



## Supplement 1 to the Sanctions Policy – Penalty Guidelines

01 January 2008

Version 5 with effect from 01 August 2014



## Introduction

### What are the Penalty Guidelines?

These guidelines provide further guidance in addition to that contained in the Sanctions Policy.

They are designed to supplement the guidance set out in the Sanctions Policy, and do not replace or override it.

This document sets out guidelines about some specific Rules where further information may be helpful. They do not cover every Rule and are not intended to do so.

The guidelines provide a framework to assist the decision maker in deciding upon the most appropriate level of penalty (if any), and list mitigating and aggravating factors which may be applicable to a particular type of Rule breach.

### What do they apply to?

The guidelines apply to Consent Orders and hearings by the Disciplinary Panel and Appeal Panel. They do not apply to Fixed Penalties.

## Contents

<b>Rules of Conduct for Members</b>	<b>Page No.</b>
Rule 3 – Ethical behaviour .....	3
Rule 7 – Solvency .....	4
Rule 8 – Information to RICS .....	5
<b>Rules of Conduct for Firms</b>	
Rule 6 – Training .....	6
Rule 7 – Complaints handling .....	7
Rule 8 – Clients' money .....	8
Rule 9 – Professional indemnity insurance .....	9
Rule 10 – Advertising .....	10
Rule 11 – Solvency .....	11
Rule 13 – Use of designations .....	12
Rule 14 – Information to RICS.....	13

**Rules of Conduct for Members, Rule 3 – Ethical Behaviour**

Consider the seriousness of the breach (including risk to clients/public interest)

Consider mitigating and aggravating factors and the weight to attach to each	
Mitigating factors	Aggravating factors
For example: <ul style="list-style-type: none"> <li>• Lack of financial gain</li> <li>• No actual loss to clients</li> <li>• Errors of omission not commission</li> <li>• Full disclosure to RICS</li> <li>• Apology/recompense/willingness to use alternative dispute resolution</li> <li>• Immediate remedial action/revised controls</li> <li>• Consequent staff training/discipline</li> <li>• Low reputation risk for other members/RICS due to satisfactory consumer redress</li> </ul>	<ul style="list-style-type: none"> <li>• Financial gain (secret profit)</li> <li>• Loss/detriment to client</li> <li>• False/misleading statements made</li> <li>• Concealing facts from RICS</li> <li>• Failure to correct behaviour promptly</li> <li>• Non-compliance with practice statement</li> <li>• Statutory breach (e.g. in the UK this could be section 21 of Estate Agents Act 1979)</li> <li>• Adverse publicity for profession including prosecution/judicial criticism</li> </ul>

**Consider personal mitigation**

for example:

- Health
- Family/personal issues
- Co-operation

If Member has a previous record, the relevance of this and any failure to respond to previous consent orders should be considered – it may increase the seriousness.

<b>Consider penalties</b>	<b>Consider proportionality</b>
<b>Decide which penalties (if any) you wish to impose</b>	<b>Give reasons</b>

### Rules of Conduct for Members, Rule 7 – Solvency

Consider the seriousness of the breach (including risk to clients/public interest)

Consider mitigating and aggravating factors and the weight to attach to each	
Mitigating factors	Aggravating factors
For example: <ul style="list-style-type: none"> <li>• Steps taken to minimise loss to clients and/or creditors</li> <li>• Steps taken to assist employees (if applicable)</li> <li>• Compliance with ethical standards</li> <li>• Circumstances beyond Member's control</li> </ul>	<ul style="list-style-type: none"> <li>• Loss to clients and/or creditors</li> <li>• Criminal Proceedings</li> <li>• Unsatisfied judgments, individual voluntary arrangements (duration and dividend to be taken into account), Bankruptcy Order (any restrictions imposed)</li> <li>• Promises of payment not honoured</li> <li>• Rash or hazardous speculation</li> </ul>

### Consider personal mitigation

for example:

- Health
- Family/personal issues
- Co-operation

If Member has a previous record, the relevance of this and any failure to respond to previous consent orders should be considered – it may increase the seriousness.

