

Identifying conflicts of interest

- 1 These supporting materials are intended to be helpful to RICS-regulated firms and RICS members but do not constitute formal RICS guidance. These materials are not intended to, nor should be construed as, providing a comprehensive guide to all required and/or appropriate actions.
- 2 These supporting materials are relied upon at your own risk.
- 3 The appropriate course of action will largely depend on the type and size of the relevant firm and, to this end, these supporting materials should be used flexibly in the context of the scenario in question.
- 4 Some aspects of the supporting materials may not apply or be relevant to a particular firm.
- 5 It is for the RICS-regulated firm or RICS member to determine whether further detail and checks beyond those laid out in these materials are appropriate.

1.1 What is a conflict of interest?

A conflict of interest arises in a situation where there may be an actual, perceived or potential risk that the professional judgement of an RICS-regulated firm or member will be compromised when undertaking an assignment. The most common conflicts that arise include the following:

- **A 'party conflict'** – a situation in which the duty to act in the interests of a client or other party in a professional assignment conflicts with a duty owed to another client or party in relation to the same or a related professional assignment.
- **An 'own interest conflict'** – a situation in which the duty to act in the interests of a client in a professional assignment conflicts with the interests of that same RICS member/firm.
- **A 'confidential information conflict'** – a conflict between the duty of an RICS member to provide material information to one client, and the duty of that RICS member to another client to keep that same information confidential.

1.2 Why is correctly identifying conflicts of interest important?

The effective identification and management of conflicts of interest is a challenging but essential component of being a professional. When done correctly it allows RICS-regulated firms and members to demonstrate that professionalism, creates trust and gives confidence to clients.

The RICS Rules of Conduct set out an overarching obligation for both RICS-regulated firms and members to always act with integrity and avoid conflicts of interest and any actions or situations that are inconsistent with their professional obligations.

1.3 Key considerations to think about when assessing what might constitute a conflict of interest

When notification of a professional instruction is first received the initial step should be to consider whether there is an actual, perceived or potential conflict of interest before proceeding with the engagement. For example:

- What is your extent of involvement or connection with the client – including the prospect of further work in the future? You should think about aspects such as the actual or potential volume of work that is or might be involved and the associated level of fee income.
- Could there be any other involvement or connection with the subject property/asset? For example, is your firm or organisation responsible for providing other services at the building (e.g. property/facilities management), or separate professional advice to occupiers or the owner/lender, such as valuations or rent reviews?
- Can the work be completed objectively and independently? What are the potential implications in terms of the perception of integrity and possible embarrassment?

1.4 How might conflicts of interest be identified?

- The processes in place for identifying conflicts will be based on the size, complexity and number of practice areas in the RICS-regulated firm or the member's business. Identification may be achieved through e.g. database checks, advisory emails to staff to enquire about any individual involvement, existing record searches, etc. Some firms might wish to request that staff declare any personal interests in property at the time of joining the organisation, and to update the register on an ongoing basis, although it is for individual businesses to think about how they can best identify past and current involvement in order to comply with the professional statement.
- Have business and ownership structures (such as separate legal entities, any common directors, any fee sharing, etc) been properly considered? For multi-disciplinary firms, greater resource may be needed to enable systems and controls to be put in place.
- As an assignment progresses, RICS-regulated firms and members must continue to consider and apply the professional statement, because a conflict (or significant risk of one) can arise at any time during the lifetime of a professional instruction.