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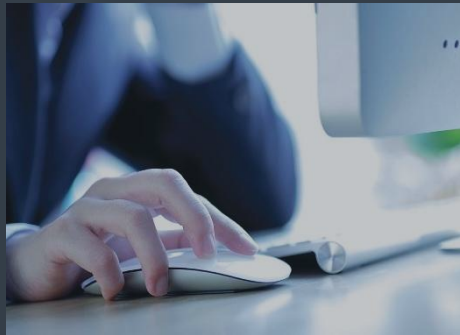
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RICS Rules of Conduct, CPD Requirements and Conflicts of Interest



13 January 2020

Rules of Conduct



RICS Rules of Conduct, CPD Requirements and Conflicts of Interest

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RICS Rules of Conduct, CPD Requirements and Conflicts of Interest

By the end of the programme the learners will be able to:

1. state and the RICS Rules of Conduct for Members
2. state the RICS Rules of Conduct for Firms
3. outline the relationship between RICS professional and ethical standards and the RICS Rules of Conduct
4. outline the principles of the RICS sanctions policy and possible sanctions
5. describe the CPD requirements of RICS membership
6. evaluate potential conflict of interest situations and determine if a conflict of interest situation exists
7. state what to do where a conflict of interest situation exists
8. explain the key elements of anti-bribery legislation and its impact on surveying practice
9. State what an RICS regulated surveying practice must put into place before commencing trading including: PII, calculating PII amounts, PII run-off cover, complaints handling, handling client's money etc.

1. APC Requirements

Level 1

Demonstrate knowledge and understanding of the role and significance of RICS and its functions.

Also an appreciation of your personal professional role and society's expectations of professional practice and RICS Rules of Conduct and conduct regulations, including the general principles of law and the legal system, as applicable in your country of practice.

1. APC Requirements

Level 2

Provide evidence of practical application in your area of practice, being able to justify actions at all times and demonstrate personal commitment to the RICS Rules of Conduct, ethics and RICS 5 professional and ethical standards.

Level 3

Provide evidence of application of the above (levels 1 and 2)

RICS Rules of Conduct, CPD Requirements and Conflicts of Interest

The Rules focus on the five principles of better regulation:

1. Proportionality
2. Accountability
3. Consistency
4. Targeting
5. Transparency

2. Rules of Conduct for Members

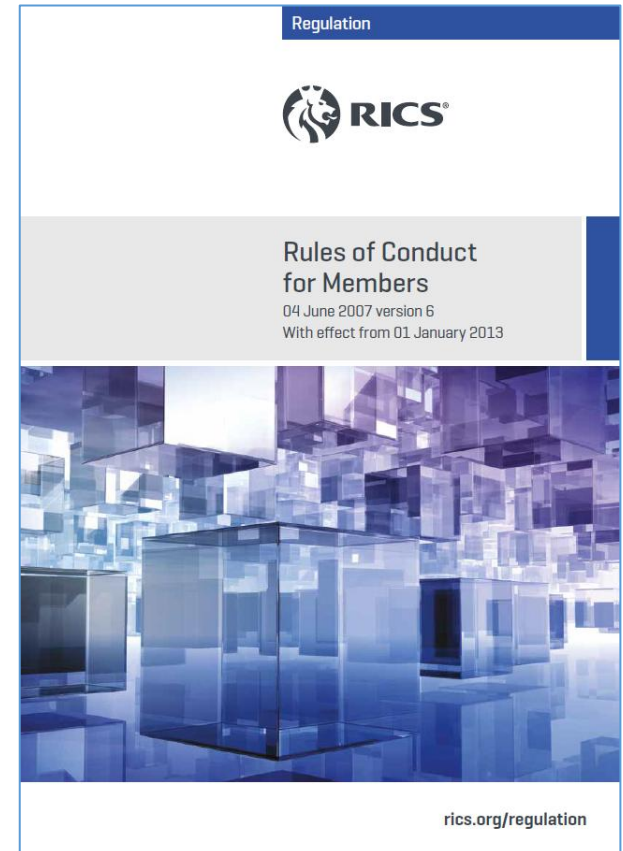
Applicable to all members worldwide

Part 1 General Interpretation

- Definition of “Member”
- Communication – by post, email etc

Part 2 Personal and Professional Standards

- Ethical Behaviour
- Competence
- Service
- CPD
- Solvency
- Information to RICS
- Co-operation