<b>Consider penalties</b>	<b>Consider proportionality</b>
<b>Decide which penalties (if any) you wish to impose</b>	<b>Give reasons</b>

**Rules of Conduct for Members, Rule 8 – Information to RICS**

Consider the seriousness of the breach (including risk to clients/public interest)

<span style="font-size: 2em; vertical-align: middle;">—</span> Consider mitigating and aggravating factors and the weight to attach to each <span style="font-size: 2em; vertical-align: middle;">+</span>	
Mitigating factors	Aggravating factors
<p>For example:</p> <ul style="list-style-type: none"> <li>Member is not in receipt of information/not easily available</li> <li>Information of low importance (in terms of risk to the public interest)</li> <li>Attempts made to produce information</li> <li>Requests limited</li> <li>Only just overdue/short length of time since first requested</li> <li>No evidence that Member has received request</li> </ul>	<ul style="list-style-type: none"> <li>Member is in receipt of information/easily available</li> <li>Information of high importance (in terms of risk to the public interest)</li> <li>No response to request for information</li> <li>Requested several times</li> <li>Well overdue/significant length of time since information first requested</li> <li>Has Member provided correct/up to date address or deliberately misdirected/failed to collect or open correspondence?</li> <li>Delay in submitting information previously</li> </ul>

**Consider personal mitigation**

for example:

- Health
- Family/personal issues
- Co-operation

If Member has a previous record, the relevance of this and any failure to respond to previous consent orders should be considered – it may increase the seriousness.

<b>Consider penalties</b>	<b>Consider proportionality</b>
<b>Decide which penalties (if any) you wish to impose</b>	<b>Give reasons</b>

### Rules of Conduct for Firms, Rule 6 – Training

Consider the seriousness of the breach (including risk to clients/public interest)

Consider mitigating and aggravating factors and the weight to attach to each	
Mitigating factors	Aggravating factors
For example: <ul style="list-style-type: none"> <li>• Procedure in place</li> </ul>	<ul style="list-style-type: none"> <li>• Majority/large proportion not received training</li> <li>• Complaint from RICS employee about insufficient time to complete CPD requirement</li> <li>• Carries out high risk work in a specialist area and lack of training increases the risk to the public</li> </ul>

### Consider personal mitigation

for example:

- Co-operation

If Firm has a previous record, the relevance of this and any failure to respond to previous consent orders should be considered – it may increase the seriousness.

<b>Consider penalties</b>	<b>Consider proportionality</b>
<b>Decide which penalties (if any) you wish to impose</b>	<b>Give reasons</b>

## Rules of Conduct for Firms, Rule 7 – Complaints Handling

Consider the seriousness of the breach (including risk to clients/public interest)

Consider mitigating and aggravating factors and the weight to attach to each  	
Mitigating factors	Aggravating factors
For example: <ul style="list-style-type: none"> <li>• Has got a complaints handling procedure (CHP)</li> <li>• CHP fully compliant</li> <li>• Reference to CHP in terms of engagement made</li> <li>• Dealt with client's matters promptly</li> <li>• Firm agreed to an Alternative Dispute Resolution (ADR) approved by the Regulatory Board</li> </ul>	<ul style="list-style-type: none"> <li>• No CHP</li> <li>• Initial CHP non-compliant</li> <li>• No reference to CHP in terms of engagement</li> <li>• Does not reply to client</li> <li>• Does not co-operate with RICS staff member</li> <li>• Delays in dealing with client affairs</li> <li>• Firm will not refer matter to independent redress mechanism approved by the Regulatory Board</li> </ul>

### Consider personal mitigation

for example:

- Co-operation
- Complaint has been resolved

If Firm has a previous record, the relevance of this and any failure to respond to previous consent orders should be considered – it may increase the seriousness. Previous advice from the RICS must also be considered.

