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PROPERTY VALUATION

(BG3 ALT S6)

Section 2 –

Rules of Conduct and Ethics

Real Estate Business Management Program

Year 3 – Work study program

Présenter: David Hourihan MSc Prop Inv FRICS

6 November 2023

Property Valuation (BG3 ALT S6)

Agenda

1. Ethics Introduction
2. Legal and Ethical Responsibilities
3. Why is it necessary to study ethics?
4. Rules of Conduct Ethics and the RICS
5. Ethical dilemmas – RICS Decision Tree
6. RICS Rules of Conduct
7. Other issues re competence: Conflicts of Interest and Anti-Bribery Act
8. Sanctions

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1. Ethics: Introduction

- Defined by the Oxford English Dictionary as "*the moral principles that govern a person's behaviour or how an activity is conducted*."
- It is a branch of philosophy.
- Where are our ethical beliefs formed? Private ethical code from our immediate family.
- Public ethical code from our contemporaries.
- From the point of view of a Chartered Surveyor – behaving ethically is at the heart of what it means to be a professional; it distinguishes professionals from others in the marketplace.

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2. Legal and Ethical Responsibilities

- Criminal and civil law are a set of rules that govern society.
- Individuals and companies are expected to abide by them.
- Consider the term – ‘the letter of the law’.
- Ethical standards – are concerned with moral obligations and go beyond ‘the letter of the law’.

  Therefore, these obligations are of a higher order.

3. Why is it necessary to study ethics?

- RICS requirement.
- Client and business expectations.
- High corporate ethical standards has an economic value.
- Difficult at times for students and trainees to distinguish between ethical and unethical behaviour.
- Issues concerning conflicts of interest, hospitality and whether to report suspicions of corrupt behaviour are good examples.
    - These are known as ethical dilemmas.
- We are interested in the practical application of ethical behaviour in the real estate markets.

4. Rules of Conduct and the RICS

- Ethics - why should the RICS be interested?
  - Improving and guarding the reputation of its members, firms and the wider profession worldwide.
- What is the challenge for the RICS?
- Problem – some parts of the world may view ethical behaviour in a different way.
- How does the RICS attempt to address this problem?
  - RICS Rules of Conduct – Global
  - These new Rules of Conduct are based on ethical principles of honesty, integrity, competence, service, respect and responsibility.
  - The latest edition came into effect in February 2022 and replaced / updated two documents: the previous Rules of Conduct and the Global Professional and Ethical Principles.
- In 2019, RICS established a working group to review these overarching conduct standards. The group considered that the underlying ethical principles were sound but made proposals to clarify and simplify the existing documents into a single set of Rules of Conduct.

