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## RICS standards framework

RICS' standards setting is governed and overseen by the Standards and Regulation Board (SRB). The SRB's aims are to operate in the public interest, and to develop the technical and ethical competence of the profession and its ability to deliver ethical practice to high standards globally.

The RICS Rules of Conduct set high-level professional requirements for the global chartered surveying profession. These are supported by more detailed standards and information relating to professional conduct and technical competency.

The SRB focuses on the conduct and competence of RICS members, to set standards that are proportionate, in the public interest and based on risk. Its approach is to foster a supportive atmosphere that encourages a strong, diverse, inclusive, effective and sustainable surveying profession.

As well as developing its own standards, RICS works collaboratively with other bodies at a national and international level to develop documents relevant to professional practice, such as cross-sector guidance, codes and standards. The application of these collaborative documents by RICS members will be defined either within the document itself or in associated RICS-published documents.

## Document definitions

Document type	Definition
RICS professional standards	<p>Set requirements or expectations for RICS members and regulated firms about how they provide services or the outcomes of their actions.</p> <p>RICS professional standards are principles-based and focused on outcomes and good practice. Any requirements included set a baseline expectation for competent delivery or ethical behaviour.</p> <p>They include practices and behaviours intended to protect clients and other stakeholders, as well as ensuring their reasonable expectations of ethics, integrity, technical competence and diligence are met. Members must comply with an RICS professional standard. They may include:</p> <ul style="list-style-type: none"> <li>• mandatory requirements, which use the word ‘must’ and must be complied with, and/or</li> <li>• recommended best practice, which uses the word ‘should’. It is recognised that there may be acceptable alternatives to best practice that achieve the same or a better outcome.</li> </ul> <p>In regulatory or disciplinary proceedings, RICS will take into account relevant professional standards when deciding whether an RICS member or regulated firm acted appropriately and with reasonable competence. It is also likely that during any legal proceedings a judge, adjudicator or equivalent will take RICS professional standards into account.</p>
RICS practice information	<p>Information to support the practice, knowledge and performance of RICS members and regulated firms, and the demand for professional services.</p> <p>Practice information includes definitions, processes, toolkits, checklists, insights, research and technical information or advice. It also includes documents that aim to provide common benchmarks or approaches across a sector to help build efficient and consistent practice.</p> <p>This information is not mandatory and does not set requirements for RICS members or make explicit recommendations.</p>

## 1 Mandatory professional behaviour and competence

1.1 Mandatory professional behaviour and competence expected of surveyors when advising in respect of compulsory purchase and statutory compensation matters.

Application and principal message	
1	You <b>must</b> be able to demonstrate a proper understanding of the statutes, statutory instruments, case law and government guidance in respect of the compulsory purchase process and compensation in the jurisdiction where your advice is to be applied. (2.8)
2	You <b>must</b> ensure you are able to discharge your duties to the required standard and consider all matters material to the instruction. (2.10)

3	You <b>must</b> be aware of the changes in responsibility that will occur should your duties later involve acting as an expert witness, and how that may affect the carrying out of work prior to that change. (2.12)
4	As soon as you become aware that judicial or quasi-judicial proceedings seem likely you <b>must</b> advise your client in writing of your ability or otherwise to comply with the current editions of RICS' <a href="#">Surveyors acting as expert witnesses</a> , <a href="#">Surveyors acting as expert witnesses in Scotland</a> or other RICS requirements applicable to the jurisdiction in which you are working.
Duty in providing advice	
5	Where information material to the advice being given is not available, or is not evidenced or corroborated to your satisfaction, you <b>must</b> clearly state this to your client and advise what assumptions have been made. (3.2)
6	You <b>must</b> endeavour to establish the material information and collect appropriate evidence during the period of your instruction. (3.2)
7	You <b>must</b> provide your client with balanced and professional advice that seeks to secure an equitable outcome for your client consistent with the requirement to agree fair and reasonable compensation, in accordance with the compulsory purchase compensation code for a reasonable cost and within a reasonable timescale. (3.7)
8	On commencement of an instruction, you <b>must</b> provide your client with clear advice as to the basis on which, in your opinion relying on the information available, compensation is likely to be assessed in accordance with the compulsory purchase compensation code. If your client is not prepared to proceed on the basis of what you consider to be a reasonable approach to the assessment of compensation, this <b>must</b> be identified and resolved. (3.8)
9	If you identify a material inaccuracy or change your view of a matter material to advice given, you <b>must</b> notify those instructing you without delay. (3.9)
10	Clients (on either side) can, and do, seek to influence surveyors. You <b>must</b> demonstrate your professionalism by maintaining a reasonable and balanced approach. (3.10)
Acceptance of, and changes to, instructions	
11	You <b>must not</b> accept instructions to provide advice in matters unless you have the: <ul style="list-style-type: none"> <li>(a) requisite competence appropriate for the assignment and</li> <li>(b) resources to complete the assignment within the time scale and to the standard required. (4.1)</li> </ul>
12	You <b>must</b> , prior to accepting instructions: <ul style="list-style-type: none"> <li>a) advise those instructing you in writing that this RICS professional standard will apply and offer to supply a copy of the standard on request</li> <li>b) ensure there is a written record, held by you, as to the matters on which advice is required, whether such written record is prepared on your initiative or those instructing you</li> <li>c) confirm your terms of engagement to the client</li> <li>d) be satisfied no conflict of interest arises and take account of RICS professional standards and information in respect of conflicts of interest. You <b>must</b> report any actual or potential conflict of interest to those instructing you as soon as it arises or becomes apparent. This applies both before and after instructions have been accepted</li> </ul>