<b>Consider penalties</b>	<b>Consider proportionality</b>
<b>Decide which penalties (if any) you wish to impose</b>	<b>Give reasons</b>

### Rules of Conduct for Firms, Rule 8 – Clients’ Money

Consider the seriousness of the breach (including risk to clients/public interest)

<span style="font-size: 2em; vertical-align: middle;">—</span> Consider mitigating and aggravating factors and the weight to attach to each <span style="font-size: 2em; vertical-align: middle;">+</span>	
Mitigating factors	Aggravating factors
<p>For example:</p> <ul style="list-style-type: none"> <li>No loss to clients/steps taken to minimise/rectify loss(es)</li> <li>Minimal monies held</li> <li>Remedial action taken</li> <li>Isolated incident(s)</li> <li>Reimbursement of deficit(s)/overdrawing(s)</li> <li>Improved security arrangements and procedures implemented</li> <li>Misappropriation reported to police/insurers/RICS</li> <li>Prompt reimbursement of misappropriated funds/overdrawings</li> <li>Administrative misappropriation</li> </ul>	<ul style="list-style-type: none"> <li>Loss to clients</li> <li>No remedial action taken</li> <li>No/insufficient remedial action</li> <li>Ongoing breach of Rule(s)</li> <li>Ongoing deficit(s)/overdrawing(s)</li> <li>Weak security arrangements and procedures</li> <li>Misappropriation not reported to police/insurers/RICS</li> <li>No/delayed reimbursement of misappropriated funds/overdrawings</li> <li>Intentional misappropriation</li> </ul>

#### Consider personal mitigation

for example:

- Co-operation
- Professionalism of Firm’s accountant (where relevant)

If Firm has a previous record, the relevance of this and any failure to respond to previous consent orders should be considered – it may increase the seriousness.

<b>Consider penalties</b>	<b>Consider proportionality</b>
<b>Decide which penalties (if any) you wish to impose</b>	<b>Give reasons</b>

**Rules of Conduct for Firms,  
Rule 9 – Professional Indemnity Insurance**

Consider the seriousness of the breach (including risk to clients/public interest)

Consider mitigating and aggravating factors and the weight to attach to each <span style="float: right; font-size: 2em;">+</span>	
Mitigating factors	Aggravating factors
For example: <ul style="list-style-type: none"> <li>• No uninsured claims</li> <li>• Small number of clients</li> <li>• Professional Indemnity Insurance (PII) expired very recently</li> <li>• Cover always maintained when surveying services provided (now in run-off cover period)</li> <li>• Formal declinature                             <ol style="list-style-type: none"> <li>a. Evidence of formal declinature provided</li> <li>b. Explored possibility of Assigned Risks Pool</li> <li>c. Possibility of non-compliant cover explored</li> <li>d. Take into account market conditions e.g. hardening, softening, rising, falling</li> </ol> </li> <li>• Letter(s) of indemnity from client(s)</li> <li>• Risk management procedures</li> </ul>	<ul style="list-style-type: none"> <li>• Uninsured claims and notified circumstance</li> <li>• High number of clients</li> <li>• Significant period elapsed since PII expired</li> <li>• Surveying services performed when PII not maintained</li> <li>• Vulnerable client (e.g. vulnerable individual rather than large commercial client)</li> </ul>

**Consider personal mitigation**

for example:

- Co-operation
- Complaint has been resolved

If Firm has a previous record, the relevance of this and any failure to respond to previous consent orders should be considered – it may increase the seriousness. Previous advice from the RICS must also be considered.

<b>Consider penalties</b>	<b>Consider proportionality</b>
<b>Decide which penalties (if any) you wish to impose</b>	<b>Give reasons</b>

### Rules of Conduct for Firms, Rule 10 – Advertising

Consider the seriousness of the breach (including risk to clients/public interest)

<span style="float: left;">—</span> <b>Consider mitigating and aggravating factors and the weight to attach to each</b> <span style="float: right;">+</span>	
Mitigating factors	Aggravating factors
For example: <ul style="list-style-type: none"> <li>• First offence</li> <li>• Attempts to resolve breach</li> <li>• Genuine error/mistake</li> </ul>	<ul style="list-style-type: none"> <li>• Frequency or number of complaints</li> <li>• Consequence of breach</li> <li>• Whether breach caused offence or annoyance</li> <li>• Breach of any Code</li> <li>• Whether advertising is/was misleading</li> <li>• Whether reliance is placed on the advertising</li> <li>• Breach of trust</li> </ul>

#### Consider personal mitigation

for example:

- Co-operation

If Firm has a previous record, the relevance of this and any failure to respond to previous consent orders should be considered – it may increase the seriousness.