<https://www.rics.org/uk/upholding-professional-standards/standards-of-conduct/rules-of-conduct/>

3. Rules of Conduct for Firms

Applicable to all Firms registered for Regulation by the RICS

Part 1 General Interpretation

- Definition of “providing a surveying service to the public” and a “Contact Officer” and a “Firm”
- Communication – by post, email etc

Part 2 Conduct of Business

- Professional Behaviour
- Competence
- Service
- Training and CPD
- Complaints Handling
- Clients Money
- Indemnity

<https://www.rics.org/uk/upholding-professional-standards/standards-of-conduct/rules-of-conduct/>

Regulation



Rules of Conduct for Firms

04 June 2007 version 6
With effect from 25 April 2017



rics.org/regulation

3. Rules of Conduct for Firms

Part 3 – Firm Administration

- Advertising
- Solvency
- Arrangements to Cover the Incapacity or Death of a Sole Practitioner
- Use of Designations
- Information to RICS
- Co-operation

4. Relationship between RICS Professional and Ethical Standards and the RICS Rules of Conduct

Rules of Conduct set out the standards of professional conduct and practice expected of RICS members and firms.

Maintaining core ethical values are key to meeting these high standards of behaviour.

The behaviour of RICS members and firms is monitored by RICS Regulation, which has the authority to impose sanctions on members and firms found to be in breach of the Rules

4. Relationship between RICS Professional and Ethical Standards and the RICS Rules of Conduct

Contained within both Firm's and Member's Rules of Conduct is that of acting with Integrity, which means:

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

5. RICS Sanctions

- Fixed Penalties
- Consent Orders
- Sanctions

5. RICS Sanctions

Fixed Penalties – A caution or fine, for:

- Members breach of CPD rules
- Members breach of providing information to the RICS
- Firm's breach of providing information to the RICS
- Firm's breach of the Registration of Firms in connection with the payment of RICS fees

5. RICS Sanctions

Consent Orders – a formal written agreement between the RICS and the Member or Firm requiring the Member/Firm to take or refrain from taking certain actions or the Member/Firm to pay a fine and/or costs.

Issued when rule breach is not so serious or Member/Firm admits the breach and is willing to rectify the matter.

5. RICS Sanctions

Disciplinary and Appeals Panels – Penalties

1. Caution
2. Reprimand
3. Undertakings as to future conduct
4. Fines
5. Conditions on future membership
6. Conditions on Firm's registration
7. Expulsion of Member or de-registration of Firm

6. Conflicts of Interest

“RICS Professional Statement” complicated (18 pages long, Rules of Conduct for Members is 4 pages long)

Rules of Conduct - “...act with integrity and avoid conflicts of interest and avoid any actions or situations that are inconsistent with its professional obligations”

<https://www.rics.org/uk/upholding-professional-standards/standards-of-conduct/conflicts-of-interest/>



6. Conflicts of Interest

Three Types of Conflict

1. 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.

2. 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.

3. 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.

6. Conflicts of Interest

- An RICS Member/Firm must not advise/represent a client where there is or there is a risk of a conflict of interest unless all affected have given Informed Consent.
- Records must be kept.
- Confidential Information must be kept confidential.
- Every RICS Regulated firm must have effective systems and controls in place to manage compliance.
- The main reason for avoiding Conflicts of Interest is to prevent anything getting in the way of providing clients objectively and independently.
- The Professional Statement prohibits you from acting unless you obtain Informed Consent from all affected parties.
- Dealing with all affected parties is difficult – if in any doubt, decline the assignment.

6. Conflicts of Interest

“You should onlyseek Informed Consent in order to proceedif you are satisfied that all of the relevant clients’ (or other parties’) interests will be served by you doing the work”

But how do you know what will happen in the future!!

Imagine how newspapers could sensationalise a conflict of interest notwithstanding informed consent!!

