RICS

RICS Professional Regulation and Consumer Protection

Rules of Conduct

Conduct Regulations 2004
Under Bye-Laws 10(1), 19, 20 and 22B
(complete set)

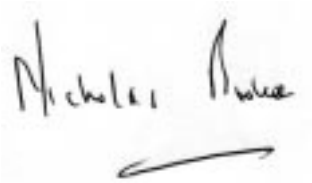
Foreword

RICS' Rules of Conduct provide a framework within which Members offer and deliver their services. They are designed to represent a transparent system of conduct and regulation and, except where stated, apply to all members. In general the Rules fall into two categories. The first category offers a statement of values to which all Members are expected to follow and against which they must measure their professional judgements; the second sets out in some detail how members must conduct certain aspects of their businesses. All our Rules are designed in part to enable RICS to fulfil its public interest obligations as contained in the Royal Charter.

In 2000 and 2002 RICS Members approved a number of important changes to the Royal Charter and Bye-Laws. Governing Council has now approved a completely redesigned set of Rules which aims to modernise and simplify their style and make them more relevant to members' daily professional lives. The new Rules have been shortened with nationally applicable regulations moved out of the main text into separate Schedules. Guidance is now available in a separate document to be read in parallel with the Rules. The Guidance aims to assist Members in determining how the Rules may be applied in a given set of circumstances. It is, however, no substitute for the exercise of professional judgement. The Disciplinary Rules have been published as a stand-alone document. They describe the procedures followed by the Chief Executive, Professional Conduct Panels, Disciplinary Boards and Appeal Boards when they deal with complaints or allegations against members.

Both the Rules of Conduct and the Disciplinary Rules are also available on the RICS website.

The Rules of Conduct and associated guidance notes provide a structure for Members' relationship with their clients, employers and also embraces wider public interest duties. These documents are an essential reference guide in your practice as a Member and we are delighted to commend them to you.



Nick Brooke
President

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Honorary Secretary

Royal Institution of Chartered Surveyors

Conduct Regulations 2004
Under Bye-Laws 10(1), 19, 20 and 22B

27.1 Every Member and member of the Attached Classes shall conduct himself at all times in accordance with the provisions of the Rules of Conduct and Schedules under this Regulation in so far as the Rules do not conflict with applicable law in the country or countries in which the Member practises.

The Rules of Conduct under Conduct Regulation 27.1

These Rules of Conduct are made by the Governing Council of the Royal Institution of Chartered Surveyors under Article 18 of the Supplemental Charter 1973 of that Institution and Bye-Laws 19, 20 and 22B made under Article 17 of that Charter and shall apply from 1 January 2004.

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Part I General

Rule 1

Interpretation

1 In these Rules and for the purpose of Regulation 27.1, unless the context otherwise requires:

"*Attached Classes*" means Trainee Surveyors, Trainee Technical Surveyors and Students of the Institution;

"client" includes a Member's employer;

"carrying on practice" and *"practise"* means acting to provide a service(s) considered by the Institution to be within those which are the responsibility of the Institution's Faculties;

"disclose" means a full declaration made promptly and made or confirmed in writing at the first opportunity;

"firm", means a sole principal, a partnership, a company whether incorporated with limited or unlimited liability and any other body corporate in each case whether or not offering surveying services;

"Governing Council" means the Governing Council or any constitutional body under Bye-Law 52 of the Institution;

"Institution" means the Royal Institution of Chartered Surveyors;

"Member" means a Fellow, Professional Member, Technical Member, Honorary Member of the Institution or a member of the Attached Classes;

a *"Member's firm"* is the firm or organisation for which the Member works or through which he practises;

"partner" includes a member of a limited liability partnership;

"partnership" includes a limited liability partnership;

"Practice Statement" means a statement approved by or on behalf of the Governing Council or a National Association under Bye-Law 19(5);

"professional" includes "technical"; and

"the public" includes professional, corporate, institutional and all other clients.

2 In these Rules, a person who is not a partner or a statutory director of a firm shall nonetheless be treated as a partner or a director if:

a) he is employed by the firm and his job title includes the word "partner" or "director"; or

Rule

b) he performs the functions of a partner or statutory director in relation to the firm.

3 In these Rules, unless the context otherwise requires:

a) words denoting the masculine gender include the feminine; and

b) words in the singular include the plural and words in the plural include the singular.

Service of documents

2

1 Any notice or other document required by or for the purposes of these Rules to be given or sent to a Member may be given to him personally or sent to him by post to his last address recorded by the Institution.

2 To be valid a notice or other document sent by post shall be properly addressed and pre-paid.

Part II Personal and professional standards

Conduct befitting membership of the Institution

3

1 Members shall at all times conduct themselves in accordance with the core values, which means that they are expected to:

a) act with integrity;

b) always be honest;

c) be open and transparent in their dealings;

d) be accountable for all their actions;

e) know and act within their limitations;

f) be objective at all times;

g) treat others with respect;

h) set a good example; and

i) have the courage to make a stand.

2 In addition, in the course of carrying out any work, the Member or any person acting on his behalf or at his instruction or inducement shall not act in a manner which compromises or impairs, or is likely to compromise or impair, any of the following:

a) the integrity of the Member;

b) the reputation of the Institution, the surveying profession or other Members;

c) the high standards of professional conduct expected of a Member;

d) compliance with any code, standard or Practice Statement of the Institution or any statute in force at the time;

e) the Member's duty to act in the legitimate interest of his client or employer subject to legal or similar constraints;

f) a person's freedom to instruct a Member of his choice.

Standard of service

4

A Member shall in the performance of his professional work, the conduct of his practice and the duties of his employment provide the standard of service and competence which the Institution can reasonably expect.

Part III Conduct of professional activities and business

Rule 5

Advertising

A Member shall take all reasonable steps to ensure that:

a) any publicity, method of advertising or marketing activity for which he is responsible is not inaccurate, misleading or likely to cause public offence or annoyance;

b) any reference to the Institution, and the use of any logo or design belonging to it, shall be strictly in accordance with the guidelines for the use of that material;

c) use of any such logo or design does not adversely affect the standing of the Institution or its membership;

d) the authoritative standards for advertising applicable in the particular country are followed.

6

References to the Institution

A Member shall not:

a) claim to or impliedly represent the views of the Institution without the Institution's authorisation; or

b) publicise the Institution or its Members generally, contrary to material already published by the Institution or which has received its approval.

7

Status and designations

A Member shall ensure that any published or public list of partners, directors or staff of a Member's firm or any other organisation where that Member is listed does not:

a) misrepresent the status of any person named; and

b) include any Chartered designation or designatory initials whether for the firm or any individual to which that firm (or any other firm where that Member is listed) or individual is not entitled.

8

Notification of terms of engagement

1 Except where the client is the Member's employer, a Member shall provide written notification to his client or prospective client of the terms on which he is to act and shall inform his client in writing that a copy of the Member's complaints handling procedure is available on request.

2 The terms referred to in paragraph (1) shall include provisions relating to:

a) the Member's or his firm's charges;

b) the payment of expenses; and

c) the manner in which expenses and disbursements are to be calculated.

3 Where the terms on which a Member is to act are varied, the Member shall provide written notification of the variation to his client.

4 Subject to the provisions of any Practice Statement under Bye-Law 19(5), where the terms on which the Member is to act have previously been provided to a client, the Member shall confirm in writing that these terms continue to apply unless otherwise agreed with the client.

5 Notifications under paragraphs (1) and (3) and confirmations under paragraph (4) shall be sent promptly.

Confidentiality

9

1 Except with the client's consent or if paragraph (2) applies a Member shall keep confidential:

a) the advice he has given to his client; and

b) information concerning his client's affairs.

2 A Member may disclose advice or information in accordance with any enactment, order of a court or in the course of giving evidence as an expert witness or under oath.

3 In this Rule "client" includes a past client and a prospective client.

Timeliness in handling clients' affairs

10

A Member shall:

a) act with due diligence on behalf of his clients or his firm's clients; and

b) reply promptly to correspondence in so far as the correspondents may reasonably expect to be entitled to such replies.

