HOUSE OF COMMONS LIBRARY

DEBATE PACK

Number CDP-0088, 12 April 2017

Law of Property Receiverships; the role of surveyors

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This pack has been prepared ahead of the debate to be held in Westminster Hall on Tuesday 18 April 2017 at 6.30pm on the role of the Royal Institution of Chartered Surveyors in Law of Property Act receiverships. The debate will be opened by Jo Stevens MP.

The pack was originally prepared for when the debate was first scheduled, on Wednesday 22 March 2017 from 4.30-5.30pm.

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1. Background

The role of Surveyors as Law of Property Act receivers was previously raised in a debate by Jo Stevens in 2015 on a Serious Fraud Office investigation that concerned a constituent. One of the issues raised in the debate was around conflicts of interest between staff working for banks and property companies (surveyors):[1]

> **Jo Stevens:** I turn to the regulatory framework. In March 2015, the Business, Innovation and Skills Committee, under the chairmanship of my hon. Friend the Member for West Bromwich West (Mr Bailey), conducted an inquiry into the insolvency regime. At the inquiry on 4 March 2015, evidence was heard about the practice of seconding insolvency practitioners and surveyors within lenders' restructuring divisions. Mr Graham Horne, deputy chief executive of the Government's Insolvency Service, said that receivers should never work as active insolvency practitioners within a bank. Mr Julian Healey, head of the Association of Property and Fixed Charge Receivers, expressed concern about the impression the practice gave and concluded that if receivers on secondment also worked on the same bank's administration, there was "clearly" a conflict of interest.
>
> Mr Shabir made a formal complaint to the Royal Institution of Chartered Surveyors about Alder King's conduct. In its response, RICS specifically confirmed that Mr Julian Smith of Alder King was on secondment to Lloyds at the time of the valuation of Mr Shabir's portfolio, when he personally acted as the valuer, but also when he was appointed by Mr Jonathan Miles as the receiver. During the same period, Mr Jonathan Miles, as head of receiverships for Alder King, was embedded in Lloyds bank as Mr Shabir's allocated bank manager.
>
> Despite the evidence that Mr Horne and Mr Healey gave to the Select Committee, RICS somewhat astonishingly claimed to see nothing wrong with Alder King's practice. It responded as such to Mr Shabir shortly after the Select Committee hearing at which the chair of the RICS regulatory board, Eve Salomon, gave evidence. Although the alleged collusion and fraudulent misrepresentation were first identified and raised with Lloyds by Mr Shabir in 2010, responses have amounted to no more than stonewalling by successive levels of Lloyds management.
>
> **Mr Adrian Bailey (West Bromwich West) (Lab/Co-op):** As Chair of the Business, Innovation and Skills Committee at that time, and following personal representations from Mr Shabir, we did research into this matter. It indicated that there was a consensus across the professional bodies involved, apart from RICS, that the process demonstrated a clear conflict of interest. The bodies took it to the Minister, and I know the Minister made representations, but still absolutely nothing was done. Does my hon. Friend not agree that that reflects a serious deficiency in the monitoring process within the industry—one that results in the most devastating consequences to individuals and the economy?
>
> **Jo Stevens:** My hon. Friend is absolutely right. It is a huge gap in the regulatory framework that must urgently be addressed.

[1] HC Deb 16 September 2015 c373-4WH

As mentioned above, in March 2015 the Business Innovation and Skills Committee considered insolvency and took evidence from RICS representatives on their role in the process and possible conflicts of interest.

2. Overview of LPA receivership

A necessary starting position is to define a fixed and floating charge (see **Box 1** below).

Box 1: In the context of security, legal definitions of charges

- Broadly speaking, a charge is an asset which gives the lender the right (on default of a loan or debenture) to take a particular asset and appropriate its proceeds of sale to discharge the debt. A charge does not transfer ownership; it is merely an encumbrance on the asset.
- A fixed charge is a charge over a particular asset (such as a building, land, machinery) where the chargee controls any dealing or disposal of the asset by the chargor. Importantly, a fixed charge ranks above a floating charge in the statutory order of payment on an insolvency.
- A floating charge is a charge taken over all the assets or a class of assets owned by a company (or a limited liability partnership (LLP)) from time to time as security for borrowings or other indebtedness. Provided there is no default, a floating charge allows the charged assets to be bought and sold during the course of a company's business without reference to the charge-holder (i.e. the lender).