7. Anti-Bribery

Bribery Act 2010

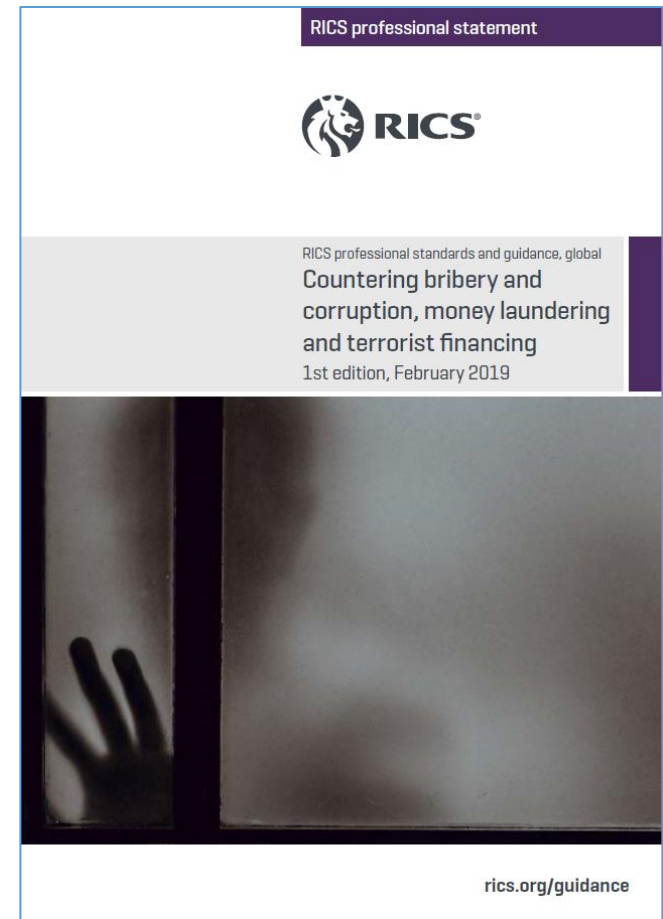
Applicable to British Citizens and those doing business in the UK.

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.

<https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/standards-of-conduct/countering-money-laundering-1st-edition-rics.pdf>



7. Anti-Bribery

What is a bribe?

An 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.

7. Anti-Bribery

Hospitality

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.

However, bona fide hospitality and promotional, or other business expenditure which seeks to improve the image of a commercial organisation, 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 the Act to criminalise such behaviour.

7. Anti-Bribery

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.

7. Anti-Bribery

Generally

It is also an offence to directly or indirectly offer, promise or give something of value to a foreign public official with the intention of influencing the recipient in his capacity as a foreign public official in order to obtain or retain business unless there is a written law which permits the official to be influenced by the payment or requires him to accept it.

7. Anti-Bribery

Key Points

Individual RICS members to whom the Bribery Act 2010 applies or who work for commercial organisations to which the Act applies should:

- Never offer, promise or give a bribe;
- Never request or agree to receive or accept a bribe;
- Never offer, promise or give something of value to a foreign public official with the intention of influencing the recipient in his capacity as a foreign public official in order to obtain or retain business or a business advantage;
- Report any concerns about bribery to your employer through internal reporting structures or to RICS Regulation on +44 (0)207 695 1670

7. Anti-Bribery

Key Points (Cont'd)

Be aware of and comply with any codes of conduct, policies and procedures relating to bribery in your workplace. In particular, make sure you understand and follow policies on hospitality, promotional expenditure, facilitation payments and political or charitable contributions as these can be high risk areas;

Request training from your employer if you are particularly concerned about the impact of the Bribery Act 2010 on your role;

Be aware that it is possible to be liable for an offence if you commit the offence indirectly (i.e. through a third party) or if you consent or connive in someone else committing an offence.