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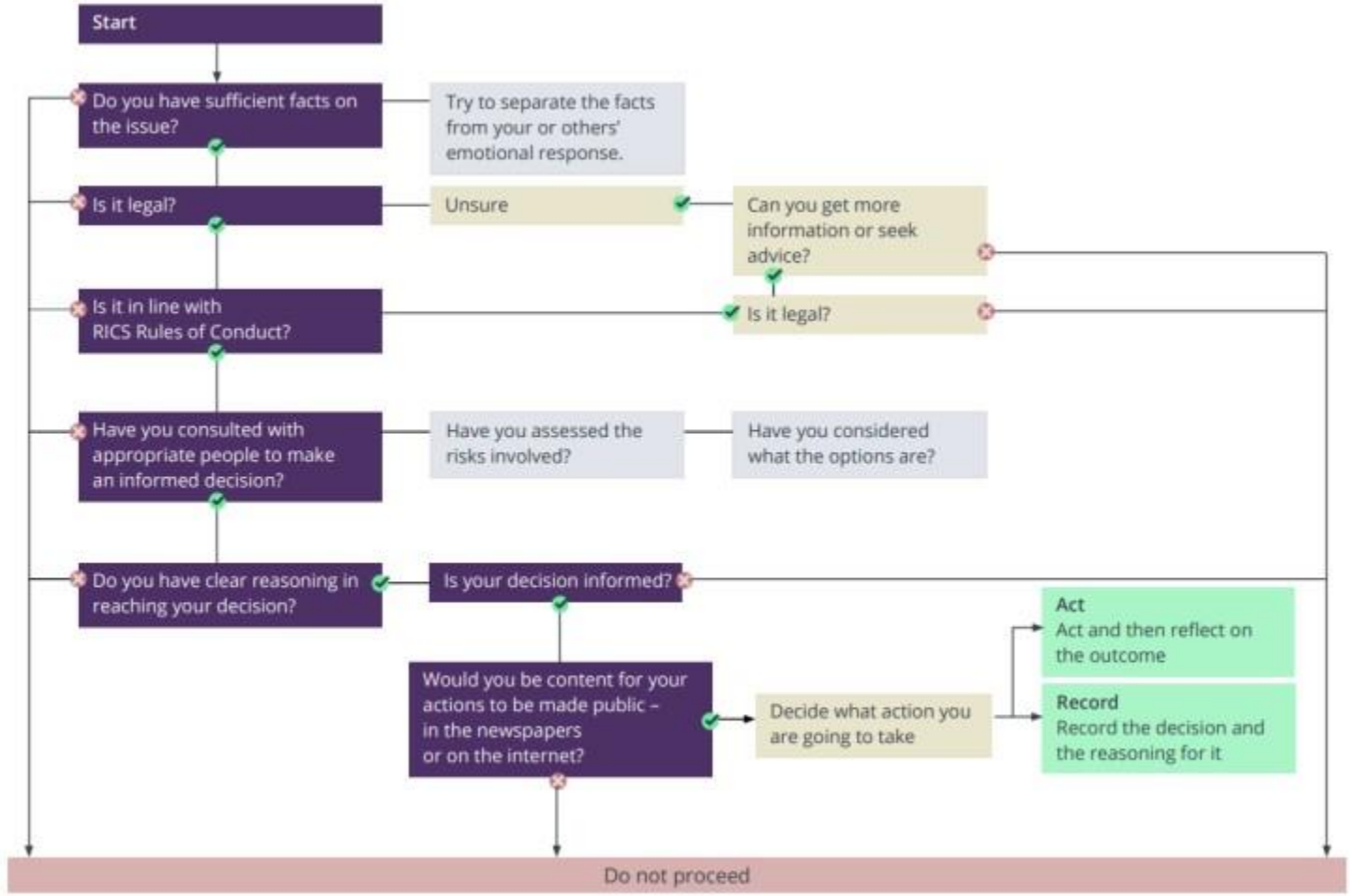
5. Ethical Dilemmas RICS Ethics Decision Tree

My ethics are the rules or standards governing the conduct by which I live my life and make all my decisions.

Your ethics govern your thought process, so that when a problem arises or you need to try and work your way through a situation your solution is based on your ethics.

RICS (no date) ethics decision tree [online]. Available at: www.rics.org/uk/upholding professional standards/standards of conduct/rules of conduct/ and https://www.rics.org/content/dam/ricsglobal/documents/standards/ethics_decision_tree2.pdf



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6. RICS Rules of Conduct

Rule 1:
Members and firms must be honest, act with integrity and comply with their professional obligations, including obligations to RICS.

Rule 2:
Members and firms must maintain their professional competence and ensure that services are provided by competent individuals who have the necessary expertise.

Rule 3:
Members and firms must provide good-quality and diligent service.

Rule 4:
Members and firms must treat others with respect and encourage diversity and inclusion.

Rule 5:
Members and firms must act in the public interest, take responsibility for their actions and act to prevent harm and maintain public confidence in the profession.

and

Appendix A: Professional obligations to RICS.

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Rule 1:

Members and firms must be honest, act with integrity and comply with their professional obligations, including obligations to RICS.

What does it mean?

Being honest and straightforward in all you do:

- Being trustworthy.
- Being open and transparent.
- Respecting confidential information.
- Not taking advantage of a client/colleague/third party.
- Not allowing bias.
- Raising conflicts of interest.
- Not offering or accepting gifts.
- Acting consistently.

Professional Obligations

- Prevent others being misled about their professional opinion.
- Do not take unfair advantage of others.
- (Firms) keep client money safe and have appropriate accounting controls.
- Do not misuse client money and comply with controls intended to keep it safe.
- Do not facilitate any financial crime including money laundering, tax evasion, bribery or corruption. Firms have effective processes to prevent directors, partners or employees from doing so.

