

**ROYAL INSTITUTION OF CHARTERED SURVEYORS  
DISCIPLINARY PANEL HEARING**

**Case of**

**Mr F T Watson BSc MRICS [0072037]  
Sunderland, SR1**

**On**

Wednesday 08 October 2014

**At**

Surveyor Court, Westwood Way, Coventry

**Chairman**

Paul Housego (Lay Chair)

**Members**

Helen Riley (Member)  
Catherine Audcent (Lay Member)

**Legal Assessor**

Ben Kemp

**RICS Representative**

Vicki Buckley

**CHARGES HEARD**

**The formal charge is:**

1. You did not carry out your professional work with due skill, care and diligence and with proper regard for the technical standards expected of you in that:
  - On 18 February 2014 an RICS Monitoring Surveyor examined four valuation files prepared by you against the requirements of RICS Valuation – Professional Standards 2012 and 2014 as appropriate which are mandatory for RICS members undertaking valuations

- In his findings report dated 18 February 2014 the Surveyor recorded your failure to comply with basic requirements of those Standards including:-

1. No conflict of interest checks recorded on file
2. No terms of engagement issued
3. Basis of value not stated
4. Insufficient and inadequate inspection and investigation notes
5. No comparable analysis or valuation calculation/justification on file

and in failing to prepare those valuations in accordance with the internationally recognised Standards there is a risk that the valuations may not be fit for purpose, **contrary to Rule 4 of the Rules of Conduct for Members 2007**

## **DETERMINATION**

### **1. Introduction**

- 1.1 The panel is convened to consider and determine the above charge, brought by the RICS in relation to Mr Watson. Mr Watson is a qualified Chartered Surveyor and has been a member of the RICS since 1985. Since 1997, Mr Watson has practised as the only member principal of the RICS regulated firm, Thomas Watson.
- 1.2 Mr Watson is a RICS registered valuer and practises principally in the areas of residential estate agency and valuation. Mr Watson describes the split of his work as being approximately 95% residential estate agency, with around 5% relating to Home Buyer Reports, Valuation Reports and reports for court purposes. This case relates to the latter, smaller part of his practice, being valuation work which is subject to regulations prescribed by the RICS Valuation Professional Standards; otherwise widely known as the RICS 'Red Book' (the 'Red Book'), comprising approximately 25 reports in total over the last twelve months.
- 1.3 On 18 February 2014, Mr Watson received a Regulatory Review Visit from Mr Peter Dixon, RICS Regulatory Surveyor (the Review Visit). Mr Dixon is a Chartered Surveyor and an employee of the RICS. During the course of the Review Visit, Mr Dixon reviewed four of Mr Watson's files in total: two relating to valuations conducted for the purposes of probate, a third relating to a Home Buyer report, and the fourth, a shared ownership valuation.
- 1.4 The nub of this case lies in the question as to whether, as contended by the RICS, Mr Watson has been conducting his survey and valuation work appropriately and in accordance with the relevant requirements published by the RICS, and in particular with the requirements of the Red Book. The Red Book sets out mandatory requirements in relation to the conduct of valuations, applicable to members of the RICS and incorporates widely recognised relevant international standards. Its purpose is described in the introduction of the Red Book (2012 edition) as follows:

*“The purpose of the RICS standards is to provide users of valuation services with confidence that a valuation provided by an RICS qualified valuer has been undertaken in compliance with the highest professional standards. It also assures users that the valuation is independent, objective and consistent with internationally recognised standards set by the International Valuation Standards Council (IVSC, see paragraph 2).”*
- 1.5 In short, it is not in dispute, and the Panel accepts, that the Red Book imposes important mandatory requirements in relation to valuation work on regulated members of the RICS, including Mr Watson. Compliance with the Red Book helps to ensure the consistency of high standards and,

above all, the protection of clients and the public, as well as members. The work reviewed by Mr Dixon required to be compliant with the 2014 edition of the Red Book, or, in the case of one file, the 2012 edition. It was accepted by both parties that there is no material difference between the two editions, insofar as pertinent to this case.