8. RICS Requirements When Commencing an RICS Regulated Surveying Practice

Professional Indemnity Insurance

- Protects the member/firm facing a financial claim
- Protects the client

Amounts Required

- £100K turnover or less - £250K minimum limit of indemnity
- £100K to £200K - £500K minimum limit of indemnity
- £200K and over - £1m minimum limit of indemnity

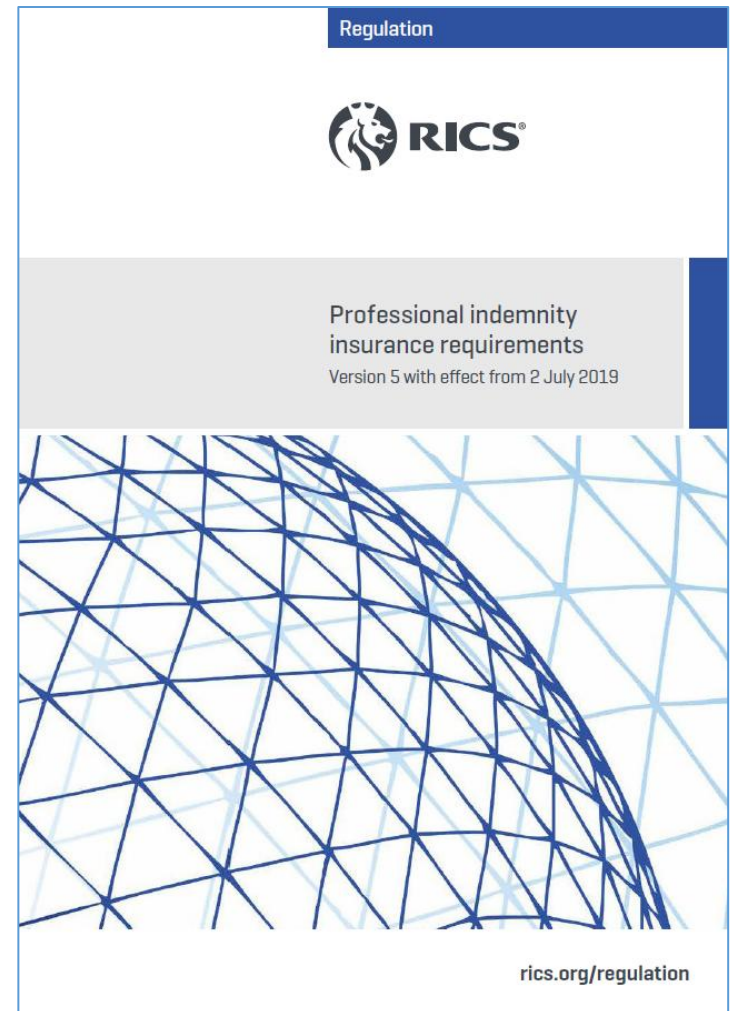
Maximum Un-insured Excess

- Limit of Indemnity up to £500K – the greater of 2.5% of the sum insured or £10K
- Limit of Indemnity over £500K – 2.5% of the sum insured

8. RICS Requirements When Commencing an RICS Regulated Surveying Practice

Professional Indemnity Insurance:

- Each and every claim basis
- Use of RICS minimum wording or greater
- Fully retroactive
- Underwritten by a listed insurer
- Cover for past and present employees
- Run-off cover



8. RICS Requirements When Commencing an RICS Regulated Surveying Practice

- Let the RICS know.
- Take out adequate PI Insurance.
- If holding clients money, keep safe by keeping in a designated client account – see next slide.
- Have a Complaints Handling Procedure. If sole trader ensure client access to third party.
- Ensure appropriate processes in place to ensure staff are adequately trained and competent.

8. RICS Requirements When Commencing an RICS Regulated Surveying Practice

Clients money

A firm should ensure that:

- they hold clients' money in one or more client bank accounts separate from all other monies.
- Client money should be available on demand.
- the bank account is correctly titled to include the name of the firm and the word "client" to distinguish the account from an office or any other account.
- If it is a discrete account, the name of the client should be included in the account title.
- they have obtained written confirmation from the bank of the client account conditions.
- they have advised clients in writing of the bank account details (account name and name and address of the bank) and agree the terms of the account handling, including arrangements for interest and charges.
- they have obtained written consent from their client if the firm is to retain interest.

9. CPD Requirements

- 20 hours minimum per calendar year.
- Of the 20, 10 must be formal.
- Must keep updated with Professional and Ethical Standards every rolling 3 years.
- Must be updated by 31 January the following year.
- Leeway given to the unemployed, maternity/paternity leavers, long term sick.
- Evidence of CPD may be required.
- 48 hours minimum for APC Candidates over/every 12 months.