Rule 11

Complaints handling procedure

1 The Governing Council, with effect from 1 January 2004 and after consulting with the relevant National Associations, may make Rules on the minimum requirements for complaints handling procedures applicable to Members practising in specific jurisdictions, but absence of such Rules for a particular jurisdiction does not absolve Members from the obligations in this Rule.

2 This Rule applies to a Member who is a sole principal, partner or director of a firm and who is offering surveying services to the public (other than only to his employer), with the exception of Members who are employees:

a) of universities and whose job titles include the word "director"; and

b) in the public sector and whose job titles include the word "director" and whose services, are not covered by a statutory scheme for complaints handling.

3 A Member shall ensure that his firm has and operates a formal procedure for dealing with complaints from a client and from any person, other than an employer, to whom, in the opinion of the Institution, a duty of care is owed.

4 Except where a statutory scheme is being operated, the procedure for dealing with complaints shall, as a minimum:

a) state the name of the person with whom initial contact can be made;

b) include a timescale both for the timely acknowledgement of the complaint and the timescale within which the outcome of the investigation will be completed;

c) include reference to:

i) a right of the complainant to a separate review by an appropriately qualified person;

ii) mediation, where both parties agree; and

iii) a right of the complainant, where the complainant remains dissatisfied with the result of the internal investigation or where the separate review or mediation has proved unsuccessful, to have his complaint referred to independent third party decision.

5 The procedure for dealing with complaints shall be in writing and shall be made available to the client and to any member of the public on request.

6 If a Member is being required to provide particulars in respect to paragraph (3) and (4), he shall do so within 28 days of this being required.

Practice through the medium of a company or a limited liability partnership

12

1 Every Member who is a director of a company or a member of a limited liability partnership which is offering surveying services to the public shall ensure that a clause is included in:

a) the Memorandum of Association or equivalent constitutional document of that company or limited liability partnership in such a manner as to qualify the powers of the company or limited liability partnership to offer surveying services, to the effect that:

"Any business of surveying for the time being carried on by the company or limited liability partnership shall at all times be conducted in accordance with the Bye-Laws, Conduct Regulations of the Royal Institution of Chartered Surveyors and Practice Statements made under the Institution's Bye-Laws."

b) the Articles of Association or equivalent constitutional document of that company or limited liability partnership, to the effect that:

"It shall be the duty of the directors of the company or the members of the limited liability partnership to ensure that any business of surveying for the time being carried on by the company or limited liability partnership shall at all times be conducted in accordance with the Bye-Laws, Conduct Regulations of the Royal Institution of Chartered Surveyors and Practice Statements made under the Institution's Bye-Laws."

2 If the obligation laid down in paragraph (1) conflicts with the laws of the jurisdiction in which the Member's company is incorporated or with the rules of a relevant professional society in that jurisdiction to which the Member or his firm belongs, the Institution shall decide on a case-by-case basis which laws and/or rules take precedence.

Part IV Practice details and co-operation

Rule 13

Particulars of practice

1 A Member shall within 28 days of being required to do so provide to the Institution such particulars in such form as the Governing Council requires:

a) of his firm if he is carrying on professional practice as a sole principal, partner or director of the firm; or

b) of his employment if he is employed under a contract of service or a contract for services.

2 Where a Member has so provided particulars and any change occurs in the circumstances notified in those particulars, he shall provide full particulars of the change to the Institution no later than 28 days after such change has come into effect.

3 Within 28 days of being required in writing by the Institution to do so, a Member shall supply to the Institution a certificate signed by him providing such information as the relevant Faculty of the Institution has required as to whether he undertakes and/or accepts responsibility for work to which any Practice Statement applies and about the nature, purpose and extent of such work and for whom it is undertaken.

14

Co-operation

1 A Member shall co-operate with staff and any appointees of the Institution who:

a) are investigating a complaint or allegation made against a Member or a Member's firm; or

b) have sent to the Member a written enquiry relating to a Member's:

i) compliance with the Bye-Laws, any Rules or undertaking which may have been given to the Institution, or

ii) conviction of an offence referred to in Bye-Law 21(1)(b); or

c) are undertaking a visit of inspection and shall provide full and prompt responses to their enquiries.

2 In order to establish whether a Member has complied with any Practice Statement the Chief Executive may require a Member at a time and place agreed or notified by the Chief Executive:

a) to produce for inspection by a person appointed by the Institution his relevant records;

b) to supply reproductions of any such materials as the appointed person may require, (which information shall be used solely for the purposes of the administration of the Institution's Conduct and Disciplinary Regulations); and

c) to supply to such person any necessary information or explanation.

The appointed person shall supply to the Member a written confirmation that any information obtained in the course of a compliance inspection shall be used solely for the purposes of the administration of the Institution's Conduct and Disciplinary Regulations.

Part V Conflicts of interest, impartiality and independence

Interpretation

15 In this part of these Rules, unless the context otherwise requires:

a) a person is an associate of the Member if such a person is:

i) any person or firm so associated with, dependent on or controlled by, the Member such that his or its interest may conflict with that of the client or be reasonably liable to be seen by the client as liable to interfere with the Member's independent professional judgement;

ii) a member or employee of an organisation in which the Member holds public office.

b) *"client"* includes a past client and a prospective client;

c) *"conflict"* means a conflict of interest, which includes any circumstance or potential circumstance:

i) where the Member's interest is or could be in conflict with that of his client; or

ii) where two or more clients' interests conflict or may conflict; or

iii) which is reasonably liable to be seen as interfering with the Member's objective judgement.

Group arrangement

16 It is not a conflict where the Member's firm is part of a group of firms and one firm in the group acts for one client and another acts for another client with conflicting interests, provided that:

a) the firms are separate legal entities;

b) there are no directors, partners or employees in common between the firms;

c) there is no direct or indirect fee sharing between the firms; and

d) there is no access to information or common internal data sharing arrangements relating to the area of conflict.

Conflict of interest and confidentiality

17 1 Without prejudice to any other situation where a conflict may arise, a conflict arises where a Member, the Member's firm or associate is in possession of confidential information concerning a past or existing client which may be of relevance to the interest of a new or prospective client or to another existing client.

Rule

2 Where a Member, the Member's firm or associate is in possession of confidential information concerning a client, he may not use that information against the interest of that client, except where Rule 9(2) applies.

Conflict between a Member's interest and a client's interest

18 Where a conflict arises or may arise between a Member's interests or those of any associate of his and the interests of his client, a Member shall consider whether or not he or his firm is prepared to act or continue to act for that client and, if he decides to act or continue to act, he shall:

a) disclose to the client at the earliest opportunity the possibility and nature of the conflict, the circumstances surrounding it and any other relevant facts;

b) advise him in writing to seek independent advice on the conflict; and

c) inform the client in writing either that he and his firm are not prepared to continue to act for the client in this capacity or that he personally or his firm cannot act or continue to act for him unless thereafter:

i) the client requests him to do so unconditionally; or

ii) subject to specified conditions that the Member has put in place arrangements for handling the conflict which the client has approved in writing as acceptable to him.

Conflict between the interests of clients

19 Where a conflict arises or may arise between the interests of two or more clients of a firm, a Member shall consider whether or not he or his firm is prepared to act or continue to act for any or all of those clients and, if he decides to act or continue to act, he shall:

a) disclose to each client the possibility and nature of the conflict, the circumstances surrounding it and any other relevant facts;

b) advise them in writing to seek independent advice on the conflict; and

c) inform each client in writing that neither he personally nor his firm can act or continue to act for him unless thereafter either:

i) the clients request him to do so unconditionally; or

ii) subject to specified conditions that the Member has put in place arrangements for handling the conflict which the clients have approved in writing as acceptable to them.

Personal interests

20

1 Where a Member acts as agent for the sale or letting of real property owned by the Member himself or an associate of his, or in which he or an associate of his has an interest, he must disclose the relevant facts to any prospective purchaser or lessee and, where any prospective purchaser or lessee instructs a lawyer, to that lawyer.

