

In the matter of
Case No. X0056022
Mr. M Graham v Mrs. C Fox MARLA MNAEA

Disciplinary Tribunal Hearing held on
Wednesday 7th November 2018

Case of

Mrs. Cheryl Fox MARLA MNAEA, Director of Prickett & Ellis Property Management Limited, t/a Prickett & Ellis Property Management, 205 Park Road, London, N8 8JG

Mrs is a member of ARLA and NAEA

at

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

**Alleged breaches as set out by the Case Officer:
NAEA Rules of Conduct**

Rule 2

General duty to uphold high standards of ethical and professional practice

Rule 2(1)

A member shall conduct his/her practice so as to conform with the laws relevant thereto.

Note: A member is responsible for informing him/herself as to the requirements of the law and no attempt has been made to write them all into these rules. The association is prepared to give general advice as it can, but where necessary members should seek specific professional advice. In the case of the Estate Agents Act 1979 the Association has issued guidance to which members should refer in the first instance for advice in respect of that part of their practice which is covered by the Act. A warning or banning order under that Act against a member would call into question his suitability or, in some cases, eligibility to continue as a member.

Rule 2(2)

No member shall do any act (whether in the business of estate agency or otherwise) which:

- (a) Involves dishonesty or deceitful behavior; or
- (b) Involves unprofessional practice or practices that is unfair to members of the public; or
- (c) In any other way brings the Association into disrepute

Note: The purpose of Rule 2(2) is to enable disciplinary action to be taken against certain kinds of disgraceful behaviour which may adversely affect the public when dealing with a member, or are seriously detrimental to the Association, but which are not covered by another more specific Rule. It is not intended to differ from the spirit of the rules as a whole, nor to limit the freedom of members to conduct their businesses competitively. This is the only Rule which applies to a member's conduct

generally and is not confined to estate agency. Conviction on a criminal offence is not necessary for proceedings under the Rule as misconduct may be evidenced in other ways, and successful proceedings against a member in a criminal or civil action do not necessarily imply a breach of this rule.

Rule 2(3)

A member who is a principal shall be responsible for the proper supervision of his/her partners, fellow directors and staff in the conduct of his/her business and shall be liable under these Rules of conduct for any breaches of the Rules of Conduct committed by others within their control.

Rule 9

Duty to protect and promote clients’ interests

A member shall use all due diligence in looking after his clients’ business and shall take all reasonable steps to protect and promote the clients’ interests as are practicable, without improper conduct, or fairness to members of the public.

Note: While the main duty is to one’s client with whom an agreement has been made and to whom one looks or remuneration, this Rule should be read in conjunction with Rule 12

After consideration of the facts and submissions the Tribunal found as follows:

Alleged Breach	Findings	Sanction
Rule 2(1)	Not proven	N/A
Rule 2(2)(a)	Not proven	N/A
Rule 2(2)(b)	Proven	} } }
Rule 2(2)(c)	Proven	} £750 }
Rule 2(3)	Proven	} } }
Rule 9	Proven	£250

The sum of £294 was imposed on the member towards the costs of the hearing.

The case falls within the Propertymark Publications Policy.

The Tribunal issued the following statement:

“We thank you for coming here today and producing evidence.

We are disappointed that the matter has come this far but just to clarify, in the impact statement you mention wishing for a sincere apology, compensation, etc. That is not within our remit and remains a matter entirely between you and the Respondent.”