  The floating charge 'crystallises' if there is a default or similar event. At that stage the floating charge is converted to a fixed charge over the assets which it covers at that time. If default occurs, depending on when the floating charge was created, the charge-holder may be able to appoint an administrative receiver or an administrator (see Box 3 below).

2.1 Appointment of an LPA receiver

A receiver of mortgaged property can typically be appointed either as:

- an LPA receiver, pursuant to the Law of Property Act 1925 (sections 101(1), 103 and 109 of the LPA 1925); or
- a fixed charge receiver, pursuant to the terms of the mortgage document

The circumstances in which an LPA receiver can be appointed are restricted under the LPA 1925. Specifically, under section 109 the power to appoint only arises when the mortgage money becomes due (see **Box 2** below).[2]

An LPA or fixed-charge receiver need not be a licensed insolvency practitioner

Therefore, in modern security documents, it is typical for the mortgagee (i.e. the lender) to grant itself the right to appoint a fixed-charge receiver in less restrictive circumstances, thereby giving the receiver all of the powers of an LPA receiver under the LPA 1925 plus the additional powers expressly set out in the security document. It is rare for a commercial lender to rely on the limited powers provided by the LPA 1925.

If a property has more than one charge registered against it, securing other loans, then the LPA receiver has to take these into account as well

[2] That said the statutory power to appoint a receiver under the Law of Property Act 1925 can be varied by deed

(priority being determined by the date of registration of the charges at the Land Registry). What this means in practice is that if there are several charge-holders over the same property and a second receiver is appointed – he can still act, but the charge-holder who appointed the first receiver has priority to receive any proceeds of sale

A final important point to note is that where an administration order[3] is made, a receiver must vacate office if the administrator requires him to.

Box 2: Definition of a LPA receiver

- A LPA receiver is a person appointed by a lender (usually a bank) holding a fixed charge over property, to enforce that charge over the property.
- A lender holding a fixed charge or mortgage has a right to appoint an LPA receiver pursuant to section 101(1)(iii) of the LPA 1925 once the secured debt has become due.
- The LPA 1925 confers very limited powers on the receiver. However, powers can be modified and extended by express provisions in the security document.
- LPA receivers are usually appointed by lenders with the aim of selling the charged property or collecting the rental income from it to repay the debt.
- An LPA receiver will not necessarily be a licenced insolvency practitioner (e.g. he/she might be a surveyor, valuer or accountant).

2.2 Powers of an LPA receiver

An LPA receiver has the powers and duties specified in, and limited by, section 109 of the LPA 1925. For example, these statutory powers do not include the power to sell the charged property.

The statutory powers of an LPA receiver are limited and are almost always extended by the relevant charge

However, powers can be (and usually are) modified and extended by express provisions in the security document. In particular, the receiver is usually empowered to sell the mortgaged property and execute a conveyance or transfer of it in the name of the borrower. [4]

The LPA 1925 provides the following order for distribution of money received:

- to discharge all rents, taxes and outgoings affecting the mortgaged property;
- to pay all annual sums (and the interest on all principal sums) having priority to the mortgage;
- to pay the receiver's commission and all insurance premiums payable under the mortgage deed or under the LPA 1925, together with the cost of repairing the property as directed in writing by the lender;
- to pay the interest accruing under the mortgage; and

[3] Company administration is a formal insolvency procedure. It provides a viable company, in financial difficulty, with a breathing space in which to restructure and rescue the business. It involves the appointment of an administrator, a licensed insolvency practitioner, who works with the company to put together proposals to rescue the company. The Enterprise Act 2002 introduced a much simpler procedure for obtaining an administration order. The aim being to encourage a 'rescue culture'.