2 In paragraph (1), where a Member or an associate of his has an interest in real property which is to be sold or let by the Member, "the relevant facts" include the nature and extent of the interest.

3 Where a Member acts as agent in the sale or purchase of farm quota he must disclose to all parties concerned:

a) the capacity in which he is acting and for whom he is acting; and

b) whether he will receive any remuneration over and above his fee.

4 Where a Member acts as agent for the sale of personal property owned by the Member himself or his firm he must disclose this fact to the prospective purchaser or representative.

Public office holders

21

Where a Member holds public office which might lead to a conflict with the interest of any client of the Member, the Member shall disclose the scope of:

a) the appointment to his client; and

b) the client relationship known to the Member to the public body to which he has been appointed.

Transparency of fees and benefits

22

A Member shall disclose to his client the nature and, where known, the basis or amount of any fee, commission or other benefit (other than that agreed with his client) that he stands to gain as a result of his appointment by the client.

Rule

23

Duties to third parties

1 A Member who is instructed by a client to negotiate with a third party shall not:

a) stipulate that he be retained by that third party in any capacity; or

b) recommend a transaction or course of action concerning land, property or construction or give preference to the third party solely or partly in expectation either of the procuration of future fees or other financial gain whether directly or indirectly for himself or his firm, unless:

i) he has his client's consent in writing to do so, and

ii) he has advised the third party promptly and in writing to obtain independent professional advice.

2 Where a Member is to be or has been appointed to act for a client in a contract in which he owes a duty of good faith to a third party, he must notify that third party promptly and in writing of any interest which he has as a result of his appointment other than his normal fee or commission.

3 A Member may pay a fee or commission or give a gift or a favour to a third party in recognition of the introduction of a client provided that he promptly discloses to the client the amount or nature of the fee, commission, gift or favour and the identity of the third party.

4 For the purposes of paragraph (3), a “favour” includes the provision of business.

Part VI Professional indemnity insurance

Obligation to carry insurance

24 For such countries as the Governing Council is satisfied that professional indemnity insurance is reasonably available on commercially viable terms, it shall, with effect from 1 January 2004 after consulting the relevant National Association(s), make Rules requiring the Members practising or who practised in that country to be insured against any claims at least to the extent required by those Rules.

25 Rules made under Rule 24 are in Schedules to Conduct Regulation 27.1.

Ireland

26 Members who are also Members of the Society of Chartered Surveyors whose principal place of residence and work is in Ireland shall comply with its comparable Regulations rather than those required by the Institution.

Waiver of insurance requirements

27 The Governing Council shall have power to waive or modify in writing in any particular case, with or without conditions, any of the provisions of this part of these Rules.

Part VII Members' accounts

Rule 28

Application

The Governing Council, with effect from 1 January 2004 and after consulting with the relevant National Associations, may make Rules applicable to Members practising in specific jurisdictions, but absence of such Rules for a particular jurisdiction does not absolve Members from the obligations in this part of the Rules.

29 Rules made under Rule 28 are in Schedules to Conduct Regulation 27.1.

Obligation to keep client accounts

30

1 A Member who receives or holds money belonging to or held in trust for others, and over which the Member has exclusive control, shall keep it separate from his own, his firm's or his company's money and it shall be clearly identifiable.

2 A Member shall ensure that money which belongs to a client is available on demand to that person, except where the client has given written instructions otherwise.

Obligation to keep accurate records

31 A Member shall at all times keep properly written records as are necessary:

a) to show his dealings with:

i) all money, belonging to or held in trust for others, received, held and paid by him; and

ii) any other money dealt with through any or each separate account; and

b) to show separately the money of each person whose money is received, held or paid by him on account; and

c) to enable the current balance held on behalf of each person to be identified.

Reporting obligations

32 Once in every period of 12 months a Member carrying on practice shall supply to the Institution a certificate signed by him as to whether in the course thereof he received or held money belonging to or held in trust for another person(s) during the accounting period.

Visits of inspection

33 In order to establish whether a Member has complied with this part of the Rules the Chief Executive of the Institution may:

a) require a Member to produce at a time and place agreed, or

b) notify the Member that

his records and any other necessary documents will be inspected by a person appointed by the Institution and to supply to such person any necessary information or explanation.

Waiver of Members' accounts requirements

34 The Governing Council shall have power to waive or modify in writing in any particular case, with or without any conditions, any of the provisions of this part of these Rules.

Part VIII Lifelong learning

Rule 35

Interpretation

1 In this part of these Rules, unless the context otherwise requires:

"lifelong learning" (LLL) means the systematic maintenance, improvement and broadening of professional knowledge, understanding and skill and the development of professional and technical duties throughout the practitioner's working life;

"qualifying activity" means the study of:

a) some part of the theory and practice of surveying as defined in the Royal Charter;

b) other professional and/or technical surveying topics related to a Member's current or potential occupations;

c) topics relating to the acquisition of personal, business management or consultancy skills; and/or

d) such other topics considered by the Institution to be within the purview of one or more of its Faculties, or as may be advised or promoted as qualifying by the Institution from time to time, intended to increase a Member's management or business efficiency and effectiveness, by one or more of the following means:

i) attendance at conferences, workshops, seminars and courses and technical meetings having some formalised structure including, for example, objectives, an introductory paper or speech, video or audio cassette presentations or computer or other similar facilities and, in the case of technical meetings, there must be a competent person in charge of the proceedings and the subject must be announced in advance;

ii) undertaking a programme, which may include participation in distance, multi or flexible learning opportunities, or other supervised study involving a programme of reading or recorded lectures, on completion of which programme a qualification may be awarded;

iii) attendance at meetings, working groups and panels requiring a significant contribution from Members and based upon a paper, audio, television programmes or other presentations;

iv) private study and pre-course reading in a structured form on pre-defined themes for up to two thirds of the total hours required under Rule 37;

v) job development and experience based learning, including through project secondments and placements, temporary job changes, exchanges and development of subordinates and trainees;

vi) preparation for publication of technical work, research and the preparation and first delivery of presentations to colleagues and other professionals;

vii) additional activities such as acting as an APC/ATC assessor, an external examiner or similar.

2 In paragraph (1), regular reading of professional journals does not normally count as "private study" although study of articles in professional journals relevant to the Member's structured programme of study is eligible.

3 In this part of these Rules a "year" means a calendar year and "years" shall be construed accordingly.

Application

36 This part of these Rules applies to a Member who is a Fellow, a Professional Member or a Technical Member except when the annual subscription of such a Member is subject to a concession under Regulation 35.3.1.3(a), (c), (d), (i) and (j) of the Subscriptions, Entrance Fees and Contributions Regulations.

Obligation to undertake lifelong learning

37 1 A Member shall complete a minimum of 60 hours LLL comprising qualifying activity in every period of three consecutive years a minimum of 10 hours LLL shall be carried out in every year. LLL shall be computed as follows:

a) the maximum time attributable to any qualifying activity shall be the duration from the opening to the close of any formal event calculated to the nearest half hour or from the commencement to the completion of other informal activities;

b) when a Member attends for only part of a qualifying activity, only the time attended shall be counted; and

c) time spent in administering a qualifying activity shall not be treated as LLL.

2 All chartered surveyors admitted as such, other than under Bye-Law 3(5)(a), (b) or (d), on or after 1 September 2004 shall attain before or within 5 years of such admission a Certificate of Management Studies (CMS) or N/SVQ in management at Level 4, or such other management qualification as is acceptable to the Education and Membership Policy Committee. Hours devoted to study and examinations to meet this requirement is qualifying activity for the purposes of Rules 35(1) and 37(1). The Chief Executive is authorised to accept that a chartered surveyor to which this paragraph applies has met the requirements before admission by virtue of achievement of a management qualification or other qualifications with management content equivalent to that required by this paragraph. The Chief Executive is authorised to extend in individual cases the period of five years by such further period as he considers justified by the Members personal circumstances during the five year period.