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Rule 2:

Members and firms must maintain their professional competence and ensure that services are provided by competent individuals who have the necessary expertise.

What does it mean?

- Act within your scope of competence; it the requirements are beyond this then tell the client; bring in expert help if necessary:
  - Check sub-contractors have the necessary skills, knowledge and resources to do their task competently.
  - Reflect on lessons learned for future work.
  - Maintain and develop knowledge and skills (CPD).
  - Stay up to date with relevant legislation, codes of practice and other professional and relevant technical standards.

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Rule 3:

Members and firms must provide good-quality and diligent service.

What does it mean?

- understand clients' needs and objectives.
- agree with clients the scope of the service to be provided and its limitations, and timescales for the work.
- inform clients promptly and seek their agreement if it is proposed that any of the terms of engagement or estimated fees or costs be changed.
- undertake their work in a timely manner; with due care, skill and diligence, and in accordance with RICS technical standards.
- communicate to clients the material information on which their professional advice and opinion is based.
- communicate with clients and others clearly and in a way they can understand.
- inform clients that they are regulated by RICS and that they may need to disclose records to RICS where required for regulatory purposes.
- Members and firms ensure that any referral or introduction they make for a client is in the best interests of the client and inform clients about any financial or other benefits to the member or their firm from a referral or introduction.
- Members and firms keep proper records of their work and decisions.
- encourage solutions that are sustainable in that they minimise harm.
- understand the risks and benefits of using technology.
- check that all data used is accurate and up to date, is kept securely, and that they have proper legal rights to use it and, where required, share it.
- Firms have effective quality assurance processes.

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Rule 4:

Members and firms must treat others with respect and encourage diversity and inclusion.

What does it mean?

- Respect the rights of others and treat others with courtesy.
- Treat everyone fairly and do not discriminate against anyone on any improper grounds.
- Do not bully, victimise or harass anyone.
- Check that supply chains do not involve modern slavery or other abuses of the workforce.
- Report abusive labour practices if they become aware of, or suspect, them.
- Work cooperatively with others.
- Develop an inclusive culture in their workplaces, support equal access and opportunity for all, and identify and address unconscious bias.

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Rule 5:

Members and firms must act in the public interest, take responsibility for their actions and act to prevent harm and maintain public confidence in the profession.

What does it mean?

- Question practices and decisions that they suspect are not right, and raise concerns with colleagues, senior management, clients, RICS or any other appropriate person, body or organisation where they believe in good faith that it is necessary to do so. Firms provide processes to allow and support individuals within the firm to raise concerns with senior management.
- Support directors, partners, employees, colleagues or clients who have acted in good faith to report concerns.
- Ensure that public statements made by the firm, or in which members are (or could be) identified as members of the profession, do not undermine public confidence in the profession.
- Respond to complaints made against them promptly, openly and professionally.
- Do not dissuade complainants from approaching an alternative dispute resolution provider, RICS or any other regulatory body.
- Cooperate with investigations into complaints or concerns, and provide information where it is reasonably requested and they can do so lawfully.
- Consider the effect that any health conditions may have on their competence or ability to undertake professional work, and inform management or clients where they require reasonable adjustments or are unable to continue to undertake work competently.
- Members and firms manage their professional finances responsibly.
- Members and firms take appropriate action when they consider that the rules have been breached, and report suspected significant breaches of the Rules of Conduct by themselves or others to RICS.

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Rules of Conduct Appendix A: Professional Obligations to RICS

This appendix sets out the core professional obligations for members and firms.

Additional professional obligations are found in the mandatory requirements of RICS professional statements relevant to a member or firm's practice.

The following professional obligations to RICS are mandatory for RICS members:

1. Members must comply with the CPD requirements set by RICS.
2. Members must cooperate with RICS.
3. Members must promptly provide all information reasonably requested by the Standards and Regulation Board, or those exercising de legated authority on its behalf.