[4] The power to hold and dispose of the mortgaged property and the power to execute in the name and on behalf of the borrower will survive liquidation of a company (Sowman v David Samuel Trust Ltd ([1978] 1 All ER 616)

- to discharge the principal money if so directed in writing by the lender
- Any remaining sums should be passed to the mortgagor (i.e. the borrower). This order for distribution may be varied by the mortgage deed and will not apply to a fixed-charge receiver appointed pursuant to the provisions of a mortgage deed as opposed to the LPA 1925.
- It is important to note that sale of the property subject to a fixed charge may be only one option available to the lender. A receiver could be authorised to occupy the property in order for a business to continue trading.

2.3 Role of an LPA receiver

Box 3: Primary function of an LPA receiver

- The fixed charge is generally over a commercial property (such as a hotel, a public house, a nightclub) or an investment property held for rental income.
- Once the borrower is in default, the LPA receiver's primary function is to take control of a property subject to the fixed charge, and to receive income from the property. Often, the receiver will arrange the sale of the charged property.
- The LPA 1925 provides a strict order for distribution of money received.
- The process is not for the benefit of creditors as a whole.
- The appointment of an LPA receiver is an effective way to protect a charge-holder's security against other parties and to prevent the borrower from disposing of land secured by the fixed charge.

As outlined in **Box 3** above, the LPA receiver's primary function is to ensure payment of the debt owed to the lender. This involves taking control of the property and, effectively, standing in the shoes of the owner. In many cases the task is then to arrange an early sale of the property in order to repay as much of the loan as possible. The receiver has full discretion as to how to deal with the property; if obtaining planning permission or some other action can improve the realisable value, the receiver may decide to pursue the opportunity but is not obliged to do so.

It is crucial to note that an LPA receivership is not intended to be for the benefit of creditors as a whole and there is no statutory moratorium during this process.

Once appointed, a receiver acts as the agent of the borrower (i.e. the mortgagor) and not of the appointing lender. In practice, this means that the borrower is solely responsible for the receiver's acts or omissions unless the mortgage deed provides otherwise. This agency relationship ends once the mortgagor is placed into liquidation.

Unless they have specifically contracted out, a receiver is personally liable on any contract entered into by him in the performance of his functions and on any contract of employment adopted by him in the performance of his functions. However, a receiver will not be taken to have adopted a contract of employment by reason of anything done or omitted to be done within 14 days after his appointment. In practice, a

receiver may negotiate with the lender a specific deed of indemnity to cover him.

A LPA receiver may be removed and a new receiver appointed, if directed in writing by the charge-holder. In other cases, the receivership will come to an end once the receiver has realised assets to satisfy the debt of the charge-holder who appointed him/her. The receiver must notify the Registrar of Companies of the termination.

2.4 Qualifications

An LPA receiver need not be a licensed insolvency practitioner (in contrast to administrators, liquidators and trustees in bankruptcy). A charge-holder (i.e. a lender) can, and often does, appoint a surveyor or a valuer as the LPA receiver. An appointment of a surveyor or a valuer is particularly useful if the land charged is an investment property with a number of tenants, and the LPA receiver is required to deal with the management of the property (e.g. rent collection or rent review negotiations).

There is no single regulatory body for LPA receivers. Since LPA receivership is not an insolvency process, it is not regulated by the Insolvency Service. However, the receiver may be a member of a professional trade body (such as RICS). As a last resort, an aggrieved party may be able to make an application to the court to consider or overturn an action or omission by the LPA receiver. However, this would involve legal costs, and there would be no guarantee of success.

3. Regulation of surveyors

The Royal Institute of Chartered Surveyors (RICS) regulate surveyors, who are one of the professions who may act as LPA receivers. The RICS is an independent professional body which regulates and promotes the property profession. It is independent of Government and set up by Royal Charter. It sets rules of membership and professional standards and can take disciplinary action against its members for breach of these rules:[5]

> We are one of a number of professions operating under a self-regulation model, which means our members aren't regulated by government but are internally monitored and inspected. Our self-established standards of regulation meet, and in some cases surpass, the Government's own principles on better regulation.
>
> Consumer protection and the development of the profession for public advantage are very much at our core. These are the reasons we have retained our Royal Charter status for well over a century. We are very proud of this position and recognise the responsibility placed upon us. This is why we are consistently working to ensure we set the standards for professional regulation, not just in the UK but around the world.

