



**British Property Federation response to:**

**Proposed implementation of ARMA-Q: Self Regulation of ARMA members.  
January 2013**

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*Introduction*

1. The British Property Federation (BPF) is pleased to respond to the Association of Residential Managing Agent's consultation on ARMA-Q and the proposed self-regulation of ARMA members.
2. The British Property Federation is the voice of property in the UK, representing companies, owning, managing and investing in property. This includes a broad range of businesses comprising commercial and residential property owners, housing associations and financial institutions including pension funds, corporate property owners as well as a number of regional landlord associations. A list of our largest members can be found at the following link: [http://www.bpf.org.uk/en/members/our\\_members.php](http://www.bpf.org.uk/en/members/our_members.php)

*Structure of this submission*

3. We welcome the introduction of ARMA-Q and are supportive of its aims and objectives. We agree that separating out the two functions of member representation as a trade body, and acting as regulator through ARMA-Q, will help to eliminate conflicts of interest. Creating an independent panel of lay people and members is a good step in helping to achieve objectivity and transparency and we fully support the decision to appoint Keith Hill as regulator. We also believe that the Charter and the Standards, plus the publication of disciplinary action, will ensure that ARMA members remain aware and compliant of their duties to their clients and this should in turn create a greater sense of transparency and confidence in the system.
4. As outlined in the document, we have provided responses to the specific questions posed by the consultation. We would be delighted to provide any further information or clarification on any aspect of our response on request. In the first instance, please contact Stephanie Pollitt, Senior Policy Officer, Tel: 0207 802 0104 or Email: [spollitt@bpf.org.uk](mailto:spollitt@bpf.org.uk)

**Q1) Do you think compliance with the Consumer Charter will ensure best practice and increase consumer confidence?**

5. We welcome the introduction of a Consumer Charter and believe that it will further strengthen consumer confidence in ARMA members. In order for the charter to be effective and the self-regulation behind it, consumers must be aware of it. Whilst display of the charter will enable consumers to see that a managing agent is seeking to abide by the charter's terms, the credibility of the overall self regulatory scheme will require other efforts to promote it. Our experience is you cannot do enough promotion of such schemes and should seek to maximise every cost-effective opportunity to make consumers aware of them. It wasn't clear whether, for example, the requirement for display was in one place or every block the agent managed. It may be prudent to encourage managing agents to also issue the charter to any new client so that they are aware of the terms by which the managing agent is governed. The charter, or some accompanying document, should outline the process that can be undertaken should a client feel that the service they are receiving does not comply with the charter terms. The complaints procedure should be simple and accessible to all and should seek to gain a resolution within a specified time frame.

**Q2) Standard 3.3 expands upon current requirements in terms of declaration. Do you think this declaration is acceptable?**

6. We agree that such a declaration should be made. Contracting with associated companies may be best for the consumer, but the lack of transparency generates suspicion, which is occasionally well-founded. The declaration could be more specific in terms of tightening up some of the definitions. 'Related income' is too imprecise and should categorically state that where income has been earned by any associated company, it should be declared. Furthermore, the definition of an associated company should be extended to be an 'associated business' which will include any related business regardless of whether or not it is incorporated and whether or not it is wholly or partially owned. Finally the definition of 'interest or related income or benefit' is too broad and thus should be clarified as to whether this it is revenue or earnings. We would also like a clear indication of when the declaration will be made i.e. when budgets for the forthcoming year are issued.

**Q3) Standards 5.2 c expands on current guidance. Do you think this will be an improvement for the consumer?**

7. We agree that a clearer declaration on how accounts will be maintained and managed will provide greater assurance to clients. We have supported implementation of s156 of the Commonhold and Leasehold Reform Act, and welcome the lead that ARMA has taken in pushing forward on this in the absence of legislative provisions being implemented. What is perhaps not clear on this issue to the consumer is what would happen if there was a breach. Is the consumer's money protected? It was mentioned at the recent consultation meeting that the Financial Services Compensation Scheme would protect 85% of consumers' funds, but not particularly clear what criteria would apply and therefore in what circumstances consumers may or may not rely on such protection. This needs to be explained in the Charter or Standards perhaps as an annex, providing information on how the scheme offers protection, to whom it protects and how best to make a claim.

**Q4) Standard 5.2.4 expands on current guidance. Do you think this will be an improvement for the consumer?**

8. We fully support this but would like to see greater clarification of what a 'reasonable time' constitutes. Further clarification could also be provided as to whether the length of this timeframe will be agreed by both parties to ensure that clients are not waiting unnecessarily.

**Q5) Standard 5.5.h expands upon current requirements in terms of declaration. Do you think this declaration is acceptable?**

9. We are supportive of the disclosure of information relating to insurance but are disappointed that the statement does not compel the managing agent to proactively supply this information rather than provide it on request. In terms of improving transparency, if the managing agent were to openly provide this information at the outset, we feel this would encourage greater openness between themselves and the client. It may also limit any queries or disputes further down the line as the managing agent can deal with any queries during the submission of the disclosure. We also feel that it should be expanded to include disclosure of any 'proportionate charge and benefits' paid to the client or landlord or to a company owned by them.

**Q6) Do you think that standard 8.2 will assist significantly in resolving handover disputes where an ARMA member is either the incoming or outgoing agent?**

10. Yes. By clearly setting out the disputes procedure and ensuring that both parties are aware of their obligations, will help to ensure a streamlined process. It is important that these details are agreed in writing by both parties.

**Q7) Do you think compliance with the Standards in their entirety will ensure best practice and increase consumer confidence in ARMA members?**

11. We do feel that the Standards in their entirety will go some way in helping to increase consumer confidence and put best practice on a surer footing.

**Q8) Do you think the compliance and accreditation checks are robust enough to ensure compliance and instil consumer confidence in ARMA members?**

12. Whilst we welcome the regular auditing of members, we do believe that further scrutiny should be undertaken outside of the prescribed 3 year cycles. Spot checks will help to ascertain to what degree the standards and charter have been embedded into everyday activity. There may be other triggers such as regular or serious complaints that might trigger an audit and help nip problems in the bud, before they accumulate.

13. As a final point we appreciate that the Charter and Standards will impel a level of compliance by managing agents but we do feel there might be a potential loophole whereby should a managing agent wish to set up a subsidiary or related company, that company will not be bound by ARMA-Q. This could have significant consequences in that whilst managing agents are required to be open and transparent about their actions, the same would not apply to any related companies, and therefore, could jeopardise the work of ARMA-Q. To address this an ARMA members should be required to have their whole business, including related companies, covered by ARMA-Q.

Stephanie Pollitt

Senior Policy Officer