The following obligations are mandatory for RICS regulated firms:

1. Firms must publish a complaints handling procedure, which includes an alternative dispute resolution provider approved by RICS, and maintain a complaints log.
2. Firms must ensure that all previous and current professional work is covered by adequate and appropriate professional indemnity cover that meets the standards approved by RICS.
3. Firms with a sole principal must make appropriate arrangements for their professional work to continue in the event of their incapacity, death, absence from or inability to work.
4. Firms must cooperate with RICS.
5. Firms must promptly provide all information reasonably requested by the Standards and Regulation Board, or those exercising delegated authority on its behalf.
6. Firms must display on their business literature, in accordance with RICS' published policy on designations, a designation to denote that they are regulated by RICS.
7. Firms must report to RICS any matter that they are required to report under the Rules for the Registration of Firms.

7. Other issues re competence: Conflicts of Interest

The global professional statement on conflicts of interest provides clear rules for RICS members and regulated firms to identify and manage potential conflicts of interest.

This professional statement, which supports the RICS Rules of Conduct, also places an overarching mandatory requirement on all RICS members and regulated firms and specifies RICS' expectations of how compliance with the Rules of Conduct should be achieved.

Note: Part 1 is Professional statement – conflicts of interest and confidentiality.

Party Conflict - a situation in which the duty of an RICS member/firm to act in the interests of a client or other party conflicts with a duty owed to another client/party in relation to the same or a related assignment.

Own Interest Conflict – a situation in which the duty of an RICS member/firm to act in the interests of a client conflicts with the interests of that same member/firm.

Confidential Information Conflict – a conflict between the duty of an RICS member/firm to provide information to one client and the duty of that same member/firm to another client to keep that information confidential.

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7. Other issues re competence: Bribery and Corruption, Money Laundering and Terrorist Financing.

Professional statement sets out mandatory requirements for RICS members and RICS-regulated firms in relation to bribery, corruption, money laundering and terrorist financing.

This took effect from 1st September 2019.

https://www.rics.org/uk/upholding-professional-standards/standards-of-conduct/aml-bribery-corruption_terrorist-financing/

Legislation - **Bribery Act 2010**

- Applicable to British Citizens and those doing business in the UK.
- It is a criminal offence.
- Under the Act it is a criminal offence for a person to directly or indirectly:
    - Offer, promise or give a bribe; or
    - Request, agree to receive or accept a bribe.

7. Other issues re competence: Bribery and Corruption, Money Laundering and Terrorist Financing.

What is a bribe?

- Essentially a bribe is the exchange of something of value in return for someone doing or agreeing to do something improper in a business context.

- It is important to remember that an intention to bribe or be bribed is also an offence, and therefore an offence could be committed even if nothing of value has changed hands and/or the activity in question has not been performed.

- Something of value could be something with financial value such as money, a contract, a dinner, a holiday etc. or some other form of advantage such as an opportunity.

- A business function or activity is performed improperly if there is an expectation that it will not be carried out in good faith, impartially or in a trusting way and that expectation is breached. The relevant level of expectation is that of a reasonable person in the UK.

Property Valuation (BG3 ALT S6)

7. Other issues re competence: Bribery.

Can an act of Hospitality be seen as a bribe?

- The giving and receiving of gifts and hospitality could amount to a bribe if they are intended to induce someone to behave in a manner that breaches an expectation they will act in good faith, impartially, or in accordance with a position of trust.
- Bona fide hospitality and promotional, or other business expenditure which seeks to improve the image of a commercial organisation, better to present products and services, or establish cordial relations, is recognised as an established and important part of doing business and it is not the intention of theAct to criminalise such behaviour.
- The dividing line between these two activities can be difficult to discern.
- Key word ‘proportionality’ in relation to the task or project in hand.

Property Valuation (BG3 ALT S6)

7. Other issues re competence: Bribery.

Can an act of Hospitality be seen as a bribe?

RICS members should follow the following rules in relation to gifts, hospitality and promotional expenditure in a business context:

- Only offer or accept gifts and hospitality that are customary and reasonable in terms of value and frequency;
- Never offer or accept any gift or hospitality if it may improperly influence a business decision or impair independence or judgement or give the appearance of doing so;
- Follow the policies and procedures of your employer or principal in relation to gifts, hospitality and promotional expenditure.