The RICS website, for example, sets out *Ethics and Professional Standards*.and *Rules of Conduct* . RICS has a complaints process in relation to its members.

On 14 March 2017 the RICS announced new rules to deal with conflicts of interest, with the press release stating (see full release at end of this paper):[6]

> New mandatory requirements on conflicts of interest for land, property, construction and infrastructure industry.
>
> **Download the new standard**
>
> - New conflicts of interest requirements for RICS professionals launched following extensive industry consultation.
> - New global rules launched with mandatory requirements for UK commercial property investment market that bans controversial practice of dual agency.
> - All RICS professionals and regulated firms will be required to meet the new standard to be effective from 1 January 2018.
> - Major UK REITS, Land Securities and SEGRO commit to adopting new requirements ahead of 2018 deadline.

3.1 Possible conflict of Interest in the LPA process

Concerns have previously been raised that surveyors acting as LPA receivers can have conflicts of interest. In March 2015 the Business

[5] RICS Website, *Royal Charter and byelaws*
[6] RICS Website, "*RICS unveils plans to get tough on conflicts of interest*", 14 March 2017

Innovation and Skills Committee considered insolvency and took evidence from RICS representatives on their role in the process and possible conflicts of interest. In addition RICS provided written evidence which set out their complaint handling policy and a statement on conflicts of interest in response to concerns raised by the Committee:[7]

> …The central issue of regulation and qualifications of fixed charge receivers was discussed at the session. We reiterate our belief that all fixed charge receivers should be subject to the same level of regulatory rigour. As such we would welcome any move to bring a statutory requirement for fixed charge receivers to hold minimum qualifications and be subject to professional regulation. In such circumstances RICS would seek to be a designated professional body.
>
> We are aware that the Committee has received information relating to two complaints by borrowers whose former property was subject to fixed charge receivership during the financial crisis and we are therefore including some information about how we handled these complaints, whilst seeking the Committee's understanding that it is not possible (or appropriate) to examine the full detail of individual complaints in this context. We have, however, conducted an in-depth investigation into both.
>
> **How we handle complaints**
>
> During the committee hearing RICS was referred to as a trade body. Above all else we would like to stress that we are a professional body governed by Royal Charter, which requires us to uphold the public interest. Our role is to set and maintain standards in the profession, not to represent the commercial interests of any one group of our qualified members or the profession as a whole.
>
> We are fully committed to transparent, accountable and arm's length professional regulation and we have set up a regime to ensure this, which is overseen by our independently chaired regulatory board.
>
> RICS received and dealt with over 1200 complaints last year based on a total membership of over 118,000, and 549 cases were formally investigated as a result of complaints or from our own monitoring activity. In 2014, 216 sanctions were issued (excluding cautions for non-completion of CPD).
>
> RICS regulates qualified chartered surveyors and regulated firms for competence, conduct, service and business protection (insurance and clients' money). We do not determine on or offer financial redress which is dealt with via alternative dispute resolution (ADR) or the courts. All of our members are required to offer recourse to ADR to their clients, notably via an Ombudsman in the case of consumers (Ombudsman Services (Property) is the main ombudsman used by RICS members for consumer matters). Non-consumer redress, in a variety of forms of dispute resolution, is available including our own dispute resolution service.
>
> Where the conduct or competence of a member or regulated firm is in question we will undertake an independent investigation. This may be led by a member of RICS regulation staff, ensuring independence from any commercial interests, or in some instances outsourced to appointed solicitors. Where a complainant or other

[7] Supplementary written evidence from RICS to the Business Innovation and Skills Committee, 9 March 2015

party is unhappy with the way in which a case has been handled (rather than the outcome) we have an internal escalation process, culminating in consideration by an independent (external) reviewer. If a complainant is not content with the outcome of an investigation which has been closed, they are of course entitled to apply for a judicial review to challenge the decision.