9. CPD Requirements

Formal CPD:

- Professional courses
- Structured on-line training
- Technical authorship
- Can include self managed learning as long as it has a clear learning outcome which is clearly linked to the member's development needs

9. CPD Requirements

Informal CPD:

- Self managed
- Private study
- On-the-job training, attendance at informal seminars

Not allowed as CPD:

- No clear learning objective related to your role or specialism
- Networking, social events, informal team building, involvement on boards/committees that have little relevance to your professional role

9. CPD Requirements

Regulated Firms:

- Training policy
- Training for staff
- Identification of training needs within appraisal systems

RICS Monitoring:

- CPD recorded on-line
- Random samples reviewed yearly

9. CPD Requirements

Penalties

- **Initial caution** (Fixed Penalty caution) which remains on your disciplinary record for 10 years.
- **Second breach** – further caution plus £150 fine plus publication on RICS website. If fine not paid then increase to £250, plus debt recovery plus referral to Disciplinary Committee.
- **Third breach** - referral to Disciplinary Committee which may result in expulsion plus costs.

10. Rules of Conduct Quiz

Quiz – 30 minutes long

- 1) To what level are questions asked on Rules of Conduct at the APC final interview?
- 2) Can you fail the entire APC if everything else is 100% but you fail to answer the questions on Rules of Conduct and Ethics correctly?
- 3) Give as many meanings, as defined by the RICS, to the ethical standard of "Integrity".
- 4) If your company turnover is £100K or less, what is the minimum amount of PI Cover needed if you are a firm regulated by the RICS?
- 5) If you were a sole trader, what would you put in your complaints handling procedure in respect of who would look into complaints if you could not resolve the complaint?
- 6) How is interest dealt with in a Client Account?
- 7) Once qualified how many hours of CPD are required?

10. Rules of Conduct Quiz

Quiz – 30 minutes long

- 8) Is the following allowed as CPD - "2 hours networking session with the local RICS Matrix Organisation"?
 - 9) Is the offering of a bribe a possible criminal act or an act in contravention of the Rules of Conduct?
 - 10) If you are a company regulated by the RICS, what is the PI cover called that you must provide once you have retired?
- The max score is 17

10. Rules of Conduct Quiz - Answers

1) To what level are questions asked on Rules of Conduct at the APC final interview?

Answer - level 3

2) Can you fail the entire APC if everything else is 100% but you fail to answer the questions on Rules of Conduct and Ethics correctly?

Answer - Yes

3) Give as many meanings, as defined by the RICS, to the ethical standard of "Integrity".

Answer - 1 for each correct answer.

1. Being trustworthy
2. Being open and transparent
3. Respecting confidential information
4. Not taking advantage of a client/colleague/third party
5. Not allowing bias
6. Raising conflicts of interest
7. Not offering or accepting gifts
8. Acting consistently

10. Rules of Conduct Quiz - Answers

- 4) If your company turnover is £100K or less, what is the minimum amount of PI Cover needed if you are a firm regulated by the RICS?

Answer - £250K

- 5) If you were a sole trader, what would you put in your complaints handling procedure in respect of who would look into complaints if you could not resolve the complaint?

Answer - You would designate a reliable third party

- 6) How is interest dealt with in a Client Account?

Answer - It depends upon what is agreed with the client but agreement is needed in advance.

- 7) Once qualified how many hours of CPD are required?

Answer - 20.

10. Rules of Conduct Quiz

Quiz – 30 minutes long

- 8) Is the following allowed as CPD - "2 hours networking session with the local RICS Matrix Organisation"?

Answer - No.

- 9) Is the offering of a bribe a possible criminal act or an act in contravention of the Rules of Conduct?

Answer - both.

Half a point for each. In respect of the Rules of Conduct for members it contravenes the rule of "Members shall at all times act with integrity and avoid conflicts of interest and avoid any actions or situations that are inconsistent with their professional obligations" and for Firms it contravenes the rule of "A Firm shall at all times act with integrity and avoid conflicts of interest and avoid any actions or situations that are inconsistent with its professional obligations."

- 10) If you are a company regulated by the RICS, what is the PI cover called that you must provide once you have retired?

Answer - Run off cover

The max score is 17