	e) undertake due diligence in line with statutory requirements and RICS' <a href="#">Countering bribery, corruption, money laundering, and terrorist financing</a> .
13	If your instructions are changed or supplemented, you <b>must</b> ensure there is a written record of this held as required in 4.2(b). (4.3)
Inspection	
14	Where an inspection of any property is required, it <b>must</b> always be carried out to the extent necessary to produce professionally competent advice having regard to its purpose and the circumstances of the case. (5.1)
15	A suitable record of the size, configuration, relevant features and condition of the property, which is representative of the circumstances at the compensation valuation date, <b>must</b> be prepared and where possible agreed with the other party. (5.2)
Negotiations	
16	You <b>must</b> be aware of the distinction between shadow negotiations and the negotiation of statutory compensation following the exercise of compulsory purchase powers and how this affects your client's interests. (7.2)
Reports	
17	In reporting your advice, you <b>must</b> consider all matters material to the instruction. (6.2)
Fees	
18	Where a basis for calculating fees is proposed, the initiative will usually come from the claimant's surveyor, having received instructions from a claimant. You <b>must</b> ensure that the basis for fees and disbursements is reasonable in relation to the work required. (8.2)
19	When advising claimants, you <b>must</b> ensure in all cases that the basis on which you propose to charge fees, the arrangements for payment, and any subsequent changes are agreed with your client in writing. (8.5)
20	Clients (on either side) can, and do, seek to influence surveyors. You <b>must</b> demonstrate your professionalism by maintaining a reasonable and balanced approach to fees.
21	You <b>must</b> make clear to your clients, at the earliest opportunity and before time is incurred, that they bear ultimate liability for your fees on the agreed fee basis. You <b>must</b> advise your clients that they will be liable for any fees that are not borne by the acquiring authority. (7.5)
21	You <b>must</b> be clear with your clients and advise them when time is to be spent on matters for which claimant's fees are not normally borne by the acquiring authority and do so before that time is incurred. (7.6)

## 2 Application and principal message

2.1 This professional standard applies when you provide advice regarding property interests and rights in the UK that relates to the seeking or use of compulsory purchase or other statutory powers by or against your client, or where the seeking or use of such powers is contemplated. It also applies when you are advising a body that is relying on or seeking to rely on another body to seek or use compulsory purchase or other statutory powers to assist with a project.

2.3 The mandatory standards in this document have been highlighted in bold in the main text and set out in section 1 for ease of reference.

2.4 The standards set out in this document are in addition to the latest version of [RICS Valuation – Global Standards](#) (Red Book Global Standards) where they apply.

2.5 This RICS professional standard applies to property rights and interests in the UK only. Practitioners in other territories may wish to consider whether this document is of assistance in guiding good practice in their region.

2.6 For ease of reference, in this professional standard a landowner or occupier from whom an interest or right is required is referred to as a **claimant**. Where negotiations occur prior to the exercise of compulsory purchase, there may be no statutory right to a compensation claim. See section 7.2 on negotiations prior to compulsory purchase. The same term also includes parties with a statutory claim or anticipated claim for injurious affection where no land is acquired.

2.7 A client seeking to acquire land or rights where the use of compulsory purchase powers (by the client or another body) is contemplated is referred to as an **acquiring authority**. However, for the purposes of this professional standard this includes developers and other parties that may not have direct access to compulsory purchase powers. The same term also includes the compensating authority for injurious affection where no land is taken. See also the glossary at Appendix C.