Where we find against the member or firm in favour of the complainant there are a variety of sanctions ranging up to expulsion from RICS, and of course there is a formal appeals process open to defendants.

Conflicts of interest

We take the ethical conduct of our professional members very seriously. A conflict of interest is anything that has the potential to impede an individual's or firm's ability to act impartially and in the best interest of a client. The onus is on the individual chartered surveyor to identify and disclose to the client any factor which poses or has the potential to cause a conflict of interest.

It is impossible to set out prescriptive rules which govern all situations and, in judging compliance with our standards, RICS investigates whether the firm has appropriate systems in place and whether the individual professional has effectively considered possible factors that may lead to a conflict of interest. We then assess whether they have been transparent with their client(s) or any party who relies on their advice and have made a reasonable judgement as to whether it is appropriate to act.

In the case of receivership the primary duty of care is to the lender who is the appointer, and the basis for the appointment of the receiver is generally set out in the mortgage deed agreed between the borrower and the lender. There is also a duty of care to the borrower and other parties (such as a guarantors), the limits of which the law is very clear on, and this has been upheld in recent cases, namely that of getting the best price.

Where a property is sold by the receiver on the instruction of the lender it is in the interests of both the lender and the borrower to get the best price, and indeed it is the duty of the receiver to both of these parties, and other creditors, to achieve this and exercise due skill and attention.

When a lender makes the decision to appoint a Fixed Charge Receiver we do not see that there is an inherent divergence between the interests of the lender and the borrower as far as getting the best price for the asset that can reasonably be achieved. Practitioner feedback received is worthy of note here, which tells us that the market generally responds positively to a property subject to a Fixed Charge Receivership. The existence of the receiver delivers a higher degree of certainty that a transaction will take place and this can often translate into higher levels of interest and thus more buyer activity and competitive bidding that drives up value.

In the circumstances where a receiver is appointed and they or their firm has previously provided general or asset-specific advice to the lender (whether seconded or externally) a borrower may feel that this affects the receiver’s professional judgement. We do not believe this is inherently the case and indeed the firm which has previously provided advice on an asset may be better acquainted with it and able to act more efficiently and at lower cost than appointing a receiver from a different firm. This has been normal practice across professions in their advisory

relationships with lenders where recovery advice is concerned: the central aim is the most efficient realisation of the asset (in terms of both speed and cost).

In the very small number of cases we have investigated recently where a conflict was alleged (by borrowers), we have not seen any evidence that demonstrates the borrowers or lenders concerned were disadvantaged in any way by the outcome, and while we recognise the distress of the borrower in such difficult circumstances, we do not see there was any failure to uphold professional standards.

When a loan is in default the fixed charged receiver's advice to a lender is on how to derive best value; a decision to exit can only be made by the bank itself, based upon the facts as given by the advisor. Advice given is on value, market conditions and how best to maximise value. In the cases referred to above we were satisfied that the secondees were not in a position to influence the decision to appoint a receiver – this was made by the bank and the properties in question were eventually sold on the open market thereby indicating that they exchanged at market value (albeit in a very distressed market). We have seen evidence that the lender was also transparent to the borrower about the identity of the fixed charge receiver and no complaint was received at the time.

The other area of focus in the complaints referred to above, was an allegation about the integrity of a chartered surveyors who undertook valuations provided prior to a receivership appointment being taken. The allegation made was that the valuer purposefully down valued the property in order to gain a receivership appointment for his firm subsequently. We have investigated this thoroughly including an on-site inspection of the valuation files in question by two reviewers and we have found no evidence of any wrong doing.

However, we constantly review the need for any amendments to our guidance against the background of market developments and expectations and we will keep the government informed on changes and developments in our guidance as well as closely monitoring changes in guidance produced by other bodies in the field of insolvency.

