

RICS Professional Regulation and Consumer Protection department
February 2000

Professional ethics guidance note: Part 1 introduction



RICS core values

RICS has a set of central values it expects members to apply in their work. Following this set of values is one of the key features that defines the professionalism of all chartered and technical surveyors. You must base all your actions and judgements on these core values:

1. **Act with integrity.** Never put your own gain above the welfare of your clients or others to whom you have a professional responsibility. Respect their confidentiality at all times and always consider the wider interests of society in your judgements.
2. **Always be honest.** Be trustworthy in all that you do – never deliberately mislead, whether by withholding or distorting information.
3. **Be open and transparent.** Share the full facts with your clients, making things as plain and intelligible as possible.
4. **Be accountable.** Take full responsibility for your actions, and don't blame others if things go wrong.
5. **Act within your limitations.** Be aware of the limits of your competence and don't be tempted to work beyond these. Never commit to more than you can deliver.
6. **Be objective at all times.** Give clear and appropriate advice. Never let sentiment or your own interests cloud your judgement.
7. **Always treat others with respect.** Never discriminate against others.
8. **Set a good example.** Remember both your public and private behaviour could affect your own, RICS' and other members' reputations.
9. **Have the courage to make a stand.** Be prepared to act if you suspect a risk to safety or malpractice of any sort.

This guidance note provides advice to RICS members on aspects of their practice. Where procedures are recommended for specific professional tasks, these represent 'best practice', ie procedures, which in the opinion of RICS, meet a high standard of professional competence.

When an allegation of professional negligence is made against you, the court is likely to take account of the contents of any relevant guidance notes published by RICS in deciding whether or not you acted with reasonable competence.

If you follow the recommended practices you should have at least a partial defence to an allegation of negligence. On the other hand, it does not follow that you will be judged negligent if you have not followed the practices recommended in this note. It is for you to decide on the appropriate procedure to follow in any professional task. However, if you do not follow the recommended practices, you should do so only for a good reason. In the event of litigation, the court may need you to explain why you decided not to adopt the recommended practice. Also, if you have not followed this guidance note, and your actions are called into question in an RICS disciplinary case, you will be asked to justify the steps you took and this may be taken into account.

This guidance notes is also relevant to professional competence in that you should be up-to-date and have read the guidance notes within a reasonable time of their release.

Note: no responsibility for loss occasioned to any person acting or not acting as a result of the material included in this publication can be accepted by the author or publisher.

Background

Over time, as business practices have changed, so have client expectations. As a result, ethical issues have been pushed to the front of political and business thinking. Cadbury and Nolan are just two recently published reports highlighting the need for greater openness and transparency. Industry is also finding that public opinion is much better informed and that problems faced by businesses today cannot always be resolved by legislation and experience. Therefore many of the professional institutions are providing guidance on ethics for their members. Businesses are also now more willing to set out publicly their ethical standards.

Reports in the national press have extended the public interest surrounding ethical issues. Publications such as *'Ethical Business in Britain'*, produced by the London Society of Chartered Accountants and The Institute of Business Ethics publication *'Code of Ethics and International Business'* have led the way in raising the issue of ethics as an essential part of business today. RICS has been involved in that work.

In response, and as a result of research carried out on ethical behaviour in the construction industry, the RICS Standards and Practice Committee established a working party to look at the issue of professional ethics. Research among students on surveying courses and qualified chartered surveyors showed a wide range of knowledge, views and awareness on the subject. The working party therefore developed this guide, to help all members to be clear about the issues surrounding ethics.

We believe following well-publicised, robust ethical standards will raise the status and the standing of the profession, particularly with individual members of the public.

Definition of professional ethics

'Ethics' is defined in the Oxford English Dictionary as the 'science of morals; moral principles or code'.

'Moral' is defined as the 'standard of conduct respected by good men independently of positive law and religion'. This definition does not, of course, set down the code nor establish how the code might be prepared. Many organisations and writers have attempted to define ethics in their own context whether business, organisational, political, personal or professional.

The definition of professional ethics endorsed by the working party is: 'giving of one's best to ensure that clients' interests are properly cared for, but in doing so the wider public interest is also recognised and respected'. This is taken from *'Professional Ethics and the Rules of Conduct of the Royal Institution of Chartered Surveyors'*, by Howard Land FRICS, CPD Study Pack, College of Estate Management.

This guide only covers those business ethics that directly affect the work of RICS members. Personal behaviour, personal ethics and religious beliefs are generally outside this code. Unless they impact upon the ethical responsibilities and business practices that RICS members need to adopt.