Rule 38

LLL records

1 A Member shall:

a) with effect from 1 January 2004 record no less frequently than every 12 complete calendar months his learning objectives, the date on which they were last recorded, updated or reconfirmed, and the manner(s) in which he intends to meet those objectives. In the cases of chartered surveyors admitted as such, other than under Bye-Law 3(5)(a), (b) or (d), on or after 1 September 2004, these objectives shall include business management knowledge, skills and/or understanding;

b) keep a written record of his participation in qualifying activities in such form as is prescribed from time to time by the Governing Council which shall include dates, subject-matters, speakers, total time computed in accordance with Rule 37 of these Rules and, from 1 January 2004, brief evaluations of the effectiveness that his participation in such qualifying activity has had to recorded learning activities ; and

c) send to the Institution within 28 days of being required by the Institution so to do a copy of his records under sub-paragraphs (a) and (b) of this paragraph in such form as the Governing Council shall, from time to time, prescribe, which in the case of Members admitted as such on or after 1 January 2004 shall be by use of RICS on-line or other electronic recording system as the Institution may specify.

2 The record referred to in paragraph (1) of this Rule shall be kept for a period of three years after the qualifying activity has been undertaken.

LLL after lapse of an annual subscription concession

39 Where the concession referred to in Rule 36 ceases to apply, a Member shall:

a) submit to the Institution within three months of the start of the first year in which the full subscription becomes payable or such longer period as the Chief Executive may allow, a three year LLL plan which provides that at least 50 per cent of the LLL obligation as laid down in Rule 37 is met by qualifying activity which is relevant to the Member's area of professional or technical work; and

b) update that plan by 31 March annually in respect of each of the succeeding two years and send it to the Institution.

Waiver of LLL requirement

40 The Chief Executive may waive or modify in writing, with or without any conditions, any of the provisions of this part of these Rules in response to an application from a Member based on the grounds of redundancy, ill health, pregnancy or any exceptional reason.

Part IX Member's failure to deliver information (Bye-Law 22B)

Rule 41

Maximum fines

1 Subject to paragraph (3), when a Member fails to deliver to the Institution any certificate, report or other document required by any Bye-Law, Regulation or these Rules, within 28 days from the date upon which it is required to be delivered, the Chief Executive may by notice in writing demand a fine or fines up to the following maxima:

a) First 4 weeks (starting on any day) following expiry of the notice that a fine will become payable if the required action(s) has/have not been taken, until the actions are fulfilled	£30 per week or part thereof
b) Next 4 weeks	£50 per week or part thereof
c) Subsequent weeks	£100 per full week

2 The fine or fines under paragraph (1) shall be payable within such period as is specified in the written notice, which period shall not be less than 28 days from the notice.

3 Where the Member is resident or principally works in those countries identified as within Regulation 35.3.1(e) of the Subscription, Entrance Fees and Contributions Regulations at the relevant time and has been granted a concessionary subscription accordingly, the monetary figure in paragraph (1) shall be 15% of those shown.

Schedule 1 to Conduct Regulation 27.1 UK, the Channel Islands and the Isle of Man

This Schedule is made by the Governing Council of the Royal Institution of Chartered Surveyors under Conduct Regulation 27.1 and supplements to it, and is applicable in the UK, the Channel Islands and the Isle of Man. Part I of this Schedule is made under Rule 11 of the Rules of Conduct; part II is made under Rule 24 of the Rules of Conduct and parts III and IV are made under Rule 28 of the Rules of Conduct. Rule 1 (interpretation) of the Rules of Conduct applies to this Schedule.

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Part I Complaints handling procedure

Rule 1

1 This Rule applies to a Member who is a sole principal, partner or director of a firm and who is offering surveying services to the public (other than only to his employer).

2 A Member shall ensure that his firm has and operates a formal procedure for dealing with complaints from a client and from any person, other than an employer, to whom, in the opinion of the Institution, a duty of care is owed.

3 Except where a statutory scheme is being operated, the procedure for dealing with complaints shall, as a minimum:

a) state the name of the person with whom initial contact can be made;

b) include a timescale both for the timely acknowledgement of the complaint and the timescale within which the outcome of the investigation will be completed;

c) include reference to:

i) a right of the complainant to a separate review by an appropriately qualified person;

ii) mediation, where both parties agree, in accordance with the model mediation procedure developed by the Centre for Dispute Resolution or the mediation process operated by the Dispute Resolution Service of the Institution; and

iii) a right of the complainant, where the complainant remains dissatisfied with the result of the internal investigation or where the separate review or mediation has proved unsuccessful, to have his complaint referred to the Surveyors Arbitration Scheme or to another scheme approved by the Institution under which complaints between a Member and the complainant may be resolved quickly and with minimum formality by an independent person.

4 The procedure for dealing with complaints shall be in writing and shall be made available to the client and to any member of the public on request.

5 Where paragraph 3(c)(iii) applies and a complaint has remained unresolved the Member shall ask the complainant in writing whether he wishes the complaint to be referred to the Surveyors Arbitration Scheme or to another scheme approved by the Institution. Where a complaint remains unresolved on or after 1 January 2004 and it is in respect of a property in Scotland the Member shall ask the complainant in writing whether he wishes his complaint to be referred to the Surveyors Ombudsman Scheme (established by RICS) or to the Surveyors Arbitration Scheme or, where applicable and the Member is a member of it, the Ombudsman for Estate Agents Scheme. The complaint shall be referred as chosen by the complainant.

Rule

6 If a Member is being required to provide particulars in respect to paragraph (2) and (3), he shall do so within 28 days of this being required.

7 A Member shall, in case of referral to the Surveyors Arbitration Scheme (previously known as the Surveyors and Valuers Arbitration Scheme), comply with the Surveyors Arbitration Scheme Rules.

Part II Professional indemnity insurance

Interpretation

2

1 In this part of this Schedule, unless the context otherwise requires:

"ARP Panel" means the Panel appointed by the Governing Council to administer the Assigned Risks Pool on such terms as the Governing Council shall from time to time determine;

"Assigned Risks Pool" means an arrangement approved by the Governing Council under which a temporary insurance facility is provided for Members who are unable to comply with the requirements relating to professional indemnity insurance specified in this part of this Schedule because they have been declined, or constructively declined, insurance but who satisfy the rules of admission to the Pool;

"consultant" includes any Member, whether or not expressly described as a consultant, whose name and designation appear on business stationery or in business communications or material of any nature or who is employed in any firm offering surveying services to the public in which no partner or director is a Member;

"firm" includes a sole principal, a partnership or a company incorporated with either limited or unlimited liability offering surveying services;

"gross income" means all professional fees, remuneration, commission and income of any sort deriving from work undertaken or performed in the United Kingdom, the Channel Islands or the Isle of Man but excluding:

a) any sums received for the reimbursement of disbursements;

b) any amount charged by way of value added tax; and

c) any income from such judicial or other offices which the Governing Council may from time to time determine;

"insurance" means professional indemnity insurance and "insure" and "insured" shall be interpreted accordingly;

"listed insurer" means an insurer who is listed by the Institution for the purposes of this part of this Schedule;

"partner" includes a member of a limited liability partnership;

"preceding year" means a Member's accounting year which ended during the period of twelve months immediately preceding the date on which any insurance policy is taken out in accordance with this Schedule;

"RICS Professional Indemnity Insurance Policy" means the policy approved by the Governing Council from time to time; and
"uninsured excess" means the amount of any claim which a Member or his firm may be required to pay before any indemnity is granted under the terms of any policy of insurance required under this Schedule.

2 In this part of this Schedule, a Member or his firm is constructively declined insurance if he or his firm:

a) after making a reasonable effort is quoted a premium for insurance; or

b) is offered a policy of insurance containing terms

which would jeopardise his or his firm's ability to carry on business.

Application

3 1 This part of this Schedule applies:

a) to a Member who is practising as a surveyor or held out to the public to be practising and who is:

i) a sole principal of, or

ii) partner in, or

iii) a director of, or

iv) a consultant to

a firm providing surveying services.

b) during the period referred to in paragraph (2) below, to a Member who:

i) has, or has been held out to the public as having, practised as a surveyor in any of those capacities; and

ii) has ceased to practise, or ceased to be held out as practising as such.