2.8 Compulsory purchase is a complex area of practice. As a surveyor advising a client in respect of compulsory purchase or the exercise of statutory powers to take rights over or in a property interest, **you must be able to demonstrate a proper understanding of the statutes, statutory instruments, case law and government guidance in respect of the compulsory purchase process and compensation in the jurisdiction where your advice is to be applied**. It is your responsibility to keep up to date with changes in case law, guidance and legislation, including secondary legislation, and to be aware of the different statutory provisions that apply to different areas of the UK.

2.9 The exercise of compulsory purchase powers can have a significant impact on the homes and livelihoods of those affected. It is especially important that RICS members advising acquiring authorities, commercial partners, landowners and occupiers do so competently and responsibly and act at all times in accordance with the [RICS Rules of Conduct](#). The aim of all parties and in particular the surveyors acting for them should be to reach agreement on a fair package of compensation, mitigation, or where appropriate removal of the land from the order or threat of a future order, as straightforwardly as possible, and for the conduct of both sides to be reasonable and for each to take account of the constraints, challenges and impacts faced by the other.

2.10 The roles you may be called on to perform in a case involving compulsory purchase or the exercise of statutory powers are many and varied. **You must ensure you are able to discharge your duties to the required standard and consider all matters material to the instruction**. The roles that may arise include:

- Advising an acquiring authority contemplating the use of compulsory purchase powers or statutory powers or a commercial partner of such an authority, including land acquisition strategy, pre-powers negotiations, and estimates of potential compensation liability.
- Advising owners and occupiers under threat of compulsory purchase how to protect their position, including potential objection to any order, preparations in advance of acquisition to protect compensation entitlement, and pre-powers negotiations.
- Being involved in alternative dispute resolution (ADR) or appearing as an expert witness at inquiry or before the Lands Chamber of the Upper Tribunal or the Lands Tribunal for Scotland. See also RICS' [Surveyors acting as expert witnesses](#) and [Surveyors acting as expert witnesses in Scotland](#). Separate guidance applies in Northern Ireland.

- Negotiation of compensation arising from compulsory purchase acting on behalf of the acquiring authority, an authority's commercial partner or the owner or occupier of the property interest acquired.

2.11 Compulsory purchase and statutory compensation may involve elements of business valuation, town planning, forensic accountancy and other specialisms as well as property valuation and procedural matters. It is important you can provide the appropriate standard of advice in all aspects and throughout the course of your instruction. Where you are not able to do so you **must** clearly agree with your client in advance the limits of your duties, perhaps working in co-operation with other advisers to provide comprehensive advice.

2.12 **You must be aware of the changes in responsibility that will occur should your duties later involve acting as an expert witness, and how that may affect the carrying out of work prior to that change.**

2.13 This professional standard also applies to the provision of advice to assist a client to decide whether to initiate or defend judicial proceedings that fall within the scope of section 2.1. **As soon as you become aware that judicial or quasi-judicial proceedings seem likely you must advise your client in writing of your ability or otherwise to comply with the current editions of RICS' *Surveyors acting as expert witnesses*, *Surveyors acting as expert witnesses in Scotland* or other RICS requirements applicable to the jurisdiction in which you are working.**

2.14 This professional standard is effective three months from publication and supersedes the RICS guidance note *Surveyors advising in respect of compulsory purchase and statutory compensation*, 1st edition.

### 3 Duty in providing advice

3.1 The compulsory purchase process and the assessment of statutory compensation requires objective judgement. It is your responsibility to ensure that you are competent to carry out the duties requested by your client and have a proper understanding of the relevant law and practice. If you do not, you should either decline the client's instruction or, where appropriate, seek support from a suitably experienced surveyor. It may be appropriate to seek support rather than declining the instruction if you are particularly familiar with the property or the client's business or have particular experience in the type of valuation required. You should not seek to duplicate advice provided by another surveyor or maintain an instruction unnecessarily.

3.2 Your duty is to use reasonable endeavours to verify the information on which you are instructed to advise, to base any advice given on those facts and to address all matters relevant to the advice sought, so far as is reasonably possible.

3.3 **Where information material to the advice being given is not available, or is not evidenced or corroborated to your satisfaction, you must clearly state this to your client and advise what assumptions have been made.**

3.4 **You must endeavour to establish the material information and collect appropriate evidence during the period of your instruction.** Where further information becomes available you should recommend to your client that your advice be updated at appropriate intervals.