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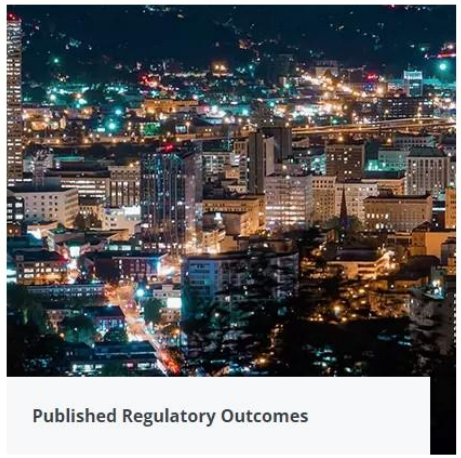
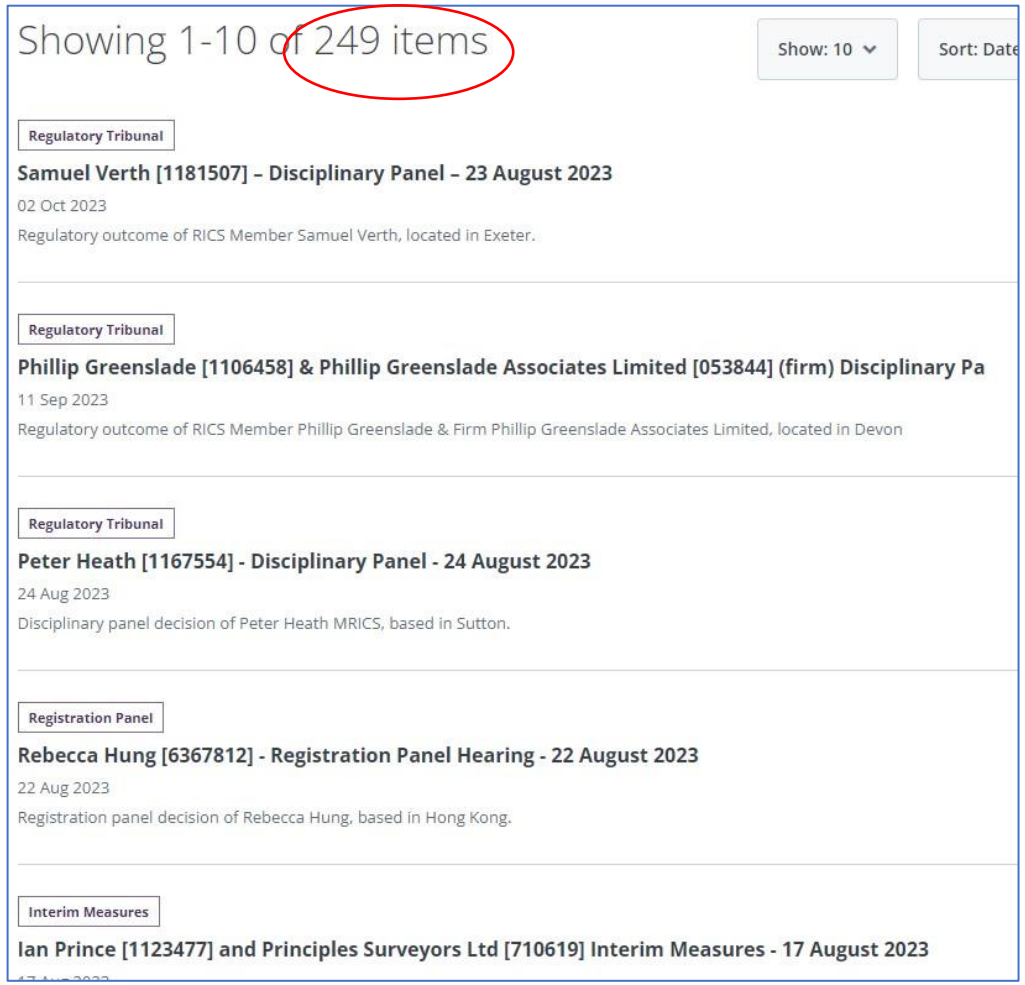
8. Sanctions.

For an effective system there should be sanctions for those that do not meet the standards.



The Disciplinary outcomes are published on the RICS webpages pages: https://www.rics.org/regulation/disciplinary-process-investigations/disciplinary-and-regulatory-decisions



Source: RICS website. Accessed: 03/10/23

Next Lecture

Section 3- Sustainability and Valuations