4. Treatment of borrowers in distress

4.1 Retail

When one hears of mortgage holders one tends to think of the retail mortgage market in which people buy homes with a mortgage from one of the banks, building societies or more specialised lenders. The 'tone' of regulation in this market is an acceptance that sometimes things go wrong, but that the customer should be treated fairly throughout whatever the process is that unwinds the transaction – often repossession and sale of the property.

The way in which mortgage lenders (and other retail lenders for that matter) treat their customers when a loan becomes 'problem debt', is a regulatory matter. With respect to mortgage lending, and other retail financial services, it is the regulator, the Financial Conduct Authority (FCA), which has overall responsibility for the rules rather than government direct.

The FCA has adopted a two stage approach in trying to limit the problems caused by unsustainable debt. First, it tries to ensure that lenders follow principles of 'responsible lending'. Restrictions on lenders' ability to lend has been most obvious in two markets – mortgage lending and the sub-prime, pay day lending market. The sort of mortgages which were available pre financial crash, such as the Northern Rock 'Together' mortgage which lent 125% of the property value are simply unthinkable now.

Second, it urges lenders to have reasonable process in place to deal, sympathetically, with people in distress. It is the mortgage and sub-prime markets which areas that have received especial attention from the FCA. The payday lending market has received particular attention as Wonga discovered.

Regarding the treatment of people in trouble meeting their mortgage payments, or as in this case the problem is in extracting oneself from the difficult position of negative equity, there is a general rule covering all lenders to treat customers fairly. The rules are set out in more detail in the FCA Handbook (rulebook) in 'MCOB', specifically, in MCOB 13.5 and MCOB 13.6.

There has been a fairly recent review by the FCA of how the responsible lending rules regarding mortgages have worked, which can be seen here.

4.2 Commercial

It has always been the case that firms which are put out of business by their banks would have been 'fine' if only the bank had been more sensible/ had taken a longer view/ extended the overdraft a bit higher/ lent them more money – or so say the firms and business owners. For the banks the perspective is different. Banks must balance supporting a

client whilst bearing in mind the old adage of 'throwing good money after bad'.

In recent years there have been examples where it is claimed that banks have acted against the interests of particular clients in order to help meet their own corporate objectives fashioned in part by new regulatory requirements post financial crash. This debate is likely to provide one such example.

A further example involved RBS and its global reconstruction unit.

The best single place to look at this is the part in the Treasury Committee Report into small firm lending here. (TSC 11th Report: Competition and Conduct in SME Lending; March 2015).

In short:

> 54. In November 2013, Lawrence Tomlinson, then Entrepreneur in Residence at the Department for Business, Innovation and Skills, made a number of allegations against RBS in his report entitled *Banks' Lending Practices: Treatment of Businesses in Distress*. Principally, he alleged that RBS was "unnecessarily engineering" businesses into default in order to move the business from local relationship management to turnaround divisions—such as GRG. He alleged that the purpose of doing so was to generate revenue through "fees, increased margins and devalued assets".[85]
>
> […]
>
> 56. In response to Dr Tomlinson's report, RBS asked law firm Clifford Chance to review and report on the "principal allegation" of Dr Tomlinson's report. Clifford Chance was asked by RBS to investigate the allegation that RBS was "guilty of 'systematic and institutional' behaviour in artificially distressing otherwise viable businesses, putting its customers 'on a journey towards administration, receivership and liquidation'".[91] The Clifford Chance report focused on a sample of customer files that was intentionally compiled in a way that was, according to Clifford Chance, "more likely to identify facts adverse to the bank", interviewing 138 customers and reviewing 130 files.[92]

The major difficulty for the FCA was that under the law (*FSMA 2000*) commercial lending **was not a regulated activity**. Hence it had little locus in which to act. The scale of the complaints, coming on top of the very similar interest rate swap problems, and a certain amount of political clamour ensured that something had to be done.

The 'official' compromise response from the FCA was to set up a requirement for complaints to be heard by an independent review. Cases would be overseen by a 'skilled person' familiar with the case. Small firms thought that the skilled person was acting on their behalf, but this was not how it worked in practice for many firms. There is considerable bitterness amongst a group of small business owners who saw their businesses dismembered, in their view, unfairly.