3.5 The VAT status of the claimant should be established and taken into consideration.

3.6 Your professional duty is to your client. This duty applies unless you are instructed to carry out the role of an expert witness as defined in RICS' [Surveyors acting as expert witnesses](#) or [Surveyors acting as expert witnesses in Scotland](#). You should be aware of the requirements of these RICS documents and consider how they may influence your conduct and advice in matters prior to a role as an expert witness. Where an expert witness role appears likely to be required you should consider,

with your client, whether any such role should be carried out by the same person who gives advice leading up to the commencement of expert witness work.

3.7 Compulsory purchase or the use of other statutory powers can be a stressful and emotional experience. **You must provide your client with balanced and professional advice that seeks to secure an equitable outcome for your client consistent with the requirement to agree fair and reasonable compensation, in accordance with ‘the compulsory purchase compensation code’ for a reasonable cost and within a reasonable timescale.** It is important you advise your client based on your knowledge and experience. You should not put forward a negotiating position or seek to pursue a course of action demanded by the client that cannot, in your professional opinion, be reasonably supported and, where necessary, evidenced. This applies whether you are advising a claimant, an acquiring authority, or an acquiring authority’s commercial partner.

3.8 **On commencement of an instruction, you must provide your client with clear advice as to the basis on which, in your opinion relying on the information available, compensation is likely to be assessed in accordance with the compulsory purchase compensation code. If your client is not prepared to proceed on the basis of what you consider to be a reasonable approach to the assessment of compensation, this must be identified and resolved.**

3.9 **If you identify a material inaccuracy or change your view of a matter material to advice given, you must notify those instructing you without delay.**

3.10 **Clients (on either side) can, and do, seek to influence surveyors. You must demonstrate your professionalism by maintaining a reasonable and balanced approach.** Poor conduct leads to wasted time and inevitably the dispute may widen to include fees.

## 4 Acceptance of, and changes to, instructions

4.1 **You must not accept instructions to provide advice in matters unless you have the:**

- a) **requisite competence appropriate for the assignment and**
- b) **resources to complete the assignment within the time scale and to the standard required.**

4.2 **You must, prior to accepting instructions:**

- a) **advise those instructing you in writing that this RICS professional standard will apply and offer to supply a copy of the standard on request**
- b) **ensure there is a written record, held by you, as to the matters on which advice is required, whether such written record is prepared on your initiative or those instructing you**
- c) **confirm your terms of engagement to the client**
- d) **be satisfied no conflict of interest arises and take account of RICS’ professional standards and information in respect of conflicts of interest. You must report any actual or potential conflict of interest to those instructing you as soon as it arises or becomes apparent. This applies both before and after instructions have been accepted.**
- e) **Undertake due diligence in line with statutory requirements and RICS’ [Countering bribery, corruption, money laundering, and terrorist financing](#).**

See also section 5 regarding compliance with Red Book Global Standards, VPS 1 where your instruction includes a valuation.

4.3 **If your instructions are changed or supplemented, you must ensure that there is a written record of this held as required in 4.2(b).**

4.4 When acting for a client claiming or expecting to claim compensation you should identify the expected claimant or claimants and the interest or interests in land for each claimant within your instructions. If the claimant is different from the client, this should be made clear. There may be



circumstances where there are advantages to having a client which is not the claimant, such as where the claimant is a Special Purpose Vehicle or other related party. You and your client should be clear on which party has or is likely to have the statutory entitlement to compensation and on what basis.

4.5 You may need to advise your client on steps to take prior to the use of compulsory purchase powers to ensure that ownerships and occupations are regularised to protect a fair compensation entitlement.

## 5 Valuation and Red Book Global Standards

5.0.1 Advising in respect of compulsory purchase and statutory compensation will often include the provision of valuation advice. You **must** have a clear understanding of which elements of your work constitute valuation advice and the status of that advice having regard to current [RICS Valuation - Global Standards](#) (Red Book Global Standards) and the [RICS Valuation - Global Standards: UK National Supplement](#) and valuer registration.

### 5.1 What constitutes a valuation?

5.1.1 Any advice you give that includes a quantified amount of compensation for the value of land taken, or for injurious affection (whether or not land is taken) will constitute a valuation. This may include severance or betterment where these elements apply.

