

**In the matter of
Case No. 03487 Mr K Molloy v Mr John Hards FARLA, Director of
Countrywide Residential Lettings Limited**

**Disciplinary Tribunal Hearing held on
Wednesday 8 June 2011**

Case of

Mr John Hards FARLA, Director, Countrywide Residential Lettings Limited, 7th Floor,
Grosvenor House, 125 High Street, Croydon, CR0 9XP

A member of ARLA

At

NFoPP, Arbon House, 6 Tournament Court, Edgehill Drive, Warwick, CV34 6LG

Alleged breaches as set out by the Disciplinary Caseworker

Bye-Law 1.11

Internal Complaint procedure

A Partner/Principal/Director (PPD) Member must maintain and operate (appropriate to its size and structure) a prescribed procedure to deal with formal complaints from clients and customers and an explanation of that process must be provided in written form to a complainant, upon request.

Bye-Law 4.6

Each full Member Firm must have an operate an internal (in-house) formal Complaint Scheme or Procedure, proportionate to the size and structure of the Member Firm, for dealing with (external) formal written complaints and/or disputes from a client, customer, consumer or other person to whom the Firm owes a duty of care in the normal course of their activities as a Residential Letting and Management Agent.

Incorporating

ARLA Code of Practice

Management – Clients and Tenants

M(i) - A Member Firm must manage a property in accordance with the law, the clauses of the relevant tenancy agreements and the Terms of Business with the client.

M(ii) - A Member Firm must respond promptly and suitably in the circumstances, to reasonable communications from clients and tenants or any other authorised or appropriate third party, particularly where these relate to statutory repairing or maintenance obligations or safety regulations.

M(ix) - A Member Firm must communicate promptly to client and tenant on any important issues or obligations relating to the use and occupation of the property, including significant breaches of the tenancy agreement that the Member Firm becomes aware of.

M(xi) - A Member Firm should have in place a system to ascertain, at an appropriate time, the tenants wishes and the landlord's instructions with regard to any extension and/or termination of the tenancy.

Complaint Handling – Members’ Internal Procedures

O(i) - As set out in the Association’s Bye-Laws, a Member Firm must have an in-house complaints procedure (appropriate to its size and structure) and any person wishing to make a formal written complaint about the standards of service received must be made aware (in writing) of those procedures upon request. Following the conclusion of the Member Firm’s in-house complaint process, where an impasse has been reached or a complainant remains unsatisfied; the complainant must be informed of the contact details for ARLA should they wish to pursue their complaint.

Mr G Wainwright acting for the Respondent entered a plea of not guilty to the alleged breaches in the member’s absence.

After hearing the respective submissions and having considered the evidence presented, the Tribunal found as follows:

Alleged Breach	Findings	Sanction
Byelaw 1.11	Not proven	N/A
Byelaw 4.6	Proven	£2,000 fine
ARLA Code of Practice M(i)	Not proven	N/A
ARLA Code of Practice M(ii)	Proven)
ARLA Code of Practice M(ix)	Proven	£1250 Fine
ARLA Code of Practice M(xi)	Proven)
ARLA Code of Practice O(i)	Not proven	N/A

Costs of £154.50 were awarded in favour of the NFOPP.

Publication

This determination falls within the NFOPP publications policy.

The Tribunal issued the following statement:

“The Tribunal greatly appreciates the attendance of both the complainant, who has travelled from Spain, and Mr Wainwright on behalf of Mr Hards.

There were two central themes to the complaint, firstly, the complaints procedure, and secondly, complaints about service, advice and communication.

The Tribunal considered that a complaints procedure cannot be operated satisfactorily if the complainant is not made aware that it is being operated. The Tribunal takes note that Countrywide have recently introduced new procedures.

Documentary evidence showed apologies that the service, advice and communication fell short of acceptable standards. This made the operation of the complaints procedure in a transparent fashion all the more important.

It should be noted that Mr Hards, as a Director is responsible for the actions of employees. The Tribunal has been advised that the employee concerned in this matter has been transferred from a client facing role.”