Five basic assumptions underpin the understanding of ethics often covered by professional organisations:

Professional ethics is a process. Ethics are not a fixed text to be learnt once. It is a way of reviewing behaviour against constantly changing standards. What may be ethical today, or in a particular society, may be viewed differently by others or at another time.

Human behaviour is caused. There is a motive for all human behaviour eg, financial gain, power, compassion.

Actions have consequences. The equivalent of Newton's Third Law of Physics – 'Every force has an equal and opposite reaction'.

What is ethical depends on the individual's point of view. This is influenced by a variety of factors including published codes and statements.

Good ethical business practice rests on mutual vulnerability. We are each susceptible to the actions of others, and the way we are treated depends on how we treat others. Respect is not a right and must be earned.

The need for professional ethics is based upon the vulnerability of others. The client (and where relevant, opposing negotiators) must be protected from exploitation in a situation in which they are unable to protect themselves because they lack the relevant knowledge to do so. For example, Negotiator 'A' would be at an unfair disadvantage if negotiator 'B' claimed to have figures supporting his argument that were, in fact, fabricated but which 'A' was not able to verify.

Impact on chartered surveyors

RICS Membership enhances status and brings many privileges and associated responsibilities. You have the benefit of access to technical resources to support your work, a network of fellow professionals, consultation by central government on issues affecting the property world, and specific rights such as direct access to counsel.

The Royal Charter refers to maintaining and promoting the usefulness of the profession to the public advantage. The public and RICS expect you to behave in line with the objectives of the Charter, and provide clients with the most appropriate advice for their circumstances. Unfortunately, there are occasions when members do not live up to these standards. Because RICS is recognised as a self-regulating body, specific rules of conduct and disciplinary powers maintain the standards.

The public respects high, well enforced standards making these standards a valuable marketing tool. The public perception of self-regulated professions, however, varies. On a scale of professions, chartered surveyors may suffer from being on the edge of commercialism, compared with say, doctors and even teachers. There is also confusion between chartered surveyors and non-chartered people working in the same environment eg, house sales negotiators. So you have a vital role to play in developing the reputation of the profession.

This guide outlines the standards of behaviour expected of all practising RICS members. In the event of disciplinary action, it will be assumed that these standards will apply unless you are able to justify, to RICS' satisfaction, why you did not follow the guide.

International dimension

What is accepted as ethical behaviour depends upon peoples' individual point of view, within the context of society's view as a whole (see paragraph 2.3). It is essential, therefore, that any policy is either restricted to particular countries or is suitable for all possible situations in which you might find yourself. The Institute of Business Ethics has published an analysis of codes used by multi-national corporations together with codes produced by three business organisations:

- The International Chamber of Commerce
- The Caux Round Table
- The Interfaith Declaration for Christians, Muslims and Jews.

There is also legislation in the United States governing the behaviour of US multi-national corporations abroad.

It is clear from the Institute of Business Ethics report that the issue of producing a code of ethics that is accepted and can be used by all communities is realistic.

RICS Rules of Conduct

Bye-Laws approved by the Privy Council govern RICS operations and are implemented through regulations. Bye-Laws 19 and 20 are the most relevant for professional ethics and form the basis of the RICS Rules of Conduct. These, in effect, lay down the specific behaviour codes for members. But they do not provide specific examples of ethical, or indeed unethical behaviour, in specific situations. For instance, what might be 'conduct unbefitting'?

Action by individuals

To maintain an ethical dimension to their professional work, people have a responsibility to:

- Keep their own actions under review
- Maintain a level of knowledge and training appropriate to their area of work
- Follow advice given by professional bodies on ethical behaviour
- Help their own organisations to develop ethical ways of working.

This responsibility applies no matter which type of organisation the person works for, whether in private practice or in commercial organisations.

Action by organisations supplying surveying services

Organisations need to implement the following actions to help protect those receiving their services:

- Establish an organisation wide ethics management, audit and improvement system
- Specify a partner or director responsible for ethical compliance
- Make sure a complaints procedure in line with RICS Regulations exists, which can also assess and manage complaints on unethical practices
- Include ethical performance in the remit and reporting processes of the audit committee if a company
- Develop and publish a code or statement of ethical conduct.

Action by employers of surveyors

Employers need to consider the ethical environment for their employees by:

- Establishing confidential arrangements for 'whistle blowing' independent of the normal chain of command
- Including ethical evaluations into formal performance assessment processes
- Including ethical standards into employee hiring, employment contracts and training
- Make sure there is adequate planning, training and ethical performance monitoring when implementing change.

