of the conservatory were not straight. C complained to the firm as they believed this should have been noted in the Report and if it had been noted they would have negotiated on price. The firm explained the conservatory was full of furniture and furnishings and they could not take a close look at the window frames.

The Ombudsman considered that the defective frames were long-standing and the defect was not progressive. Furthermore, the defect was not causing any real problem to the fabric of the building which meant it was not urgent, and the remedial works were not significant in cost. Therefore, the defect would not have required a further recommendation in the Report. However, the Ombudsman was of the opinion that a shortfall in customer service had occurred and the firm was required to make a nominal goodwill payment.

18.7

The firm carried a Homebuyers Survey and Valuation at a property C subsequently purchased. When C moved into the property, C discovered that there were a significant number of cracks in the rear wall of the garage. C feels that had these defects been noted within the survey, C would have been able to negotiate a price reduction or would have decided not to purchase the property. C complained to the firm, stating that this should have been picked up in the Homebuyers report. The firm did not agree, pointing out that the cracks were hidden and were not urgent or significant.

The Ombudsman examined photographs of the property at the time of the inspection and since the inspection. It was decided that the surveyor may have been able to see the cracks but that these were not significant enough to require reporting within the HSV. In consequence, the Ombudsman decided it unreasonable to conclude the surveyor should have reported the cracks. In light of this review and all the evidence the Ombudsman required the firm to take no further action in respect of this complaint.

18.8

C complained that a Homebuyers Survey & Valuation report prepared by The Firm failed to indicate cracks to the exterior of a house and the lack of substance of a wall to which a gate was attached. In relation to the wall with the gate it was found that this was not part of the main structural building nor interior therefore it would not be expected to be considered. In relation to the cracks it was found that reference was made to the need for re-pointing to the exterior and that this encompassed the 'cracks' as they were the result of historical land settlement and therefore they did not pose either a significant or urgent problem.

No further steps were required in this case.

18.9

The firm carried out a Homebuyers Survey and Valuation on a property that was subsequently purchased by C. When C moved into the property it was discovered that the fixings on the canopy porch were failing and the porch structure was moving away from the wall. This defect was reported to the firm a number of months after the Survey were carried out as C believed the movement was getting worse. The firm considers that the extent of movement and the gap between the wall and the porch was not present at the time the survey was carried out.

The Ombudsman examined all the photographs provided by the parties and noted the time gap between the Survey being carried out and the defect being reported to the Firm. It was decided that the extent of the movement detailed in the photographs was unlikely to have been present at the time of the survey. It was established that the comments in the Report relating to the porch indicated that it has been inspected to a satisfactory standard and the movement occurred after the survey had been carried out. No customer service shortfalls were identified as the Complaints Handling Procedure had been complied with and correspondence had been responded to in a timely manner. The Surveyors Ombudsman maintained the offer of a goodwill gesture that had already been offered to C by the Firm.

35.0 Planning and development

35.1

C instructed the firm to carry out a report to see how their neighbour's extension would affect their garden. C did not want the builders to access their garden. The firm produced a report and stated that access would be required. C erected a fence. The neighbour's work was undertaken and it was discovered that there would have been no need to access C's garden. C wanted compensation from the firm. The firm refunded its fee but refused to pay for the fence. C experienced a poor level of customer service.

The Ombudsman considered the firm had been employed to assess any risk of damage to C's property and not provide solutions to avoid the risk. Therefore, C had erected the fence of their own accord and remained responsible for the cost of the fence. However,

the Ombudsman was of the opinion that a shortfall in customer service had occurred. The firm was required to make a nominal goodwill payment and write a letter of apology.

38.0 Property/Estate Management / Factoring

38.1

C is the occupier of a flat of which the Firm is the Factor. C raised a number of issues regarding the charges raised by the Firm and questioned whether the services relating to the charges had actually been provided.

The Ombudsman directed that the Firm should write a letter of apology and make a goodwill payment.

The total cost of the remedy required was between £50-£100.

50.0 Surveys

50.1

SP undertook a Homebuyers Survey. It was stated in that report that the property did not have mains gas available. On the basis of this information and further comments relating to the heating service, C pursued the purchase and the replacement of the oil tank upon completion. It subsequently came to C's attention after installing the tank, that mains gas is available to the property. C complained that the report is misleading. SP denied this, and said the report reported that mains gas was not connected to the property; it did not report that mains gas was not available in the area.

The Ombudsman concluded that C did not make sufficient enquiries before incurring the cost and while the report could have been written differently it was not misleading. The Ombudsman did conclude that there was some shortfall in customer service in relation to the Complaints Handling Procedure and made an award accordingly.

51.0 Valuations

51.1

The firm carried a Mortgage Valuation at a property C subsequently purchased. When C moved into the property, C discovered that there was a redundant oil tank at the property which required removal. C complained to the firm, stating that this should have been

picked up in the report. The firm did not agree, pointing out that the tank was redundant and that it would not affect the value.

The Ombudsman established that it was unlikely that the tank would have an affect on the value of the property and in consequence, the Ombudsman decided it unreasonable to conclude the surveyor should have reported the tank. The Ombudsman required no further action from the firm.

No award was made in this case.

51.2

C commissioned a Mortgage Valuation Report. The Report stated there was mains gas and central heating. When C moved into the property they complained to the firm as there was no mains gas and storage heaters provided the heating. The firm explained it has assumed there would be mains gas as this was available in the street. The firm explained that due to the rigid format of the mortgage lender's report, storage heaters were classed as central heating.

The Ombudsman was satisfied that the firm had accurately reported the storage heaters as central heating due to the constraints of the mortgage lender's report. However, the Ombudsman considered the firm had made an error in stating there was mains gas at the property. Nevertheless, the error did not give rise to diminution in value and did not affect the suitability of the property as security for the mortgage lender. Therefore, the Ombudsman required the firm to take no further action.