

## Audit trail – your first line of defence

As we review the work of RICS Registered Valuers, we continue to find a small minority who struggle to see the point of Red Book and Valuer Registration and view it as unwarranted bureaucratic interference. With few exceptions they all become enthusiastic adherents to Red Book once the point of it has been explained during a review visit. This article will attempt to set Red Book in context and offer some guidance on best practice.

### Threat to survival

In today's deregulated world, valuers have to bid for work by offering competitive fees amidst a blame culture of litigation which has come to dominate the market place. If a firm receives a negligence claim it invariably concerns a valuation. Just receiving a notice of a claim will massively and disproportionately increase the Professional Indemnity Insurance (PII) premium on renewal. Losing a claim often results in refusal to offer PII going forward. Firm's principals face the Hobson's choice of either paying premiums they cannot afford through the Assigned Risks Pool (ARP) or going out of business without run-off cover and facing disciplinary proceedings.

Red Book is nothing more than codified best practice. There are no requirements in Red Book which the follower of best practice should object to. In a claim, the plaintiff's lawyers may try to destroy the valuer's professional credibility by building a picture of someone who's approach to their work is 'casual and careless'. This is done by compiling a list of failures to follow regulation and best practice. They will even criticise poor handwriting. Courts work on the principle that a professional person is one who strictly follows the regulations and best practices of their governing body – the valuer who does not isn't a true professional and therefore their opinions are suspect. The Court will then prefer the testimony of the plaintiff's 'Expert' valuer against the unprofessional defendant.

### Audit trail

Strict observance of Red Book is not only a matter of following long established best practice but it is also your first and strongest line of defence in a claim.

Not only must you follow Red Book but you must be **seen** to be following Red Book. In management speak this means leaving an audit trail which others can follow. In our experience, some valuers would struggle to defend their valuation from the contents of the file. Too often the audit trail is incomplete with essential papers either missing, incomplete or indecipherable. Too often vital information is contained only in the memory of the valuer.

Residential mortgage valuations generally create only small volumes of paper and their management is not difficult. Commercial and agricultural property valuation files, however, tend to be much bulkier and the contents require careful management if an audit trail is to be made which can be followed.

## Best practice

The following is a summary of best practice seen in many firms across the country:

- The best files are the stiff card sort with a built in flexi spring binder and a flap pocket. There are other kinds of binder but the flexi spring type allows you to slot in new papers in the middle of the file without having to dismantle it with the inherent risk of dropping everything on the floor!
- Files should be able to be read from front to back with all papers in chronological order and grouped into subject matter divided by tabs. Typical tab divisions would be: Instructions /Terms of Engagement; Site Notes/Plans; Desktop enquiries/Lease heads of terms; Comparables/Valuation; Report
- Checks for previous involvement and conflict of interest should be clearly documented and stored on file
- Files should be comprehensive whilst not containing unnecessary papers
- The audit trail in the file should be comprehensive. Any matter not contained in correspondence should be recorded in a clear file note, preferably typed into a template designed for the subject matter
- Every statement made in the report should be supported by a file note
- Every opinion expressed in the report should be supported by an audit trail of observation and fact, analysis and reasoning
- Notes of information obtained from desktop enquiry should include the date and method of enquiry (e.g. telephone or website), and the reliability of the information, all of which should be declared in the Report
- Where information is contained in a large document (e.g. a lease) or within several documents (e.g. comparables) a table summarising the main facts and giving an analysis and commentary should be made. The original documents should then be stored out of the way in the file flap
- A bound and signed copy of the report with all attachments should be kept on the file as evidence of exactly what was sent to the client. Earlier drafts should be destroyed
- The file should tell the complete story of the valuation, step by step, from instruction to report.

## Best defence

There is plenty of anecdotal evidence that presenting the court with a clear audit trail is the best first defence to a claim. Plaintiffs are unlikely to spend large sums of money on lawyers unless they are confident of winning, and often, claims against valuers are dropped when the lawyers see a good file. Red Book is best practice and adopting best practice will often make the difference.