## **2. Findings of Fact**

- 2.1 The panel has considered carefully all of the documentary evidence produced, by both the RICS and Mr Watson. It has had the benefit of a written statement and report produced by Mr Dixon, in relation to which Mr Dixon spoke at the hearing and was available for cross-examination. The panel has considered carefully, in particular, the statement and submissions produced by Mr Watson. It has received and accepted legal advice from the legal assessor and has reminded itself that the burden rests with the RICS to establish the relevant facts to the standard of the balance of probabilities. The panel notes that there is material amongst the documentary evidence produced which is not directly relevant to the charge advanced by the RICS. The Panel has limited its consideration to the matters which form the subject matter of that charge.
- 2.2 The charge arises from criticisms identified by Mr Dixon in relation to the files he inspected, having regard in particular to the requirements of the Red Book. The panel notes that these various issues relate, not to Mr Watson's substantive underlying understanding, nor for that matter to his integrity as a professional. The issues and breaches alleged do however go crucially to his competence, relating in various respects to an alleged failure by Mr Watson to comply with RICS' requirements in relation to client engagement, the content and presentation of reports, and the maintaining of an appropriate audit trail. These are fundamental and basic requirements clearly stipulated in the Red Book and serve to reinforce the quality and consistency of valuation work, to the benefit of members of the RICS, but also, and most importantly, of the public. For example, it is essential to state the basis of valuation in order for the valuation to have meaning.
- 2.3 All of the facts, insofar as material to the charge, are admitted by Mr Watson. The panel finds them to be so proved, upon the basis of this admission, and in any event upon the basis of documentary and oral evidence presented in the case. It has had the benefit not only of the evidence of Mr Dixon, but of copies of the actual files to which Mr Dixon refers and from which the panel has been able to draw its own conclusions.
- 2.4 The panel accordingly accepts the findings set out in Mr Dixon's report, the contents of which were agreed by Mr Watson, and, in particular, his criticisms in relation to Mr Watson's failure to comply with the Red Book, a non-exhaustive list of which are detailed in the charge. The panel more particularly finds as follows:
- 2.4.1 The four valuation files examined by Mr Dixon were subject to the requirements of the "Red Book", as applicable at the relevant time.
- 2.4.2 Mr Watson failed in respect of all four files examined to record evidence of any conflict of interest checks being undertaken, in breach of the requirements of the "Red Book". The panel notes that Mr Watson undertakes personally all of the valuation work undertaken by his firm, that he relies on his memory in ensuring that he does not act when conflicted, and that he does maintain a computerised client and property database. This be it as it may, however, Mr Watson accepts that his files do not demonstrate that any actual conflict checks were undertaken. Reliance on memory is not acceptable. In particular, the absence of a documented conflict check means that the valuer is unable to demonstrate that a conflict check was undertaken at all.

- 2.4.3 In respect of three of the four files examined, there is no evidence that Mr Watson issued terms of engagement to his clients. As a result, in these cases, a number of important requirements of the “Red Book” were not satisfied in advance of the valuation work being undertaken. These requirements relate amongst other things to the importance of establishing in advance the parameters of the service offered, the property interest to be valued, the basis of value, any special assumption in relation to the valuation and the fee to be paid for the work; as well as providing assurance in relation to professional standards, information regarding the available means of client redress and details in relation to limitations of liability.
- 2.4.4 In respect of three of the four reports examined, Mr Watson failed either to state or define the basis of value for his clients, as required by the “Red Book” and of crucial importance in forming the basis of the valuation figure. Again, this is accepted by Mr Watson.
- 2.4.5 In relation to each of the four files examined, Mr Watson failed to produce adequate inspection and investigation notes. In relation to the first file, there were no notes of site inspection, investigation, analysis, calculation or reasoning in support of the opinion expressed in the report. The only document in the file was a brief letter offering an opinion of value. In relation to two of the other files, site inspection notes were very brief and failed to address all of the matters affecting value prescribed by the “Red Book”. In relation to the fourth file – the Home Buyer report – Mr Watson’s file notes did not address all matters affecting value, as required by the “Red Book”, and the applicable RICS Home Buyer Practice Note, and the report therefore appears to have been prepared on the basis of insufficient information.
- 2.4.6 The panel finds that none of the four files examined demonstrate evidence of comparable analysis or valuation calculation/justification methodology, to support the valuation reached in each case. In one case there is mention of some comparables in the valuation report, but this is not supported by evidence of actual analysis or methodology. That Mr Watson may have a deep understanding of his local market is not a sufficient basis for a valuation, and justification of the opinion will be difficult as it is not evidence based.

