

RICS response to consultation on the Rules of Conduct

Introduction

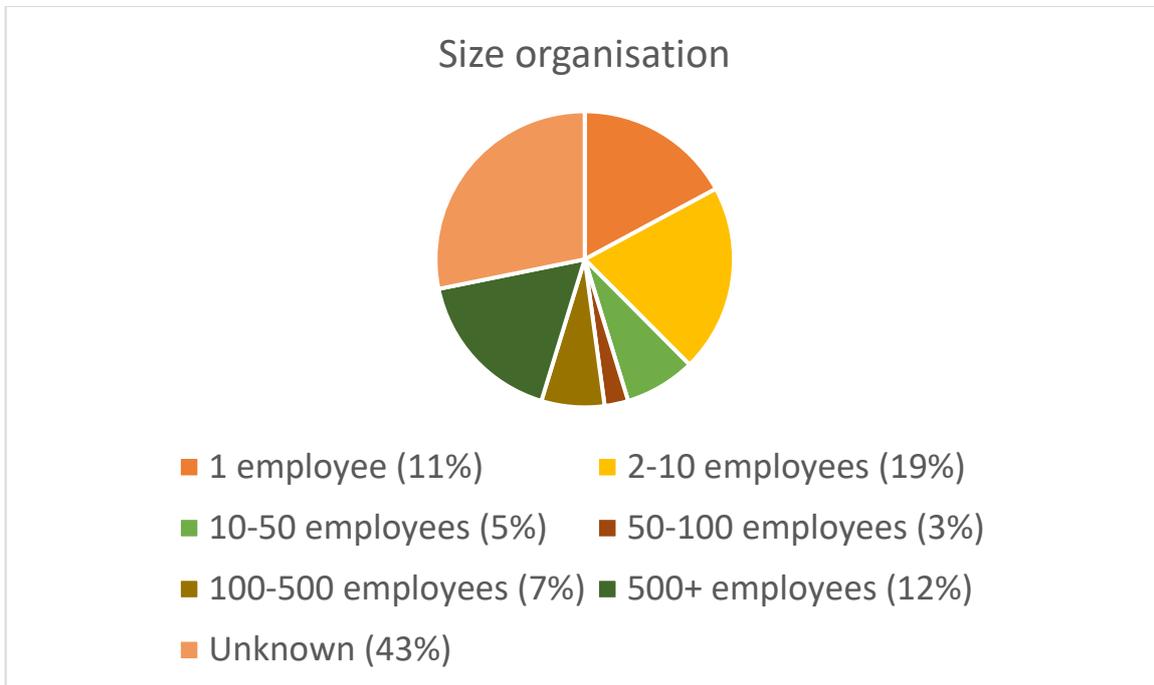
1. RICS maintains *Rules of Conduct* that set the core expectations for professional practice by our members and firms. The existing versions of these Rules have been in place since 2007 with only minor amendments. RICS also has a statement of Global Professional and Ethical Principles, which has been in place since 2009.
2. In 2019, RICS established a working group to review these overarching conduct standards. The group considered that the underlying ethical principles were sound but made proposals to clarify and simplify the existing documents into a single set of *Rules of Conduct*. This update would also address more directly challenges relating to sustainability, the use of data and diversity and inclusion.
3. We recently consulted on these proposals. Public consultation is part of our process when amending standards to ensure that the impact of changes have been properly assessed and stakeholders have been consulted and given the opportunity to feed into proposals. The consultation document and full proposals can be read in full [here](#).

Summary of responses and analysis

Respondents

4. A total of 122 respondents replied to the consultation online. The majority of responses were received from RICS members, with 77% of member respondents based in the UK and the remainder spread fairly evenly across the other world regions. This is reasonably representative of RICS' membership. RICS also received responses from client organisations and from bodies with knowledge of consumer clients, including CEDR and the Property Ombudsman Service, who provide alternative dispute resolution provision for RICS regulated firms, and National Trading Standards.

5. We also collected data on the size of firm that RICS member respondents worked for. The majority of respondents worked in small- or medium-sized firms, although a large number of responses chose not to include this information.



6. We held a series of roundtable meetings with members who are actively engaged with RICS globally through regional boards and working groups. We also held a roundtable meeting with APC candidates. In total 66 RICS members attended these events. Information from these round tables has been included as part of our analysis and summary below.
7. An overview of the responses received to the specific questions is outlined below. Not all respondents answered each specific question. We also received a number of comments and suggested wording changes on the substance of the document and a summary of these, together with our response to the comments, is also provided below.

