

Quantity Surveyors as Project Managers

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For a number of years now it has been common for quantity surveyors, in an effort to broaden the scope of their work, to put themselves forward as project managers, either simply on the basis of their experience as a quantity surveyor or on the basis of some additional courses that they have taken.

But what exactly are the qualifications necessary to be a project manager? What duty does he owe in the performance of his services? These are difficult questions because project management is not a primary qualification such as being a quantity surveyor, an architect or an engineer, and whilst professional organisations for project managers do exist and courses are offered there is no universal standard by which a project manager's performance can be judged.

These questions have recently been examined by the Technology and Construction Court in the United Kingdom in the case of *Pride Valley Foods v. Hall & Partners* where the Court examined the performance of a quantity surveyor acting as project manager and in particular considered whether he had a duty to warn clients of potential fire hazards in the design and specifications for the works.

Pride Valley were a small company specialising in baking pitta and nan breads in the North East of England. They decided that in order to expand they needed a purpose built factory and commenced preliminary discussions with a contractor with a view to entering into a design and build contract with them.

Pride Valley had no experience in construction and so their financial backers suggested that they approach Hall & Partners a well-known local firm of quantity surveyors and estate agents to advise them.

Hall & Partners offered two project management services to Pride Valley. Option 1 was a full service from inception to design, construction, commissioning and hand-over, whereas Option 2 was for a service which would commence only once a successful contractor had been appointed.

In the event Pride Valley went ahead with Option 1 and engaged Hall & Partners as project managers for the project, and the extent of the services to be provided was set out in Appendix 1 to a letter of appointment.

This appendix detailed that the services to be provided included preparation of a schedule of employer's requirements and specifications, development of these into a design brief, preparation of outline sketches and consideration of materials to be selected, all of which would form the Employer's Requirements against which contractors would submit competitive, design and build, tenders.

Pride Valley made it clear in all its meetings with Hall & Partners that specifications should be set and the factory built to the minimum standard (and thus price) possible to meet building, hygiene and fire regulations. This proved to be an important point later.

Hall & Partners prepared various estimates and outline specifications and these included the specification of expanded polystyrene insulated wall panels.

A contract was duly entered into with a contractor and the works commenced in April 1993 and were completed in December of the same year. On 11 December 1995 at 6.00 am there was a fire at the factory which was not brought under control until 10.00 am by which time the factory had been destroyed.

Expert evidence agreed that the fire had developed at the bottom of a flue serving the pitta bread line due to a build up of cooking deposits in the flue, and spread to the expanded polystyrene wall panels which rapidly spread the fire through the entire building with such force that it was too dangerous for fire-fighters to even enter the building in order to put the fire out.

Pride Valley claimed that the fire was caused by Hall & Partner's negligence in failing to discharge their contractual duty of care as project managers and in particular their failure to warn them against the use of expanded polystyrene panels. Pride Valley said that if such advice had been given this would have prevented or limited the spread of fire.

In the course of the proceedings both parties tendered evidence from expert witnesses with regard to project management services. The expert for Pride Valley was an architect with experience of acting as a project manager and for Hall & Partners the expert was a building surveyor also with experience of acting as a project manager. Both experts gave evidence as to what they would have done in similar circumstances.

The judge, rejected most of this evidence as being of no use to the court. He said, the evidence which was no more than an expression of opinion as to what one expert would have done in the same circumstances, did not assist the court.

This was because, due to the nature of project management services, there was no established professional procedure that conduct could be compared with, and the judge even commented that he doubted whether it would ever be possible to accept expert opinion evidence as to project management. The judge said the overriding consideration had to be, not what another project manager would have done in the circumstances, but what the project manager

had expressly agreed to do in the terms of his consultancy agreement.

In this case the judge concluded that whilst the consultancy agreement did not require Hall & Partners to undertake detailed design (because the main contract was design and build), they were nonetheless required to undertake a design brief and draft appropriate employer's requirements. These duties included specifying the materials to be used, which in turn gave rise to a duty of care to advise upon the risks of fire and the dangers which existed with such materials.

Hall & Partners maintained that they had given such advice, and had warned that the expanded polystyrene panels carried with them a fire risk, in verbal discussions with Pride Valley. However the judge did not accept this assertion. He did not consider that a professional firm would have failed to expressly provide such warnings in writing, particularly as there was a large amount of correspondence on other matters.

Accordingly he held that Hall & Partners owed a contractual duty of care to Pride Valley to have warned them of the dangers of using expanded polystyrene panels and that they were in breach of this duty for failing to do so.

Quantity Surveyors, when putting themselves forward as project managers therefore, need to carefully consider their terms of agreement to ensure that the services required of them are services that they are qualified and able to perform.

However in this case, Hall & Partners were lucky because although the judge found that they had been negligent he further held that Pride Valley would not have taken their advice even if it had been given. This was because they continually made it clear that they wanted the cheapest building legally possible and an example of this was that a proposal for the construction of a firewall between the production area and offices was

rejected on the basis that this was not a requirement of the relevant regulations. On this basis the judge rejected Pride Valley's claim.

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