2 The period referred to in paragraph (1) above is the period of six years beginning on the date on which the Member ceased to practise or to be held out as practising in any of the capacities referred to in that paragraph.

Obligation to carry insurance

4 1 Subject to paragraph (2) of this Rule and to Rule 7, every Member shall ensure that:

a) any firm offering surveying services to the public of which he is a sole principal, partner or director, is insured at least to the extent required by

Rule

this Schedule against any claims arising from work undertaken or performed within the United Kingdom, the Channel Islands, the Isle of Man; and

b) each partner, director or employee of or consultant to such a firm including himself is covered by that insurance.

2 If a Member who is practising solely as a consultant to a firm offering surveying services to the public can show that:

a) the firm to which he is a consultant covers the Member under its policy of insurance and names the Member as the insured or one of the insured on the policy of insurance; and

b) such policy of insurance gives no less cover to the Member than that required by this Schedule

then that Member shall not be under an obligation to carry any separate insurance cover over and above that carried by the firm concerned.

Run-off cover

5

1 A Member shall ensure that any former sole principal, partner, director, employee or consultant of his firm continues to be insured by that firm on an each and every claim basis against any claim arising from work previously undertaken by that sole principal, partner, director, employee or consultant within any of the territories referred to in Rule 4(1)(a) above for a minimum period of six years from the date on which such individual ceased to be a sole principal, partner, director, employee or consultant.

2 Where a firm is amalgamated, merged, dissolved, wound up or otherwise ceases to trade, as the case may be, a Member who was a former sole principal, partner, director, or consultant of that firm, or who has been held out to the public as such, shall ensure that, for a minimum of six years following such amalgamation, merger, dissolution or winding up, insurance cover is maintained that, as a minimum, complies in all respects with the requirements set out in this Schedule.

3 Where a Member is a partner, director or a consultant, or is held out to be in such a position, in a firm where there is no other Member who is or who is held out to be a partner, director or a consultant, and that Member

subsequently leaves the firm, he shall ensure that, insurance is maintained in accordance with this Schedule for a minimum of six years in respect of his work and work for which he was responsible.

4 Notwithstanding Rule 6 and the preceding paragraphs of this Rule:

a) Members who have retired on or before 31 December 2001 shall carry a minimum limit of £100,000 for each and every claim for a minimum of six years from the date of retirement of the Member;

b) Members retiring on or after 1 January 2002 shall carry a minimum limit of indemnity of £250,000 for each and every claim for a minimum of six years from the date of retirement of the Member.

5 Notwithstanding Rule 6 and the preceding paragraphs of this Rule, a sole principal who has ceased to practise as such may take out a policy that provides a minimum limit of indemnity cover of £250,000 for any one claim and in all provided that the average annual gross income of the firm over the three years preceding cessation of practice did not exceed £50,000.

Requirements

6

1 The minimum amount of cover required under this Schedule shall be:

a) £250,000 for each and every claim where the gross income of the firm in the preceding year did not exceed £100,000;

b) £500,000 for each and every claim where the gross income of the firm in the preceding year exceeded £100,000 but did not exceed £200,000;

c) £1,000,000 for each and every claim where the gross income of the firm in the preceding year exceeded £200,000

and the uninsured excess under any such policy of insurance shall not exceed:

i) in the case of a policy with a limit of indemnity of up to and including £500,000 a maximum of 2.5% of the sum insured or £10,000 whichever shall be the greater.

ii) in the case of a policy with a limit of indemnity of more than £500,000 a maximum of 2.5% of the sum insured under this Schedule.

2 Members shall insure by means of a policy of insurance no less comprehensive than the form of the RICS Professional Indemnity Insurance Policy in force at the time when the policy of insurance is taken out.

Rule

Assigned Risks Pool

7 Rules 4, 5(1), (2) and (3) and 6 do not apply to Members who are insured through the Assigned Risks Pool.

Listed insurer

8

1 A policy of insurance shall, to the extent required by this Schedule, be taken out or renewed with a listed insurer.

2 Paragraph (1) of this Rule shall not apply where it conflicts with the requirements of the EU applicable to public authorities and utilities when acquiring goods, services or works.

Monitoring and return of certificates

9

1 A Member shall provide to the Institution:

a) within 28 days of effecting insurance, a certificate in such form as the Governing Council shall from time to time prescribe signed by the Member or on the Member's behalf setting out details of that insurance;

b) within 28 days of being required by the Institution to do so, such evidence in such form as the Governing Council shall from time to time prescribe either that the Member is not subject to this Schedule or that the Member has complied with them.

2 The maximum fine which may be demanded under Bye-Law 22B for failure to provide a certificate or evidence is in accordance with part IX of the Rules of Conduct.

3 A Member who ceases to have insurance in accordance with this Schedule shall notify the Institution immediately.

Exclusion of liability

10 A Member shall not be insured under a policy of insurance which contains an exclusion of liability for claims arising from a Member's previous practice activity unless:

a) the exclusion is limited to claims arising as a result of work undertaken more than six years from the date on which the insurance was effected; or

b) the same liability is covered by a separate policy of insurance.

Waiver of insurance requirements

11 The Governing Council shall have power to waive or modify in writing, with or without any conditions, any provision of this part of this Schedule in a particular case.

Part III Members' accounts

Interpretation

12 In this part of this Schedule, unless the context otherwise requires:

"accounts", *"books"* and *"ledgers"* include loose-leaf books and such cards or other permanent documents or records as are necessary for the operation of any system of book keeping, whether handwritten, mechanical, computer-operated or otherwise;

"auctioneer" means a Member as an auctioneer of chattels (including deadstock and livestock);

"bank" means the Bank of England, the Post Office, in the exercise of its powers to provide banking services, or an authorised institution which has permission or passport to accept deposits under the Financial Services and Markets Act 2000;

"building society" is as defined in section 119(1) of the Building Societies Act 1986 and is an authorised institution which has permission or passport to accept deposits under the Financial Services and Markets Act 2000;

"client" includes past, present and prospective clients and means:

a) any person or body for whom the Member or his firm is acting in any capacity;

b) any other person or body on whose behalf the Member holds or receives clients' money;

c) in Scotland the general body of proprietors of units in a tenement property (rather than each individual owner of such a unit);

"client account" means a current or deposit account at a bank or building society into which clients' money is paid;

"clients' money" means any money received or held by a Member or his firm which does not belong solely to him, his firm or a connected person and over which there is exclusive control;

"connected person" means in relation to a Member, a partner or director of his firm;

"discrete client account" means a client account into which clients' money is paid which belongs exclusively to one client;

"exclusive control" means that control of clients' money is restricted to a Member, a connected person and an employee of his firm;

Rule

"firm" includes a sole principal, a partnership, a limited liability partnership, or a company incorporated with limited or unlimited liability offering surveying services; and

"partner" includes a member of a limited liability partnership.

Application

13 This part of this Schedule applies to a Member who is practising as a surveyor or is held out to the public to be practising and who is:

a) a sole principal of; or

b) a partner in; or

c) a director of

a firm offering surveying services.

14 Members shall apply this part of the Schedule to any new accounting period that commences on or after 1 January 2004.

Transitional period

15 The Rules that apply to Members in any accounting period are those in force at the beginning of that Period.

Number, name and nature of client account

16

1 A Member who receives or holds clients' money shall keep at least one client account.

2 Except as provided in paragraph (3) of this Rule the title of a client account shall include:

a) the word "client"; and

b) the name of the Member's firm; and

c) where the account is a discrete client account, the full name of the client.

3 Where a Member has been appointed a receiver under a fixed charge e.g. a Law of Property Act Receiver, the client account may have in its title the words "fixed charge receiver of..." or "fixed charge receivership" or "LPA Receiver of" and the name of the receiver and the name of the charge or a description of the property charged instead of the word of the "client" and the name of the Member's practice.