Q Do you agree that RICS should replace the existing Rules of Conduct and Global Professional and Ethical Standards with a single document?

8. 70 respondents agreed with this proposal. 6 said 'no', and 7 'maybe'. Of those who provided explanations, some felt a single document would be clearer, and some felt separate documents would be clearer. A number of respondents felt that combining ethical principles and rules of conduct lacked clarity.

RICS response

9. The majority of respondents supported moving to a single document. While we note that some respondents preferred the current separation, we believe that a single document provides greater clarity.

10. In light of the comments about confusion between ethical principles and rules, we have amended the title of the document and the introduction to make it clearer that these are rules based on ethical principles.

Q Are you happy with the structure of the Rules?

11. The majority of consultation respondents (72) indicated that they were happy with the structure proposed, while 12 respondents said they were not, and 7 said 'maybe'.

12. Some respondents wanted more cross-reference to International Ethical Standards. One indicated that they would prefer statements organised by topic.

RICS response

13. Given the majority view, in the interests of simplicity we have not made any changes to the structure of the Rules. We will provide a separate document cross-referencing the Rules to the International Ethical Standards.

Q Have we covered all the important issues and risks for professional conduct in the document?

14. 68 respondents answered 'yes' to this question, with 16 saying 'no'.

15. Individual respondents suggested additional topics. Some mentioned topics such as anti-money laundering or conflicts of interest that are mentioned in the document, but respondents felt should be more prominent. One mentioned including something in the Rules that binds RICS to support members. Other respondents noted a desire to see something specific about:
 - a. ensuring inclusive environments and practices
 - b. carrying out work in countries with poor human rights records
 - c. knowing and acting within your limitations or
 - d. the tension between public interest and private commercial interests.

RICS response

16. There were a number of helpful suggestions put forward by respondents, however we believe it is important to keep the *Rules of Conduct* concise and support them through standards and guidance in other areas of practice and conduct. The *Rules of Conduct* are also not the correct place to address the relationship between members and RICS itself. The *Rules of Conduct* support the public interest by communicating to clients and the public what good professional practice by RICS members and firms looks like.
17. Many of the suggestions put forward are either covered in existing professional statements, or guidance that it would be helpful to develop in the future. We agree in particular that some more guidance on responsible and inclusive business practices would help firms, and intend to continue work on this. We also recognise the need to illustrate how the Rules could be applied in difficult situations and there will be training and support for the profession on applying these new Rules.

Q Would the Rules of Conduct and/or the framework set out in the diagram have any adverse impacts on you or your business?

18. The majority of respondents (69) said there would be no adverse impacts. 9 respondents said there would be. The only specific example of a requirement that would have an adverse impact was the need for a sole practitioner to set up a locum agreement in the event of ill health or death.

RICS response

19. We noted the concerns but, given the majority view, we have not made any changes as a result of these comments. The locum requirement for sole practitioners has been in the existing *Rules of Conduct* for some time and is an important protection for clients.

Q. Have we provided enough detail in the document?

20. 71 respondents answered 'yes' to this question with 13 saying 'no'. The specific comments received were about referring to insurance rather than professional indemnity, more cross-referencing to International Ethics Standards, and more detail about providing clients with fee information.

RICS response

21. RICS refers to professional indemnity rather than insurance because not all countries have access to indemnity insurance, and indemnity can be provided through other methods. We will shortly be undertaking a review of our global professional indemnity requirements.

22. As noted, we will provide more cross referencing with International Ethics Standards in a separate document, and felt that the suggestion about fee information was too specific for the *Rules of Conduct* and would be better handled in guidance.

Q. Are the behaviours helpful in illustrating how the rules should be applied?

23. The majority of respondents (60) agreed that the behaviours were helpful. 4 disagreed and 20 said 'somewhat'. There were specific comments about what 'improper influence' was and about the wording of 2.4. One respondent suggested that the behaviours do not work for small and individual practices. Others wanted more real-world examples.

RICS response

24. We have added some examples of improper influence to the document and amended the wording of 2.4 to reflect the suggestion made. No detail was provided of what would not work for small and individual practices, and we also noted that this was a single comment and other small firm respondents had not had this concern, but we intend to provide real-world context through the use of case studies and hope this will show how the behaviours would work for smaller firms.

Q. Should there be a single document incorporating Rules of Conduct for members and firms or would you prefer two separate documents?

