

## Surveyors Beware!

Legal Briefing: Platform Funding v Bank of Scotland 2008.

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August 2008

The Court of Appeal has found against a Surveyor in the case of Platform Funding v Bank of Scotland (31<sup>st</sup> July 2008).

### Facts of the Case

A surveyor had been instructed by the lender to value 1 Bakers Yard, which was plot 1 in a five plot development (none of the plots displayed a house number). His instructions were to contact the borrower to gain access to the property.

However, having made contact with the borrower, he was deliberately taken to a different and more valuable plot on the same development.

The borrower later defaulted and the error came to light. The lender looked to the surveyor for the shortfall of approximately £30,000.

### The Court's Decision

The court accepted that he had exercised reasonable care and skill and had therefore not been negligent. However the outcome is not one which you would expect!

The Court of Appeal ruled that inspecting the right property was an absolute term of the contract and therefore the Surveyor was liable even though he had not been negligent,

### What Ellisons can offer

This case has set an onerous precedent. In the present market it is likely that lender's will be looking to pass liability to third parties such as surveyors and solicitors more and more.

There are several practical and legal steps which you might be able to take.

A review of your standard terms and conditions is just one way of doing this and is vital for risk management to ensure they offer sufficient protection.

If you are interested in discussing this matter further and how we can help minimise your exposure please contact Seamus Clifford

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