4 A Member shall, promptly and in writing, inform a client whose money is held in a client account of:

a) the name of the account;

b) the address of the bank or building society where the account is maintained; and

c) whether or not the account is an interest bearing account.

5 A Member shall ensure that money in a client account which is attributable to a particular client is available on demand to that client except where the client has given written instructions that his money may be held in an account to which there is no instant access.

6 Interest earned on pre-contract deposits should be accounted for in accordance with the Estate Agents Act 1979.

7 Interest credited to client bank accounts should be paid to relevant clients, except where there is written agreement from the client for the interest to be retained by the practice.

Client account conditions

17 Before a Member or his firm opens a client account the Member shall ensure that the bank or building society where the account is to be opened has agreed in writing that the following conditions shall apply to that account:

a) all money standing to the credit of that account is clients' money;

b) the bank or building society is not entitled to combine the account with any other account or to exercise any right to set-off or counter claim against money in that account in respect of any sum owed to it on any other account of the Member or his firm;

c) any interest payable in respect of monies held in the account shall be credited to that account except as provided in Rule 16(7); and

d) any charges or interest levied in respect of the account shall not be debited to it except as provided in Rule 23.

Rule 18

Accounts over which Members do not have exclusive control

Before becoming a signatory to a bank or building society account into which money is paid which does not belong solely to the Member, his firm or a connected person but which is not clients' money as defined in this part of this Schedule because the Member does not have exclusive control, every Member shall inform his client in the form set out in Appendix A to this Schedule that:

a) such an account is not a client account for the purposes of this Schedule because the Member does not have exclusive control over the money in the account;

b) this part of this Schedule does not apply to such an account; and

c) the monies held in such an account are not covered by the RICS Clients' Money Protection Scheme.

19

Payment into client account

Except as provided in Rules 20 and 22 of this Schedule a Member shall pay into a client account within three working days only the following items:

a) clients' money;

b) a cheque or banker's draft which includes clients' money as well as other money to which the Member is beneficially entitled;

c) the minimum sum required by the bank or building society for the purpose of opening or maintaining the account:

d) money required to repay any money withdrawn from the account in contravention of this Schedule; and

e) monies belonging to an auctioneer referred to in Rule 22.

20

Money that may be withheld from a client account

Money received by a Member as payment in advance for work yet to be undertaken or completed need not be paid into a client account if:

a) he has notified the client in writing that in these circumstances the RICS Clients' Money Protection Scheme would not apply; and

b) the client, having received the notification referred to in subparagraph (a) of this paragraph, has consented in writing to his money being withheld from a client account.

Payment from client account

21

1 Except as provided in Rule 22 of this Schedule, a Member shall not withdraw money for or on behalf of a client from a client account which exceeds the total amount of the money held on behalf of that client in that client account.

2 Except as provided in Rule 23, a Member shall not allow the drawing of sums of money from a client account in excess of the balance held in that account

3 Subject to paragraph (1) a Member may withdraw money from a client account only if:

a) it is properly required for or towards payment to or on behalf of a client;

b) subject to paragraph (4) of this Rule, it is properly required for or towards reimbursement of money expended by the Member on behalf of a client;

c) subject to paragraph (4) of this Rule, it is properly required for or towards payment of a Member's fee or disbursements;

d) it forms part of a cheque or banker's draft being paid into a client account under Rule 19(b) of this Schedule to which the Member is beneficially entitled;

e) it is transferred directly to another client account in accordance with Rule 23 of this Schedule;

f) it was paid in to open or maintain the account under Rule 19(c) of this Schedule; and

g) it was for any reason paid into the client account in contravention of this part of the Schedule.

4 A Member may only withdraw money from a client account under subparagraph (b) or (c) of paragraph (3) of this Rule if:

a) the withdrawal has been authorised in writing by the client beforehand; or

b) an invoice or other written notice for such payment of fees or disbursements has been delivered to the client or his representative and the client or his representative has been informed in writing that money is to be withdrawn for this purpose and has made no objection within a reasonable time of being so informed.

5 Money shall only be withdrawn from a client account by:

a) a cheque; or

Rule

b) a transfer to a bank or building society account; or

c) in the case of money properly required for payment to or on behalf of a client, in cash.

6 Except as provided in Rule 23, a Member shall not operate an arrangement for the regular direct debiting of a client account.

7 A Member shall withdraw any money paid into a client account in contravention of this Schedule within three working days of becoming aware of that contravention.

8 Notwithstanding any provision in this part of this Schedule, the Governing Council may on the application of any Member or of its own motion authorise the withdrawal of money from a client account in circumstances which would otherwise not be permitted by this part of this Schedule.

Exemption for auctioneers

22

1 An auctioneer may pay money belonging to himself or his firm into a client account and may withdraw such money from a client account if:

a) the account is appropriately identified as an auction account; and

b) operated exclusively for auction sales; and

c) any monies in the client account which belong to the Member are clearly identified.

2 A livestock auctioneer may be exempt from the Rules under this part of the Schedule, except from Rules 28 to 31 in connection with livestock auctions if:

a) before accepting money that would otherwise be clients' money under this Schedule, he notifies the Governing Council in writing that he intends to be exempt and gives a written undertaking in such form as the Governing Council may require that he will make or has made the written notification to clients required under Rule 22(2)(c); and

b) the Governing Council has granted such an exemption in writing and the exemption has not been revoked; and

c) before accepting money that would otherwise be clients' money under this Schedule, he notifies his clients in writing that:

i) the provisions of this Schedule which regulate client accounts do not apply to the account into which he will pay the money; and

ii) the money held in that account is not covered by the RICS Clients' Money Protection Scheme; and

d) he delivers or sends a certificate to the Institution as laid down in Rule 28(1); and

e) he delivers or sends independent verification from an accountant as laid down in Rule 28(1) that he continues to notify clients in accordance with Rule 22(2)(c); and

f) he notifies the Institution immediately if he does not wish to be exempt under this Rule but continues to hold clients' money.

3 The Governing Council may make the grant of an exemption under this Rule subject to such conditions as it thinks fit in the circumstances of any particular case.

4 An auctioneer shall pay money from his office account into the client account as necessary to enable him to pay out money at short notice to clients, without money in the client account belonging to another client(s) or due to the auctioneer being used for this purpose. Such money transferred from the office account must be paid to the appropriate client or be withdrawn by the auctioneer from the client account within three working days of the necessary cleared funds appearing in the client account.

Discrete client account

23

1 A Member may pay clients' money into a discrete client account and must do so upon receipt of written instructions from the client to do so.

2 Only money received or held on behalf of the client whose name is referred to in the title of the discrete client account may be paid into that account.

3 Members are permitted to operate an arrangement for the regular direct debiting of monies only on discrete client accounts.

4 A Member may withdraw money from a discrete client account in excess of the balance held in that account where:

a) the account is not held in connection with a client's instruction governed by the Estate Agents Act 1979; and

b) the Member has written a letter to the client in the form set out in Appendix B, part 1 to this Schedule; and

c) the Member is in receipt of a letter in the form set out in Appendix B, part 2 to this Schedule; or

d) the Member is a fixed charge Receiver or a Law of Property Act Receiver and he has written to the bank in the form set out in Appendix B, part 3 to this Schedule.

Rule

5 With the exception of accounts held in connection with an instruction governed by the Estate Agents Act 1979, where clients' money is held in a discrete client account a Member may, on receipt of written instructions from the client, instruct the bank or building society where the account is maintained:

a) to credit interest payable to the discrete client account to any other account nominated by the client;

b) to debit to the discrete client account charges or interest incurred in respect of it; and

c) to pay directly such sums of money, on such dates and to such persons as may be specified in the instructions.

Transfer between client accounts

24 No sum shall be transferred from the account of one client to that of another except in circumstances in which the transfer would have been permitted under this part of the Schedule.