25. 50 respondents preferred a single document, 27 preferred separate documents and 7 were not sure. Specific comments were about clarity and a suggestion that the more onerous legal and moral responsibilities of firms towards their employees is understated and more should be done to ensure that employees are not exploited by firms.

RICS response

26. We recognise that this is mostly a matter of personal preference. We are content to adopt the majority response that a single document is appropriate. We think that the Rule around respect does impose a requirement that firms should treat employees fairly, but we also intend to produce guidance on responsible business practices for firms.

Q. Do you agree with the requirements of all of the Rules?

27. The majority of respondents (74) agreed, with 6 saying 'no', and 4 'somewhat'. We also received a large number of specific suggestions about wording changes on individual Rules and behaviours.

RICS response

28. All the detailed comments and suggestions for wording changes were carefully considered. We have provided a number of examples of these detailed comments below and have indicated changes made or, where we have not accepted a suggestion, explained why.

Q. Is the wording of all the Rules clear?

29. 60 respondents said that the wording was clear, 9 said 'no' and 15 said 'somewhat'. Detailed comments on clarity and amendments were considered by the Working Group.

RICS response

30. Where we agreed that suggestions provided more clarity we have made amendments to the document. We have provided more detail about these amendments below.

Q. Are there any behaviours within the Rules that you would find it difficult to comply with?

31. 67 respondents answered 'no' to this question with 17 saying 'yes'. Of those who provided further comments the majority were concerned with how the Rules would affect their ability to negotiate on behalf of clients.

RICS response

32. We considered that a number of the concerns raised about compliance in specific comments would be addressed by the general expectation included in the introduction that a person or firm does what is reasonable to comply. We have amended the introduction to make it clear that professional judgement will often involve balancing different interests and we will also provide case studies to give more illustration of how that may work in practice, including how they would apply to a member acting for a client in a negotiation.

Q. Are the behaviours in paragraphs 2.4 and 2.5, which are intended to maintain and support continuing competence, clear?

33. 60 respondents thought these behaviours were clear, 8 did not, and 18 thought they were somewhat clear. Specific comments included the need to amend 2.4 to reflect all the impacts of work and that changes might not always be needed following reflection. There was also a suggestion that demonstrating the maintenance of competence should be included. Other suggestions were about support for continuing professional development.

RICS response

34. We have made amendments to 2.4 and 2.5 to reflect specific comments made. RICS is reviewing its CPD policy and other comments will be fed into that process.

Q. Do you understand what we mean by sustainable solutions in paragraph 3.11?

Q. Do you agree that we should include the behaviour in 3.11, i.e. that members and firms advise their clients about sustainable solutions?

35. 56 respondents said they understood the meaning of 3.11 with 7 saying 'no' and 21 'somewhat'. The majority of respondents (68) agreed that it should be included in the Rules, with 16 disagreeing.

36. We received some comments that we could make it clearer that sustainable solutions related to the UN Sustainable Development Goals or the three pillars of economic, social and environmental impact. Some respondents felt that advising on sustainability was a crucial element of professional practice and by using the words 'encouraging' and focussing on preventing harm, RICS would be seen as outdated. Others thought that clients would see this as a 'luxury' or that they were being 'lectured'. Others were concerned about how this would be applied where working on controversial projects or where clients had budget constraints.

RICS response

37. The majority thought that this should be included. Considering the responses as a whole we believe that as currently drafted, the paragraph strikes the right balance between the importance of considering social, economic and environmental factors in projects, and recognising that that the profession will be advising clients with different priorities and budgets across a wide variety of work. We have amended the wording slightly to ensure clarity that sustainability involves balancing social, economic and environmental benefits, and will provide a case study about how this example behaviour would be applied, particularly in relation to controversial projects.

Q. Should RICS give any additional high-level example behaviours to encourage sustainability?

38. 37 respondents thought more examples should be given and 46 did not. A number of specific examples were given, but others thought that providing examples to encourage sustainability was over-stepping RICS' remit or that we should not focus so much on this topic.

RICS response

39. We agreed with the respondents who thought that any further examples that could be suggested would be more helpful in guidance for individual disciplines. We did not identify any examples that we thought were at the high level of the *Rules of Conduct*.

Q. Are the behaviours about the use of technology by members and firms in paragraph 3.12 and 3.13 clear and do you think they reflect the correct level of behaviour?

40. 55 respondents answered 'yes' to this question, with 8 saying 'no' and 21 saying 'somewhat'. Some specific comments were received about different sizes of firms and their use of technology.