<b>Consider penalties</b>	<b>Consider proportionality</b>
<b>Decide which penalties (if any) you wish to impose</b>	<b>Give reasons</b>

**Rules of Conduct for Firms, Rule 11 – Solvency**

Consider the seriousness of the breach (including risk to clients/public interest)

Consider mitigating and aggravating factors and the weight to attach to each	
Mitigating factors	Aggravating factors
For example: <ul style="list-style-type: none"> <li>• Steps taken to minimise loss to creditors</li> <li>• Steps taken to assist employees (if applicable)</li> <li>• Compliance with core values</li> <li>• Circumstances beyond Firm’s control</li> </ul>	<ul style="list-style-type: none"> <li>• Loss to clients</li> <li>• Criminal Proceedings</li> <li>• Unsatisfied judgments</li> <li>• Where insolvency of an individual, individual voluntary arrangements (duration and dividend to be taken into account), Bankruptcy Order (any restrictions imposed)</li> <li>• Promises of payment not honoured</li> <li>• Rash or hazardous speculation</li> </ul>

**Consider personal mitigation**

for example:

- Co-operation

If Firm has a previous record, the relevance of this and any failure to respond to previous consent orders should be considered – it may increase the seriousness.

<b>Consider penalties</b>	<b>Consider proportionality</b>
<b>Decide which penalties (if any) you wish to impose</b>	<b>Give reasons</b>

### Rules of Conduct for Firms, Rule 13 – Use of Designation

Consider the seriousness of the breach (including risk to clients/public interest)

<span style="float: left;">—</span> <b>Consider mitigating and aggravating factors and the weight to attach to each</b> <span style="float: right;">+</span>	
Mitigating factors	Aggravating factors
For example: <ul style="list-style-type: none"> <li>• Complications/delay outside of Firm’s control in relation to having its business literature amended to comply with Rule 13</li> <li>• Short delay in having business literature amended</li> <li>• No detriment to client</li> </ul>	<ul style="list-style-type: none"> <li>• Refusal to acknowledge requirements e.g. a Firm appreciates that it is a “Regulated Firm” but refuses to display “Regulated by RICS” on its letterhead</li> <li>• No attempt to comply, or long delay in rectifying</li> <li>• Detriment to client</li> </ul>

### Consider personal mitigation

for example:

- Co-operation
- Financial difficulties, e.g. the Firm may not be able to afford to have its business literature updated or amended

If Firm has a previous record, the relevance of this and any failure to respond to previous consent orders should be considered – it may increase the seriousness.

<b>Consider penalties</b>	<b>Consider proportionality</b>
<b>Decide which penalties (if any) you wish to impose</b>	<b>Give reasons</b>

**Rules of Conduct for Firms, Rule 14 – Information to RICS**

Consider the seriousness of the breach (including risk to clients/public interest)

Consider mitigating and aggravating factors and the weight to attach to each	
Mitigating factors	Aggravating factors
For example: <ul style="list-style-type: none"> <li>• Firm is not in receipt of information/ not easily available</li> <li>• Information of low importance</li> <li>• Attempts made to produce information</li> <li>• Requests limited</li> <li>• Only just overdue/short length of time since first requested</li> <li>• No evidence that Firm has received request</li> <li>• Has correspondence been sent to correct address?</li> <li>• No delay in submitting information previously</li> </ul>	<ul style="list-style-type: none"> <li>• Firm is in receipt of information/easily available</li> <li>• Information of high importance</li> <li>• No response to request for information</li> <li>• Requested several times</li> <li>• Well overdue/significant length of time since information first requested</li> <li>• Evidence that Firm received request</li> <li>• Has Firm provided correct/up to date address?</li> <li>• Delay in submitting information previously</li> </ul>

**Consider personal mitigation**

for example:

- Co-operation

If Firm has a previous record, the relevance of this and any failure to respond to previous consent orders should be considered – it may increase the seriousness.