5.1.2 Recognition payments and other pre-agreed mechanisms of compensation may sometimes be encountered, for example, in respect of utility company installations. Where these relate only to the number, size or other characteristics of the works or land affected rather than assessing the value of the land, they would not constitute a valuation. You should advise your client on the suitability of such payments in the circumstances of the case.

5.1.3 Advice in respect of disturbance compensation or objecting to, or promoting, an order, including advice on the justification of compulsory purchase powers, would not normally include advice on the value of land interests and would not constitute valuation advice. If such advice were to include quantified advice on the value (or change in value) of land interests, then that quantified figure would constitute a valuation.

5.1.4 Advising on the negotiation of assurances and undertakings as to the carrying out of works or negotiating accommodation works may or may not include figures for the value or change in value of land interests (as distinct from the cost of accommodation works or other compensation). To the extent that it does, those elements would constitute a valuation.

5.1.5 For the purposes of this professional standard, a figure in relation to the value or change in value of a land interest includes any statement giving a quantified figure or range of figures, including estimates, budgetary figures and figures given in the course of a negotiation.

### 5.2 Applying Red Book Global Standards to valuations in compulsory purchase

5.2.1 Red Book Global Standards apply to all valuations given by RICS members, whether they are registered valuers or not (Red Book Global Standards, PS 1). It is your responsibility to abide by the Red Book Global Standards. All written (and oral, to the fullest extent possible – see PS 1.6) valuations require to be compliant with the Red Book Global Standards. Terms such as ‘quasi-Red Book’ or ‘partial Red Book’ – or even ‘non-Red Book’ – **must not** be used in terms of engagement or reporting. Adherence to Red Book Global Standards PS 1 and PS 2 is mandatory at all times.



5.2.2 This section is intended to guide you in correctly applying the Red Book to valuations given in the context of compulsory purchase and statutory compensation.

### 5.3 Red Book Global Standards and the valuation date

5.3.1 Compensation assessments have a fixed statutory date of valuation dependent on the method used by an acquiring authority to purchase interests in real estate compulsorily: such methods include notice to treat/notice of entry or a general vesting declaration. Until the statutory valuation date is fixed, the valuation date will be a rolling date. Accordingly, RICS members **must** be aware of market conditions prevailing and the availability and analysis of comparable sales/letting evidence. RICS members **must** also consider relevant statutory and case law assumptions and disregards relating to the impact of the compulsory purchase scheme.

5.3.2 The statutory valuation date affects the valuation exercise, but not the conduct and standards of the valuer. The edition of the Red Book Global Standards that is current at the date the valuation work is undertaken should be used.

### 5.4 Exceptions to the Red Book Global Standards

5.4.1 All valuations **must** abide by Red Book Global Standards PS 1 and PS 2 as a minimum requirement, but in the circumstances set out in PS 1, section 5, an **exception** may apply. An exception does not exclude the valuation from the Red Book Global Standards but it does have the following limited effect:

- valuer registration is not mandatory to carry out a valuation that is an exception (see [RICS Rules for Registration of Schemes](#), Appendix A, paragraph 3b. Valuer registration is required when ‘carrying out valuation work other than that included in the exceptions listed in the RICS Red Book’.)
- VPS 1–5 are not mandatory but remain good practice and should be followed unless there is a good reason to depart
- where an exception applies, this **must** be clearly stated in both the terms of engagement and the report. In addition, as good practice a record of this course of action should be maintained on your working file, justifying why a Red Book Global Standards exception is considered applicable
- the valuation **must not** be stated to be in accordance with the International Valuation Standards (IVS)
- notwithstanding the application of a valuation exception, adherence to PS 1 and PS 2 is mandatory at all times.

5.4.2 See section 5.6 for more information on the practical application of VPS 1–5 as good practice.

### 5.5 Exceptions in practice

5.5.1 This section is intended to give guidance on the practical application of Red Book Global Standards exceptions to valuation advice under compulsory purchase.

5.5.2 PS 1, section 5.5 requires you to keep the applicability of exceptions under review as instructions progress to ensure that they remain applicable.

5.5.3 ‘The circumstances in which valuers are instructed to provide valuation reports and advice vary widely and may, in some cases, take several years to reach a conclusion. During this time, the instruction may be significantly amended – resulting in an instruction that began as an ‘exception’ ceasing to be so. Valuers should always focus on the actual task in hand at a specific point in the valuation process. If a valuer’s role changes during this process, it is imperative that their actions are

transparent, the application of Red Book Global Standards at any given point in time is fully documented and the client is made aware of any change to the valuer's role or undertaking.'