RICS response

41. Having considered specific comments, we have amended these paragraphs to make the requirements clearer. RICS is also considering providing more guidance on data handling, which should help to demonstrate best practice in different sizes of practice.

Q. Do you agree that the Rules should require RICS members and firms to act in the public interest?

42. The majority of respondents (74) agreed that this should be a requirement. 10 respondents disagreed. Most of those who disagreed were concerned about how the public interest is defined and how it should be balanced with the needs of the client. Others thought that this was important to include, referring back to the Royal Charter, and accepting that this would be difficult to define.

RICS response

43. RICS recognises that this is an area where members and firms will need to balance interests that sometimes compete and has made this clearer in the introduction to the document. However, in common with the majority of respondents, we consider that it is important that professional ethics go beyond simply doing whatever is in the interests of an individual client and there are obligations to the wider public interest. While this cannot be simply defined, the need to maintain confidence in the profession and prevent harm to the public can usually be identified in practice and we will support this section of the *Rules of Conduct* with a case study that illustrates its application.

Q. Do you think that the Rules and behaviours set an appropriate level of professional ethical practice globally?

44. 57 respondents answered 'yes' to this question with 6 saying 'no' and 19 saying 'somewhat'. A number of respondents felt they did not understand the global context sufficiently to comment, with others raising concerns about how the Rules could be applied consistently in different cultures and legal systems. Some felt that these were UK standards and would need to be adapted in different countries. Others raised concerns about RICS operating in countries with poor human rights records.

RICS response

45. We recognise the challenges of regulating members and firms who work in different fields in countries with very different cultures and legal systems. However, the majority of respondents, and in particular most of the respondents based outside the UK, agreed that the Rules set an appropriate level of ethical practice for members and firms globally. Care is needed to apply them consistently, which may include additional supporting material for some regions, but we do not think that having different rules for different countries is appropriate or necessary.

Detailed comments and RICS responses

The references to paragraph numbers in this section are to the numbers in the consultation draft.

46. We have provided some examples below of comments we received on specific sections of the Rules, some of which have resulted in changes to the wording of the Rules. We received nearly 300 individual comments and so this is, by necessity, a small sample of these. All comments were considered whether or not they have been mentioned below.

Introduction

47. Some respondents suggested adding specific areas of practice (for example personal property/arts and antiques valuation or estate and lettings agency) to the initial paragraph. We consider that estate and lettings agency is included in the management of real estate and have added valuation to the list of areas of practice. This is, however, intended to be a summary of the main areas in which members practice and not an exhaustive list. The document is clear that it applies to all RICS members.

48. One response suggested that referring to ethical professional practice as a force for positive social impact involved RICS taking up a political stance and this would affect members' freedom of speech. We do not accept this suggestion. We have included a quotation from the Royal Charter, as suggested by another respondent, which demonstrates that the positive social impact of the profession is a founding tenet of the organisation.

49. One respondent pointed out that there was a lack of clarity in the statement that not all Rule breaches would result in disciplinary action. We agreed and have amended this section to make it clear that only serious breaches would result in action.

Rule 1

50. A suggestion was made that acting honestly should be extracted into a separate rule because of the current case law defining the concepts of honesty and integrity, and the importance of clearly distinguishing between them when taking disciplinary action. We

carefully considered this suggestion, but the two concepts are differentiated within the Rule and we do not believe that further separation is necessary.

51. Some respondents suggested that because the professional statement on conflicts of interest is specifically referenced, other professional statements (for example client money handling or anti-money laundering, bribery and corruption) should be referenced. However, the reference to the *Conflicts of interest* professional statement was necessary because there are a number of specific requirements in that statement and summarising these in the Rules would not be practical. The same does not apply for the other professional statements suggested.
52. Some respondents suggested more emphasis on preventing undisclosed commissions or referral fees. We are satisfied that this is covered in paragraph 3.8 of Rule 3 and that, where this is a particular issue in some areas of practice, further guidance could be given in technical standards. We also considered that the suggestion made about how valuation fees are calculated was a matter for valuation standards.
53. A suggestion was made that the document should not refer to professional 'opinion' as this suggested subjective opinion rather than considered professional advice. However, some work, specifically acting as an expert witness, does involve giving professional opinion rather than advice and we therefore chose not to make this change.
54. We received responses that the suggestion that members and firms consider how work may be used to influence third parties was unclear. We agreed and have decided to remove this part of paragraph 1.7 so that it refers only to preventing others being misled about one's professional opinion.
55. Several comments were received about members and firms not taking unfair advantage of others and how this, and not being improperly influenced by the interests of others would apply where a member or firm was acting in a negotiation. We consider that fair competition and negotiation is allowed within the rules. Those seeking to use their professional knowledge and skills to provide advantage to their client should be looking to do so fairly. We intend to provide a case study to provide more illustration on this point.