Assistance from RICS

RICS will:

- Include ethical dilemma management into accredited courses
- Review existing codes of ethical practice and develop programmes to educate members in their responsibilities
- Maintain ethics in pre and post qualification training and assessment (particularly the APC)
- Look at a wider role for internal audit
- Look at way to make sure practising members take ethics training and testing programmes
- Provide ways to support members in managing ethical dilemmas
- Continue to discipline violations of the RICS Bye-Laws and Rules of Conduct.

Examples of ethical issues and dilemmas

Ethical problems do not always have a straightforward solution. The following examples discuss situations which you may face. (Some of them are from the work done by the London Society of Chartered Accountants on this subject.)*

* 'Ethical Business in Britain' published LSCA 1996. RICS was represented on the working party

1. A local office of a national firm of surveyors, Valuers Associates, are appointed by a small local client A to market a single site with the potential for several factory units. 'A' has no other sites at present. A major developer, not previously a client of VA, expresses interest in the site and indicates that he would like VA to act as a local agent, to provide management services in the longer term for the site. VA can see that the fees for the management and sub letting will far exceed the initial fee. **What should VA do?**
2. Quantity Surveyors Partnership is engaged by a small client to assist with the construction of an office extension. The contractor appointed is one with whom QSP have worked on numerous occasions and have an associated development company for whom QSP have occasionally undertaken consultancy. Variations to the office project arise and the contractor submits day work sheets and subcontract invoices which QSP (because of their involvement on other work) know cannot be correct. **What should the partner in charge of QSP do?**
3. Professional Services Partnership has an on-going assignment in the Middle East. When the new partner-in-charge arrives on site, he finds that a number of his key staff have close personal connections with the government and contractors. There is a major long-term contract involving the host government and local contractors that was negotiated before his arrival. The contract has been approved by head office and awaits his signature. **What should the partner do?**
4. CS Consulting operate a number of managed houses in multiple occupation as agent for a major client. The local authority have indicated that, under statutory powers, they wish to see conditions in these properties improved, particularly with respect to fire precautions. The landlord instructs CSC to use delaying tactics to defer the implementation of the improvements. **What should the consultants do?**
5. Cheap and Cheerful plc: we cut corners to provide services at low fees. We consider winning commissions more important than the quality of service provided. **Would you instruct this firm?**
6. SD Consulting have just completed a large, complex project for a client. Alternative suppliers were considered, and one selected which SDC had not used before. Contracts were negotiated and the project completed over a 12 month period. The final handover was celebrated with the supplier hosting a lavish dinner attended by the consulting team and key client management. The team leader complimented the host on the wonderful Chateau Margaux 1982. The next day a case of the wine was delivered to her home. **What should the consultant do?**
7. A client instructs her professional advisers to take every available measure to help prevent a proposed housing development on playing fields overlooked by her house. One of the key factors in enabling the development to proceed, is the removal of a mature oak tree at the site entrance in order to improve junction visibility. Within the practice, there is a young chartered surveyor who has very strong views on protecting the environment. He has been working with the client on this commission and suggests that he should invite some of his friends from the local airport extension campaign to come and occupy the tree and that he should use the opportunity to gain publicity for the firm and the services which you are able to provide. **What would be your instructions?**
8. You have quoted a fee of £5 000 for a survey of a commercial property. The potential client advises you that a competitor had quoted £4 500 and suggests the job is yours, if you match that quote. **What would you do?**

A guide to professional ethics

The following comprehensive RICS approved list covers a number of important professional ethics issues, which you must uphold and act in an ethical and responsible manner. Organisations are welcome to develop them into their own specific code as part of the process outlined above. Clients, employees, peers etc will judge you against the code.

Some of the activities are already subject to statute, others are mentioned in the rules of conduct. While the adopted definition of 'moral' earlier excludes positive law, in the context of professional ethics, both statute and judge made law are relevant to acceptable behaviour.

Of course, you must always act within the law of the country where you work. Some activities may be illegal in certain countries but not in others, in which case, you must uphold the higher standard set by either the law of the land or this guide.

Gifts/hospitality-bribes/inducements

Accepting the direct or indirect offer, payment, solicitation, bribes or inducements goes against the standards expected of an RICS member. The giving or receiving of gifts of low value for purely advertising/marketing purposes may be acceptable ie, Christmas cards/gifts and indeed is common practice in some professions. Hospitality received in the course of a business meeting, and which can be reciprocated, may also be acceptable, eg, a working lunch or an invitation to a sporting or musical event. But anything where professional opinion or judgement or fair dealing might be adversely affected is unlikely to be acceptable.