The panel accordingly finds the particulars of the charge to be proved.

### **3 Panel’s Decision**

- 3.1 The requirements of the Red Book, as relevant to this case, provide an important but basic and widely recognised regulatory framework, within which the RICS expects its members to operate. Mr Watson in a number of respects failed to do so. He failed to carry out his professional work with due skill, care and diligence and with proper regard for the technical standards expected of him, in breach of Rule 4 of the RICS Rules of Conduct for Members 2007 (the Rules of Conduct).
- 3.2 This breach of Rule 4 of the Code of Conduct is one which requires to be treated seriously from a professional perspective. The evidence reveals a pattern in Mr Watson’s work and approach which points to a fundamental neglect of core regulatory requirements. It is crucial, in the interests of the public, as well as members, that regulated valuation work is undertaken thoroughly and methodically, and is seen to be so undertaken. This is a key question of professional competence and underlines the confidence that the public is entitled to place in the work of RICS members. To the extent that they have not followed these important requirements, members of the RICS are likely to be exposed to criticism in the event their work is challenged, or brought into question. The breach is a serious one and does give rise, in the judgment of the Panel, to liability to disciplinary action for the purposes of byelaw 5.2.2(c). The Panel so determines.

## **4 Penalty**

- 4.1 In considering the question of penalty, the Panel has received and accepted advice from the legal assessor. It has reminded itself that it has a discretion whether or not to impose a penalty and of the importance that any decision it reaches is proportionate. The Panel has considered the relevant RICS policy guidelines and, in particular, the submissions in mitigation presented by Mr Watson. There was nothing to bring into question Mr Watson's integrity. He did not set out to breach the rules, nor has he benefited as a result. He is clearly experienced in his field, has accepted very positively the criticisms made of him and has acted upon them proactively in addressing the concerns raised. He has cooperated entirely with RICS and the disciplinary process and has demonstrated clear insight throughout his engagement since the Regulatory Review which gave rise to these proceedings. There is no evidence that any harm has occurred to the public arising from the breaches identified in this case.
- 4.2 It is a matter of some importance that individual members and the profession as a whole comply with the Red Book. Mr Watson has to date enjoyed an unblemished career. He has recognised that he has fallen short in his practice and approach, and has taken expeditiously appropriate steps to address the concerns identified with his practice. The panel is mindful, from the public interest perspective, of ensuring effective and consistent regulatory compliance, and that the high professional standards properly expected by the RICS are maintained. It accordingly determines that a penalty is necessary in all of the circumstances of this case. It considers, however, for all of these reasons, and recognising the substantial mitigation in this case, that it would be disproportionate to impose more than the lowest penalty of a caution. It so orders.

### **Determination on Publication and Costs**

## **5 Publication**

- 5.1 The Panel has considered carefully submissions from both parties in relation to publication. It has had regard to the relevant policy guidelines published by the RICS and in this case directs publication on the RICS website and in Modus, but not in a newspaper. The panel recognises in reaching this decision that Red Book valuations comprise a relatively small proportion of Mr Watson's business. It further recognises that the shortcomings and breach were remediable and that Mr Watson acted expeditiously in remedying them. The panel is for this reason assured that there is no ongoing risk to the public arising from Mr Watson's Red Book valuation work. It is satisfied that additional publication in a newspaper local to Mr Watson might be likely to have a disproportionate adverse impact on Mr Watson's wider business; one which is unwarranted in the circumstances of this particular case.

## **6 Costs**

- 6.1 The Panel has considered carefully submissions received from both parties in relation to costs. It has taken account of a statement of means submitted by Mr Watson. It considers that it would be proportionate for Mr Watson to pay a contribution towards the costs of the RICS in this case of £2,000. It so orders.

## **7 Appeal Period**

- 7.1 Mr Watson has 28 days, from the service of the notification of the decision, to appeal this decision in accordance with Rule 59 of the Disciplinary, Registration and Appeal Panel Rules.

In accordance with Rule 60 of the Disciplinary, Registration and Appeal Panel Rules, the Honorary Secretary of RICS has 28 days, from the service of the notification of the decision, to require a review of this Decision.