Rule 2

56. An addition to the Rule to include the requirement to have the necessary expertise was considered and we agreed that this amendment should be made.
57. One respondent suggested that we should add knowing and acting within your limitations to the Rule. We carefully considered this but believe that the need to only provide services

that you have the skills, knowledge and resources to provide is another way of stating this expectation.

58. Some respondents suggested that the need for members, those undertaking work on behalf of firms and subcontractors to have 'experience' would inhibit members and firms moving into new areas of work with appropriate training and supervision. We agreed with this point and have removed the word 'experience'.
59. A number of respondents asked for more clarity in paragraph 2.4, or pointed out that not all work will obviously have social or environmental impacts and that the wording suggested that things would always need to be done differently in the future. We agreed and have amended the paragraph to say that members and firms reflect on the impact of their work and apply what they have learned to future work.
60. Suggestions were made that we should add the need to demonstrate that members had identified development needs and undertaken continuing professional development. We agreed and have added this to paragraph 2.5.
61. Respondents also suggested that there should be a responsibility placed on firms to provide time for members to undertake CPD, or to pay for them to do so. Given the wide range of types and sizes of firms we thought that this would be better covered in guidance.
62. A suggestion was made that firms should be included in paragraph 2.6 as they should be staying up to date with legislation, standards, etc. We agreed and have amended this paragraph. There was also a suggestion that this was too onerous an expectation and members could not be expected to have complete knowledge. However, we consider that this is limited to relevant legislation and it is reasonable to expect members to know the relevant legislation and standards for their area of work.

Rule 3

63. Some respondents suggested that 'good-quality' was subjective or suggested more detail about, for example, fee information or information about services offered. We thought that this could more helpfully be addressed in guidance to support the Rules.
64. A suggestion was made that 3.4 should be amended to make it clear that agreement should be sought before any terms of engagement are changed. We agree and have made that amendment.
65. A number of respondents raised concerns about paragraph 3.6 about challenging and testing the information that forms the basis of their opinion. We carefully considered this.

This is a matter that is particularly relevant to valuation but is already covered in detail in *RICS Valuation – Global Standards*. We therefore decided to amend paragraph 3.5 to provide additional emphasis on the need to work in accordance with technical standards and to delete paragraph 3.6.

66. We also received a number of concerns about the wording of paragraph 3.7 that it may lead to onerous and unnecessary expectations of providing large amounts of supporting information in the course of work. We agreed and have amended the wording to say that members and firms will ‘communicate the material information’ to clients. We have also removed the phrase and others to whom they owe a professional duty’ as we thought this may be better considered in technical standards.
67. Some respondents thought that referral fees should be banned altogether. We, in common with other professional bodies, have taken the view that transparency is the appropriate way to deal with this subject. In response to a suggestion we have removed the words ‘in advance’ from paragraph 3.9 as this is covered adequately in the professional statement on client money handling.
68. Respondents commented that the reference to keeping records of ‘ethical decision-making’ in paragraph 3.10 was unnecessary. We agreed and have amended the wording of this paragraph to say that members and firms keep records of ‘their work and decisions’.
69. We received a large number of comments about paragraph 3.11, some strongly in favour, some strongly against. These and our response to them have been summarised above (paragraphs 35-37 of this document). Some respondents suggested moving this to Rule 5. We disagree and think that considering sustainability is an important part of providing a good, diligent service to clients.
70. Responses suggested that ‘consider’ the benefits and risks of technology was insufficiently clear. We agree and have changed this to ‘understand’, bearing in mind the general expectation that this will involve members and firms taking reasonable steps to understand this. Some respondents also suggested more detail here – we believe that this should be provided through separate guidance rather than in the Rules.
71. Some respondents queried the clarity of paragraph 3.13. We have reworded this to provide more clarity.

Rule 4

72. Some respondents suggested that, given its importance, the need to encourage diversity and inclusion should be included in the Rule, not just the example behaviours. We agreed

and have made that amendment. Having done so we also amended paragraph 4.7 to provide more examples of what behaviour that encourages diversity and inclusion would look like.