5. Press release

RICS

RICS unveils plans to get tough on conflicts of interest

14 Mar 2017

New mandatory requirements on conflicts of interest for land, property, construction and infrastructure industry.

Download the new standard

New conflicts of interest requirements for RICS professionals launched following extensive industry consultation.

New global rules launched with mandatory requirements for UK commercial property investment market that bans controversial practice of dual agency.

All RICS professionals and regulated firms will be required to meet the new standard to be effective from 1 January 2018.

Major UK REITS, Land Securities and SEGRO commit to adopting new requirements ahead of 2018 deadline.

RICS is tightening up requirements for professionals and regulated firms working in land, property, construction and infrastructure, with the publication today of a new global professional statement on conflicts of interest.

Following on from this, in April, RICS will be publishing an additional UK-specific professional statement for the commercial property investment market that bans the controversial practice of dual agency - known colloquially as 'double-dipping'. Both of these standards will be effective from 1 January 2018.

The new global professional statement, which will become mandatory next year, is being launched today at MIPIM, (a major international real estate exhibition and conference held in Cannes, France) having been developed as the result of an extensive consultation that saw industry professionals and regulatory experts offer their views.

Key findings

The key findings from the global consultation showed that respondents would like to see RICS address:

- definitions of confidentiality.
- full disclosure and transparency between parties.
- the practice of ''dual agency" in the UK commercial property investment market.
- tighter rules around multiple agency relationships.

The new requirements aim to address these concerns, providing both greater confidence for investors and increased clarity for RICS professionals.

Michael Zuriff, Americas Director of Regulation for RICS said:

> "Conflicts of interest in the property sector in the Americas pose a serious risk to the public trust and confidence. RICS professionals working under this practice statement should boost trut and confidence in the industry by increasing transparency and openness in the global land, property, construction and infrastructure profession".

The new UK professional statement will now see the controversial practice of dual agency, whereby agents act for both sides in an instruction, banned in the UK.

On a global level, multiple agency relationships will now only be permissible with informed consent and, the professional statement introduces better processes for managing that consent and promoting transparency. The professional statement will also offer clearer guidance on confidentiality, building greater understanding of where the information gained during a transaction should not be used.

Following launch of the global statement and the UK-specific statement, RICS will seek to review the practice of dual agency outside of the UK market, including the Americas, and consult on the requirement for further market specific standards. Already, some of the best-known commercial property firms, such as SEGRO, JLL and Land Securities have indicated their support for the new standards.

> It is vital that agents and real estate professional advisers are seen to adhere to the highest standards, conducting themselves with the greatest integrity. For too long public trust in the industry has been blighted by concerns around conflicts of interest. Action urgently needed to be taken and I'm pleased to see that RICS has taken the lead in banning the practice of 'dual agency' or 'double-running'. Across our industry, we should view this as a very welcome move.

David Sleath, CEO of SEGRO plc

RICS believes that it is uniquely placed to provide world-class standards for a global profession in land, property, construction and infrastructure. Regulating the profession in a way that holds it to this promise is vital to inspire confidence among clients and the public.

The RICS professional statement on conflicts of interest, is being launched today at MIPIM by RICS Chief Executive Officer, Sean Tompkins.

6. Parliamentary material

Debate

Westminster Hall debate **Alun Richards and Kashif Shabir: SFO**

HC Deb 16 September 2015 | Vol 599 cc391-

https://hansard.parliament.uk/Commons/2015-09-16/debates/15091640000003/AlunRichardsAndKashifShabirSFO

BIS Committee evidence session

House of Commons Business, Innovation and Skills Committee Oral evidence: **Insolvency**, HC 936-i Wednesday 4 March 2015

http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/business-innovation-and-skills-committee/insolvency/oral/18460.pdf

PQs

Lloyds Bank

Asked by: Irranca-Davies, Huw

To ask the Attorney General, pursuant to his contribution of 16 September 2015, Official Report, columns 384-5WH, on Alan Richards and Kashif Shabir: SFO, what the threshold is for an investigation by the Serious Fraud Office.