Signatories to client accounts

25 1 Every person who pays or transfers client money out of a client account must be:

a) a Member; or

b) a partner or a co-director of, or a member of the same limited liability partnership as, a Member; or

c) a Member of the Institution employed under a contract of service by a Member or his firm; or

d) an accountant employed by a Member under a contract of service of his firm who is a member of a recognised supervisory body defined in Rule 30(1) of the Companies Act 1989; or

e) a person not falling within subparagraphs (a), (b), (c) or (d) of this paragraph who is authorised in writing by the Institution.

2 A person referred to in subparagraphs (b), (c), (d) or (e) of paragraph (1) of this Rule must at all times be the subject of a fidelity guarantee in the Member's professional indemnity insurance policy.

Accounting records

26 1 A Member shall at all times keep properly written up accounts as are necessary:

a) to show his dealings with:

i) all clients' money received, held or paid by him; and

ii) any other money dealt with through a client account; and

b) to show separately in respect of each client all clients' money which is received, held or paid by him on account of such client; and

c) to enable the current balance of all clients' money held on behalf of each client to be shown.

2 All dealings referred to in paragraph (1)(a) of this Rule shall be recorded either:

a) in a client's cash book, or in a client column of a cash book; or

b) in a record of sums transferred from the ledger account of one client to that of another;

and in either case additionally in a clients' ledger or in a clients' column of a ledger.

3 Subject to paragraph (5) of this Rule, a Member shall, at least once every calendar month, reconcile the balance of his client's cash book with:

a) the balance in his client account using the bank statement; and

b) the total of each client's balance in the clients' ledger

and shall produce and keep a statement of both reconciliations.

4 The reconciliations required under paragraph (3) shall be undertaken within five weeks of the previous reconciliation.

5 Paragraph (3) of this Rule shall not apply if a Member has had no dealings through a client account since the date on which the last reconciliation was undertaken.

6 A Member shall maintain a list of all persons for whom he is or has been holding clients' money and a list of all the bank and building society accounts in which clients' money is held.

7 In respect of all client accounts, a Member shall preserve for at least six years from the date of the last entry in the account and make available for inspection by the Member's accountant and the Institution's investigating accountant:

a) all accounts, books, ledgers, invoices, accounting records and reconciliation statements maintained in respect of the client account, and where a computerised system is operated, the information recorded on it must be capable of being reproduced in printed form; and

Rule

b) all bank or building society statements as printed and issued by any bank or building society with which he has maintained a client account.

8 In this Rule "reconciliation" means an analysis that accounts for the difference between balances extracted from separate records on a given date.

Misappropriation of clients' money

27 A Member shall notify the Institution without delay of any deliberate misappropriation of clients' money immediately he is aware of it and shall replace the missing money from either his firm's account or his own resources.

Provision of certificates and accountant's reports

28 1 Once in every period of 12 months a Member shall deliver or send to the Institution a certificate signed by the Member that he did or did not receive or hold clients' money during the accounting period covered by the certificate and:

a) if he did receive or hold clients' money, an accountant's report in such form as the Governing Council shall from time to time prescribe;

b) if Rule 22(2) of this Schedule applies to the Member, verification is required from a qualified accountant under Rule 32 of this Schedule that he is satisfied that the written notification to clients required by Rule 22(2) has been made throughout the accounting period.

2 The certificate and the accountant's report or verification referred to in this Rule shall be given or sent to the Institution not more than six months after the end of the accounting period to which they relate.

3 Subject to paragraph (2) of this Rule, the accounting period shall:

a) not cover more than 12 months;

b) begin on the day following the end of the preceding accounting period for which a certificate referred to in this Rule has been delivered or sent to the Institution; and

c) where possible correspond to a period or consecutive periods for which the accounts of the Member are ordinarily made up.

4 Where a Member commences or recommences to practise as a surveyor, the accounting period shall begin on the commencement or recommencement of his practice.

5 Where a Member has two or more places of business:

a) the Member may adopt separate accounting periods covered by separate certificates, accountant's reports and verifications in respect of each place of business; and

b) the accountant's report or reports delivered by him in each year shall cover all clients' money held or received by the Member.

Fines for non-provision

29

1 The maximum fine which may be demanded under Bye-Law 22B for failure in providing a certificate, accountant's report or verification under Rule 28 is as set out in part IX of the Rules of Conduct.

2 Where no member of a firm has delivered or sent the documents referred to in Rule 28 to the Institution in accordance with that paragraph, every director or partner of the firm shall be liable to pay the fine referred to in paragraph (1) of this Rule.

Visits of inspection

30

1 In order to establish whether a Member has complied with this part of this Schedule the Chief Executive of the Institution, or any Disciplinary Body, or any three members (including a Chairman or Vice-Chairman) of such Bodies may:

a) require a Member to produce at a time and place agreed, or

b) notify the Member that

his books of account, bank or building society pass books, loose-leaf bank or building society statements, statements of account, vouchers including petty cash vouchers and any other necessary documents will be inspected by a person appointed by the Institution and to supply to such person any necessary information or explanation.

2 Regarding paragraph (1) the person appointed by the Institution shall prepare a report of such inspection, which may be used as a basis for disciplinary proceedings.

3 If, after enquiry in accordance with an inspection carried out under paragraph (1) of this Rule, a Member is found to have contravened the Members' Accounts Rules, either a Professional Conduct Panel or the Disciplinary Board or the Appeals Board, as the case may be, shall have power to make such order as it shall consider just for payment by the Member of a sum of money in or towards payment of the costs incurred by the Institution in connection with any inspection made by any person appointed under this Rule.

4 A requirement made of a Member under this Rule shall be made by or on behalf of the Chief Executive and will be sent by special post to the Member at his last address recorded by the Institution.

Waiver of members' accounts requirements

31 The Governing Council shall have the power to waive or modify in any particular case, with or without any conditions, any of the provisions of this part of the Schedule.

Part IV Accountant's report

Qualifications of accountants

32 1 An accountant is qualified to give an accountant's report for the purposes of this part of this Schedule if he is:

a) a member of:

i) the Institute of Chartered Accountants in England and Wales; or

ii) the Institute of Chartered Accountants of Scotland; or

iii) the Association of Chartered Certified Accountants; or

iv) the Institute of Chartered Accountants in Ireland; or

v) the Association of Authorised Public Accountants; and

b) also:

i) an individual who is a registered auditor within the terms of Section 35(1)(a) of the Companies Act 1989; or

ii) an employee of such an individual; or

iii) a partner in or employee of a partnership which is a registered auditor within the terms of Section 35(1)(a) of the Companies Act 1989; or

iv) a director or employee of a company which is a registered auditor within the terms of Section 35(1)(a) of the Companies Act 1989; or

v) a member or employee of a limited liability partnership under the Limited Liability Partnership Act 2000 which is a registered auditor within the terms of Section 35(1)(a) of the Companies Act 1989.

2 An accountant is not qualified to make a report if:

a) at any time between the beginning of the accounting period to which the report relates and the completion of the report

i) he was or is a partner, employee or officer in the firm to which the report relates; or

ii) he was or is employed by the same non-surveyor employer as the surveyor for whom the report is being made.

Accountants' reports

33 An accountant's report shall be in such form as the Governing Council shall from time to time approve.

Rule 34

Scope of accountant's work

The accountant shall request and the Member shall provide:

a) particulars of all bank and building society accounts kept, maintained or operated by the Member in connection with his practice at any time during the accounting period to which the report relates and check that the titles of all these bank accounts comply with Rule 16 of this Schedule;

b) a copy of the current bank mandate for each client bank account. The accountants shall check that the signatories are limited to those persons authorised under Rule 25 of this Schedule; and

c) a list of bank accounts operated by the Member but which are not under the Member's exclusive control. The accountant shall check that correspondence has been entered into with the client as required by Rule 18 of this Schedule.