73. One respondent commented that treating others with courtesy did not reflect the realities of a tough business world. We disagreed with this comment and think that courtesy is an intrinsic part of professionalism.
74. Several respondents suggested additional characteristics that should be added to paragraph 4.2. The wording reflects the current protected characteristics under UK law and most are common to a wide range of other countries, although there are a large number of other characteristics that different countries include in legislation. We think having a list of characteristics here is important, partly because these Rules are global. We have decided not to add any additional characteristics but would emphasise that this is an illustrative list and this behaviour sits under the Rule of treating others with respect and encouraging diversity and inclusion. Some of the more detailed considerations here could also be addressed in guidance.
75. Some respondents commented on how RICS will enforce this Rule where members are practising in countries where discrimination may be lawful. We understand that RICS will take context into account when making enforcement decisions, and have added wording to the introduction to make it clear that firms and members will need to consider any legal obligations that apply to them, but we believe that it is important that the Rules articulate the values that underpin the profession.
76. Several comments were made about the clarity of paragraph 4.4, what it meant by exploitation and whether it would impose onerous obligations on firms. Taking these comments into account we have amended this paragraph to say: 'Firms check that supply chains do not involve modern slavery or other abuses of the workforce'. This will continue to be covered by the general expectation that firms do what they reasonably can to check this.
77. A suggestion was made that we would need to define 'abusive labour practices' as what is abusive in one country may not be in others. We disagree and do not think abuse is a culturally relative concept.
78. One respondent commented that the need to work effectively with others was too vague. We agreed and have removed this wording so that the example behaviour is that members and firms work cooperatively with others.

Rule 5

79. We received some comments on the wording of paragraph 5.1. On review, we decided that this did not add to the wording in the Rule and decided to delete this paragraph. We also reordered the list of behaviours to reflect the importance of raising concerns.
80. Some members were concerned that paragraph 5.3 about public statements not undermining public confidence in the profession could be used to prevent public dissent from or criticism of RICS. We do not think that this paragraph would or should prevent any criticism unless it was abusive or malicious. We also do not think that RICS as an institution is the same as 'the profession'. The examples of statements that might breach the Rule would be, for example, those which were racist or harassed an individual. We intend to illustrate this distinction through a case study.
81. Some commenters thought that referring to raising concerns about 'practices and decisions they suspect are not right' is too vague or subjective. The paragraph is in the context of the Rule referring to prevent harm and maintaining public confidence in the profession. Beyond this we do not think it is possible to define all the circumstances in which raising concerns is appropriate in the Rules, although this might be a subject for separate guidance in future.
82. A comment was made that support for those who raise concerns should be included. We agreed and have amended the document accordingly.
83. Respondents raised a concern that the need to inform management and clients where health conditions prevented members from performing work competently could discriminate against those with conditions which could be managed through reasonable adjustments to their work environment. We agreed and have amended the wording of this paragraph to reflect that some members may need adjustments.
84. Concerns were raised that the obligation to report suspected breaches to RICS was too absolute. We agreed and have amended the wording to refer to significant breaches, having also added a reference to taking appropriate action where they consider the Rules have been breached, as this is likely to be sufficient to remedy insignificant breaches.

Appendix A – Professional obligations

85. We received some comments that some of these obligations may be too onerous, in particular the obligation on sole principals to make appropriate arrangements for their professional work to continue if they fall ill or die. However, all of these obligations are in the existing *Rules of Conduct* and are important safeguards for clients of the firm.

Conclusion

86. We are grateful to all those RICS members and stakeholders who responded to the consultation and participated in the roundtable for their feedback and insight on the proposals.

87. We are pleased that the majority of respondents supported the new *Rules of Conduct*. We understand that a number of respondents had fundamental disagreements with what we proposed, but the consultation responses as a whole suggest that the new Rules provide clarity and support appropriate standards of professional ethical practice.

Acknowledgements

RICS would like to thank the drafting group and global advisory group for their contributions to the drafting and development of the *Rules of Conduct*.

Drafting group

Anthony Townsend

Will Glassey

Christine O'Rourke

Jane O'Brien

Dayle Bayliss

Haashiem Tayob

Nigel Mehdi

Luis Campbell

Global advisory group

David He

Sathish Rajendren

Leon Wang

Geoff Ritcey

Gary Man

Praveen Subramanya

Shana Lam

Ingrid Hulshoff

Fong Chung Lee

David Duffy

Gerry Kipling

Puneet Bhatia

Robert Kidd

John Verpeleti

Mohamed Saad Abdalla

Dele Oyekanmi

David Chappell

Kieran Chauhan

Tina Raftopoulos

Andy Collins

Wayne Elsom