Answering member: Robert Buckland | Department: Attorney General

The Serious Fraud Office (SFO) takes on the most serious or complex fraud cases, including cases of bribery or corruption. In considering whether to take on an investigation, the Director of the SFO applies his Statement of Principle, which includes consideration of:

- whether the apparent criminality undermines UK PLC commercial or financial interests in general and in the City of London in particular,
- whether the actual or potential financial loss involved is high,
- whether actual or potential economic harm is significant,
- whether there is a significant public interest element, and
- whether there is new species of fraud

The SFO also pursues criminals for the financial benefit they have made from their crimes, and assists overseas jurisdictions with their

investigations into serious and complex fraud, bribery and corruption cases.

HC Deb 20 January 2016 | PQ 22432

Law of *Property Act* 1925

Asked by: Rehman Chishti

To ask the Secretary of State for Justice (1) what recent assessment his Department has made of the value of property sold by receivers appointed under the Law of Property Act 1925 in the last year;

(2) if he will introduce a register for receivers appointed under the Law of Property Act 1925;

(3) how many people have (a) sought and (b) obtained compensation through the courts for breaches of the Law of Property Act 1925;

(4) what minimum qualifications receivers appointed under the Law of Property Act 1925 have to hold.

Answering member: Damian Green | Department: Justice

Law of Property Act Receivers ("LPA Receivers") are appointed by secured lenders ("mortgagees") to take over and manage mortgaged premises either under the power contained in the Law of Property Act 1925 ("the Act") or an express power in the mortgage. The Act does not specify any minimum qualifications for appointment as a LPA Receiver.

The Ministry of Justice has not assessed the value of properties sold by LPA Receivers and has no plans to introduce a register of LPA Receiver appointments. The Department will, however, continue to keep the law relating to LPA Receivers under review.

The Act covers a wide range of matters relating to general property law. Statistics are not collected on the number of people who have sought and obtained compensation through the courts for breaches of the Act either generally or against LPA Receivers. Such information could be obtained only at disproportionate expense.

HC Deb 06 March 2014 | PQ 183553 | Vol 576 cc935-6W

Law of *Property Act* 1925

Asked by: George Eustice

To ask the Secretary of State for Justice what recent assessment his Department has made of trends in the number of receivers appointed under the Law of Property Act 1925.

Answering member: Mrs Grant | Department: Justice

The Ministry of Justice has not made any recent assessment of trends in the number of receivers appointed by mortgagees under powers conferred either by the express terms of the relevant mortgages or by

the Law of Property Act 1925. Such appointments do not have to be registered with or notified to the Ministry of Justice or any other third party. Information about them is therefore not centrally collated.

HC Deb 16 Apr 2013 | PQ 149150 | Vol 561 c314W

Insolvency

Asked by: Stuart Andrew

To ask the Secretary of State for Justice (1) whether his Department has had discussions with mortgage lenders on the provisions relating to receivership in the Law of Property Act 1925;

(2) whether his Department plans to review the provisions relating to receivership in the Law of Property Act 1925.

Answering member: Mrs Grant | Department: Justice

Officials at the Ministry of Justice have had discussions with members of staff at the Council of Mortgage Lenders ("CML") and employees of some mortgage lenders about Law of Property Act receivers ("LPA Receivers") during the current Parliament. The discussions related to the Secured Lending Reform Bill introduced by my hon. Friend the Member for Camborne and Redruth (George Eustice), in 2010 and the guidance issued by the CML for its members on the role of LPA Receivers in 2011. The Department has no current plans to change the law relating to LPA Receivers but will continue to keep the situation under review.

HC Deb 12 February 2013 | PQ 142605 | Vol 558 c654W

7. Useful links and further reading

Council of Mortgage Lenders CML Guidance for Lenders on the role of LPA receivers – February 2011

NARA The Association of Property and Fixed Charge Receivers Guide to Property Receivership March 2013

RICS Fixed Charge Receivership January 2015

DEBATE PACK
Number CDP-0088
12 April 2017

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