<b>Consider penalties</b>	<b>Consider proportionality</b>
<b>Decide which penalties (if any) you wish to impose</b>	<b>Give reasons</b>



## Confidence through professional standards

RICS promotes and enforces the highest professional qualifications and standards in the development and management of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to the markets we serve.

We accredit 118,000 professionals and any individual or firm registered with RICS is subject to our quality assurance. Their expertise covers property valuation and management; the costing and leadership of construction projects; the development of infrastructure; and the management of natural resources, such as mining, farms and woodland. From environmental assessments and building controls to negotiating land rights in an emerging economy; if our members are involved the same professional standards and ethics apply.

We believe that standards underpin effective markets. With up to seventy per cent of the world's wealth bound up in land and real estate, our sector is vital to economic development, helping to underpin stable, sustainable investment and growth around the globe.

With offices covering the major political and financial centres of the world, our market presence means we are ideally placed to influence policy and embed standards at a national level. We also work at a cross-governmental level, delivering a single, international standard that will support a safe and vibrant marketplace in land, real estate, construction and infrastructure, for the benefit of all.

We are proud of our reputation and we guard it fiercely, so clients who work with an RICS professional can have confidence in the quality and ethics of the services they receive.

### United Kingdom RICS HQ

Parliament Square, London  
SW1P 3AD United Kingdom

**t** +44 (0)24 7686 8555

**f** +44 (0)20 7334 3811

[contactrics@rics.org](mailto:contactrics@rics.org)

#### Media enquiries

[pressoffice@rics.org](mailto:pressoffice@rics.org)

### Ireland

38 Merrion Square, Dublin 2,  
Ireland

**t** +353 1 644 5500

**f** +353 1 661 1797

[ricsireland@rics.org](mailto:ricsireland@rics.org)

### Europe

[excluding UK and Ireland]

Rue Ducale 67,  
1000 Brussels,  
Belgium

**t** +32 2 733 10 19

**f** +32 2 742 97 48

[ricseurope@rics.org](mailto:ricseurope@rics.org)

### Middle East

Office G14, Block 3,  
Knowledge Village,  
Dubai, United Arab Emirates

**t** +971 4 446 2808

**f** +971 4 427 2498

[ricsmenea@rics.org](mailto:ricsmenea@rics.org)

### Africa

PO Box 3400,  
Witkoppen 2068,  
South Africa

**t** +27 11 467 2857

**f** +27 86 514 0655

[ricsafrica@rics.org](mailto:ricsafrica@rics.org)

### Americas

One Grand Central Place,  
60 East 42nd Street, Suite 2810,  
New York 10165 – 2811, USA

**t** +1 212 847 7400

**f** +1 212 847 7401

[ricsamericas@rics.org](mailto:ricsamericas@rics.org)

### South America

Rua Maranhão, 584 – cj 104,  
São Paulo – SP, Brasil

**t** +55 11 2925 0068

[ricsbrasil@rics.org](mailto:ricsbrasil@rics.org)

### Oceania

Suite 1, Level 9,  
1 Castlereagh Street,  
Sydney NSW 2000, Australia

**t** +61 2 9216 2333

**f** +61 2 9232 5591

[info@rics.org](mailto:info@rics.org)

### North Asia

3707 Hopewell Centre,  
183 Queen's Road East  
Wanchai, Hong Kong

**t** +852 2537 7117

**f** +852 2537 2756

[ricsasia@rics.org](mailto:ricsasia@rics.org)

### ASEAN

Suite 10, 25th Floor,  
Samsung Hub, 3 Church Street,  
Singapore 049483

**t** +65 6692 9169

**f** +65 6692 9293

[ricssingapore@rics.org](mailto:ricssingapore@rics.org)

### Japan

Level 14 Hibiya Central Building,  
1-2-9 Nishi Shimbashi Minato-Ku,  
Tokyo 105-0003, Japan

**t** +81 3 5532 8813

**f** +81 3 5532 8814

[ricsjapan@rics.org](mailto:ricsjapan@rics.org)

### South Asia

48 & 49 Centrum Plaza,  
Sector Road, Sector 53,  
Gurgaon – 122002, India

**t** +91 124 459 5400

**f** +91 124 459 5402

[ricsindia@rics.org](mailto:ricsindia@rics.org)