35

The accountant shall undertake the following test procedures:

a) examine the book keeping system of the Member so as to enable the accountant to verify that such system complies with Rule 26 of this Schedule, and is so designed that:

   i) a ledger account is kept for each client;

   ii) such ledger accounts show separately from other information particulars of all clients' money received, held or paid on account of each client;

   iii) transactions relating to clients' money and any other money dealt with through a client account are recorded in the Member's books so as to distinguish such transactions from transactions relating to any other money received, held or paid by the Member;

b) make test checks of postings to clients' ledger accounts from records of receipts and payments of clients' money and make test checks on the casts of such accounts and records;

c) compare a sample of lodgements into and payments from the client account shown in bank and building society statements with the Member's records of receipts and payments of clients' money;

d) enquire into and test check the system of recording fees and/or disbursements and of making transfers in respect of fees and/or disbursements from the client account;

e) make a test examination of such documents as he shall request the Member to produce to him with the object of ascertaining and confirming:

   i) that the financial transactions (including those giving rise to transfers from one ledger account to another), evidenced by such documents, are in accordance with the Rules; and

   ii) that the entries in the clients' ledger accounts reflect those transactions in a manner complying with this Schedule;

f) extract (or test check extractions of) balances on the clients' ledger accounts during the accounting period under review at not fewer than two dates selected by the accountants which shall be at least three months apart and one of which may be the last day of the accounting period, and at each such date:

   i) compare the total as shown by such ledger accounts of the liabilities to the clients, with the cash book balance on client account; and

   ii) reconcile that cash book balance with the client account balance as confirmed by means of original bank or building society statements;

g) satisfy himself that reconciliation statements have been kept in accordance with Rule 26(3) of this Schedule;

h) make such test examination of such clients' ledger accounts in order to ascertain whether payments from the client account have been made on any individual account in excess of money held on behalf of that client;

i) make such test examination of such office ledger and cash accounts and bank and building society statements as the Member maintains with a view to ascertaining whether any clients' money has not been paid into a client account;

j) make such test examination to confirm that clients' money received is banked in accordance with Rule 19 of this Schedule;

k) make such test examination to confirm that interest on clients' money is being handled in accordance with the general law;

l) make such test examination of the client account to confirm that bank charges are not debited to a general client account, or in the case of a discrete client account, that the Member is acting on his client's written instructions to do so;

m) ask, in respect of Law of Property Act Receiver accounts, to see papers that satisfy him that the account was closed during the accounting period;

Rule

n) ask, where the account has been dormant throughout the accounting period, for confirmation by means of original bank or building society statements that there were no transactions through the account during the accounting period;

o) ask for such information and explanations as he may require arising out of sub-paragraphs (a) to (n) of this paragraph.

36 The accountant is not required to:

a) extend his enquiries beyond the information contained in the relevant documents relating to any client's matter produced to him supplemented by such information and explanation as he may obtain from the Member;

b) enquire into the stocks, shares, other securities or documents of title held by the Member on behalf of his clients;

c) consider whether the books of account have been properly written up in accordance with Rule 26 of this Schedule at any time other than the time at which his examination of those books takes place;

d) obtain balances directly from the bank(s) or building society in respect of Law of Property Act Receiver accounts closed during the accounting period;

e) carry out a reconciliation where the account has been dormant throughout the accounting period.

37 If after making an examination in accordance with Rule 35 it appears to the accountant that there is evidence that the Rules have not been complied with he shall make such further examination as he considers necessary in order to complete his report with or without qualification.

Waiver of accountants' reporting requirements

38 The Governing Council shall have power to waive or modify in writing, with or without any conditions, in any particular case any of the provisions of this part of this Schedule.

Appendix A
Letter prescribed under Schedule 1 Rule 18

Our ref:
Your ref:

Date:

Private and Confidential

Name
add1
add2
add3
add4
pcode

Dear

Re: (account name & client's name)

I am writing to inform you that the money that I will receive on your behalf will be banked in an account to which you also have signatory power. This is not a client account as defined in the RICS' Rules of Conduct, because I do not have exclusive control. This means that:

(a) the RICS' Rules of Conduct do not apply to this account; and

(b) the RICS Clients' Money Protection Scheme does not cover money held in this account.

If you have any queries concerning the Members' Accounts Rules or the contents of this letter please do not hesitate to contact me, or the RICS Compliance Section on 024 7669 4757.

Could you please acknowledge receipt of this letter by signing and returning the attached copy to me.

Yours sincerely

[Name to be added]

Appendix B Part 1
Letter prescribed under Schedule 1 Rule 23(4)(b)

NB: Client accounts held in connection with estate agency transactions governed by the Estate Agents Act 1979 must not be overdrawn. You must therefore not issue this letter in connection with such client accounts.

Dear **<insert name of client>**

Re: **<insert full name of bank account>** client account bank: **<insert name and branch address of bank where client account is maintained>**

In accordance with your instructions, this practice maintains the client account referred to above solely for monies belonging to you in a discrete client account. On **<today's date>** your balance of your account amounts to £**<insert balance as at date of letter>**. You have requested that certain transactions shall be carried out, which would result in the account being overdrawn by £**<insert full amount of overdraft>**.

Before permitting the balance in this discrete client account to be overdrawn, I am required by my Professional Body, the Royal Institution of Chartered Surveyors, to inform you:

1. of the bank's charges and interest which will be charged by my bank and which I shall require you to reimburse me in full in due course:

   The bank's charges for this overdraft facility are £**<insert full amount of bank charges and commission (but not interest)>**. The bank will charge interest at **<insert amount of percentage charged>** above the bank's base lending rate from time to time in force. The daily rate of interest will therefore be £**<insert amount of daily rate of interest>**.

2. that I can only withdraw monies if you sign and subsequently return the attached letter;

3. that this discrete client account is NOT covered by the RICS Clients' Money Protection Scheme; and

4. that I recommend that you should take legal advice on the enclosed letter before signing it and returning it to me, because it contains obligations which are legally binding upon you. You should therefore not sign it unless you are prepared to be bound by them.

I look forward to your written instructions.

Yours sincerely

[name to be added]

Appendix B Part 2
Letter prescribed under Schedule 1 Rule 23(4)(c)

NB: Client accounts held in connection with estate agency transactions governed by the Estate Agents Act 1979 must not be overdrawn. You must therefore not issue this letter in connection with such client accounts.

Dear **<insert name of Member>**

Re: **<insert name of bank account> client account bank: <insert name and branch address of bank>**

Your letter dated: **<insert date of Member's letter>**

I/We acknowledge receipt of your letter.

I/We have/have not taken legal advice on it.

You are hereby authorised to arrange withdrawal on the discrete client account of up to £**<insert maximum amount of overdraft>**.

I/We hereby undertake to be responsible for all charges and interest charged to this account by your bankers and will make repayment to you of the capital sum, together with interest and charges on demand.

We understand and appreciate that the RICS Clients' Money Protection Scheme WILL NOT cover this account.

Yours sincerely

[name to be added]

Appendix B Part 3
Letter prescribed under Schedule 1 Rule 23(4)(d)

Dear **<insert name of client>**

Re: **<insert full name of bank account>** client account bank: **<insert name and branch address of bank where client account is maintained>**

I would like to confirm that this practice maintains the discrete client account referred to above solely for monies that will be received and disbursed in the course of my/our appointment as **<insert full and capacity of appointment>** from which we have agreed that it is appropriate for me to withdraw monies on your behalf in excess of the credit balance.

I have made arrangements with my/our firm's bankers to enable that this account can be overdrawn.

Before permitting the balance in this discrete client account to be overdrawn, I am required under the RICS Members' Accounts Rules to advise you:

(a) of the fact that charges and interest may be charged by my bank and which I shall require you to reimburse me in full in due course:

the bank's charges for this facility are £**<insert full amount of bank charges and commission (but not interest)>**. The bank will charge interest at **<insert amount of percentage charged>** above the bank's base lending rate from time to time in force.

(b) that this discrete client account is not covered by the RICS Clients' Money Protection Scheme.

Could you please acknowledge receipt of this letter by signing and return the attached copy to me.

Yours sincerely

[name to be added]

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RICS is the largest organisation for professionals in property, land, construction and related environmental issues worldwide. We promote **best practice**, regulation and **consumer protection** to businesses and the public. With 110 000 members, RICS is the leading source of property related knowledge, providing independent, **impartial advice** to governments and global organisations.

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