Health and safety

You need to manage health and safety matters as any other critical business activity, setting targets for improvement and measuring, appraising and reporting on performance. Criminal prosecutions and loss of reputation may result.

Equal opportunity, discrimination and sexual harassment

It is the responsibility of everyone to act openly, fairly and respectfully at all times. Harassment on the grounds of race, religion, colour, nationality, disability, ethnic origin, sex or marital status is inconsistent with the status of an RICS member. It is also illegal.

You need to make sure that your recruitment policy and methods of gaining new clients are of a high standard. For instance, recruiting specialist staff from a competitor to undermine their effectiveness (ie poaching) is unethical. Or using your position in an organisation to promote the interests of your family over others of equal or greater competency is inconsistent with the standing of an RICS member. Although, in family run businesses often influence the issue of equity participation in and ownership of that business.

Conflicts of interest

The requirements on conflicts of interest are set out in the RICS Rules of Conduct. But you may need to consider whether disclosure is enough in each particular case. Clients will sometimes appreciate immediate notification and withdrawal from the instructions a more acceptable action.

Insider dealing

Insider trading places a person with special knowledge gained through their position at an advantage over others. The disclosure of information gained through your work to another person, other than in the necessary course of business, may be detrimental to the organisation. RICS members are not to take advantage of inside knowledge. It is also illegal.

Money laundering

If you become unwittingly involved with a money launderer you may commit an offence even if you are merely suspicious of your clients' activities. There does not have to be reasonable grounds for your suspicions. You need to put procedures in place to minimise the risk of committing a crime.

Disclosure of confidential company information

Avoid unauthorised disclosure of confidential and sometimes price-sensitive information about your own firm, clients or suppliers. Trade secrets belong to the organisation concerned and the careless, reckless or negligent handling of intellectual property can cause considerable harm. Prosecution may result.

Financial transactions

All business transactions must be accurately and completely accounted for and reported in the records of the firm. This is in line with good accounting practice and corporate procedures.

Fair competition

Avoid all actions which are anti-competitive. Do not use market power or information in a way which may restrict competition. Make sure your business practices avoid price fixing or other collusion with competitors and do not unduly limit selection or pricing available to clients. Fines may now be imposed for contraventions.

Alcohol and drug abuse

The use of alcohol or drugs may create a safety hazard; it may also be illegal. If you act under the influence of drugs or alcohol you are not in a position to give your best services to your client or firm/employer.

Whistle blowing

Employers need to make sure there are suitable arrangements for the internal review of decisions, policies and actions in case a member of the organisation raises concerns of unethical behaviour. People should be

encouraged to raise matters for review, without being penalised, even if this results in a loss to the firm, a client or another individual, unless it is done with malicious intent. This is now covered by legislation.

Non executive directors

Anyone accepting an appointment as a non executive director should not expect favours, commission, or other benefits for themselves or their immediate family, business or shareholders in return.

Copyright and ownership of files

The reproduction, distribution or alteration of copyrighted materials (computer software, books, audio and visual tapes, etc) without the permission of the copyright owner deprives the copyright owner of their rights. And could bring RICS into disrepute. Make sure you are aware of the rules for ownership of files, who is entitled to access them and how long they should be kept. Criminal sanctions may apply. Since the commercial advantage of specialist techniques can be protected by copyright and patent law, why not consider how you might help local communities to develop their own ways of providing the service. This reflects well on the profession and can lead to long-term relationships with the local community.

Standards in advertising

It is your responsibility to ensure any advertising material with which you are linked is truthful, accurate and not misleading. Comparisons drawn with competitors and colleagues must be based on fact and avoid innuendo and disparagement. Otherwise it is likely to devalue the profession in the eyes of the public.

Protection of the environment

You must make every effort to avoid pollution and damage to the environment through your own actions and the advice you give. You are looked to for setting an example of high environmentally sensitive standards.

Relations with local communities

RICS Members work in most areas of the world and must recognise that the local community will use their actions to judge members' performance, and that of other professionals. It is important RICS members treat the indigenous population of an area fairly and honourably.

Political and social behaviour

You must act in a socially responsible manner within the country in which you work. You must differentiate between activities carried out in a personal capacity, such as making payments to political or other organisations, and your professional activities as a surveyor. [However, you have the right to make your position known on any matter which affects yourself, employees, clients or (if a company) shareholders.] You must place your duty to your client or employer before your own political and other beliefs or activities. In the event of a perceived or actual conflict, think about declining or withdrawing from the commission in line with this guide.

Further information

For further information or advice contact RICS Professional Regulation and Consumer Protection department on +44(0)87 333 1600.