#### Exceptions likely to apply to compulsory purchase

5.5.4 The most likely exception to apply to compulsory purchase work is that relating to valuation advice 'expressly in preparation for, or during the course of, negotiations or litigation'. Compulsory purchase compensation, although a statutory entitlement, is generally negotiated and so this exception may be applied in the course of preparing and negotiating claims.

5.5.5 Note that, in some discretionary purchase schemes, no negotiation takes place and the acquisition price is set by one or more 'independent' valuations. In such circumstances the negotiation exception will not apply.

5.5.6 An exception is also applicable where you are 'acting or preparing to act as an expert witness'. This exception should not be used unless you have been instructed to act as an expert witness or are giving advice specifically in preparation for such an instruction.

5.5.7 The exception for 'providing valuations to a client purely for internal purposes' may apply but should be treated with caution, as there are strict provisions in relation to releasing the valuations to third parties. Valuations provided to a client for use in a negotiation may sit better with the negotiation exception as they may later be revealed to a third party in the course of negotiation.

5.5.8 Similarly, property cost estimates (PCE) or compensation budgets provided to clients may be released to commercial partners or funders.

5.5.8 When undertaking compulsory purchase work, the exception for 'performing statutory functions' should not be used. Advising in respect of compulsory purchase does not in itself meet the requirements of this exception.

#### Claim forms

5.5.9 When submitting a compensation claim for compulsory purchase you should include a quantified claim amount for value of land taken and/or injurious affection, if these heads of compensation are to form part of the claim. You should provide calculations, key inputs and evidence where available.

5.5.10 For other heads of claim not based on the value of land such as disturbance you should also provide quantified claim amounts and supporting evidence and calculations where these are available. Where the quantified amount and supporting evidence is not available, for example, where disturbance losses are yet to be incurred, a quantified claim with supporting evidence should be provided as soon as reasonably possible.

5.5.11 You should not submit claim figures that you cannot professionally support. However, you should advise your client if there is a risk the final agreed or determined amount will be materially less than the amount claimed. You should advise your claimant client of your estimate of the likely outcome of the negotiations, where reasonably possible.

#### Advance payment requests

5.5.12 When submitting an advance payment request you should include a quantified claim amount for the value of land taken and/or injurious affection if these heads of compensation are to form part of the claim. You should provide calculations, key inputs and evidence where available.

5.5.13 You should not submit advance payment request figures that you cannot professionally support. However, you should advise your client if there is a risk the final agreed or determined

amount will be materially less than the amount claimed. You should advise your claimant client of your estimate of the likely outcome of the negotiations, where reasonably possible.

5.5.14 You should be aware of the difference between a statutory advance payment and a non-statutory interim or stage payment of compensation. A statutory advance payment is based on the acquiring authority's estimate of compensation. Acceptance of an advance payment by the claimant does not indicate acceptance of the acquiring authority's figure, and the funds will often relieve financial pressure or stress for the claimant. You should check that any receipt or related correspondence does not require acceptance of the acquiring authority's payment as full settlement of any part of the claim, unless such a settlement has been agreed.

5.5.15 By contrast to statutory advance payments, interim or stage payments of compensation can be made by agreement between the parties when items of claim are agreed but the whole claim is not settled. In these circumstances the acceptance of the payment is an acknowledgement of agreement of the specified items of claim. Such payments can be of great assistance to the claimant and assist in narrowing areas of dispute in the claim.

#### Property cost estimates (PCE) or compensation budgets

5.5.16 PCEs are often undertaken at an early stage in the process, prior to detailed engagement with landowners. To avoid causing concern to potentially affected landowners and occupiers prematurely, they are often undertaken without access to the subject properties for inspection. Contact with owners and occupiers for enquiries as to tenure, rents and use of the buildings may also be unavailable.

5.5.17 The purpose of the PCE is to estimate the compensation liability that might arise if compulsory purchase powers were sought and exercised. It is usually for budgeting purposes and not to be used as recommended settlement or offer figures. You should ensure that the purpose of the PCE is made clear in your terms of engagement and your PCE report. The scope of the PCE should also be clearly stated in the terms of engagement and the PCE report, particularly with regard to the inclusion or exclusion of items such as the following:

- All statutory compensation payable on acquisition should be included in the PCE. This will include value of land taken, injurious affection, disturbance (including reinvestment costs for investors), statutory loss payments and claimants' reasonable professional fees.
- Compensation for injurious affection where no land is taken should be included. Depending on the circumstances and the approach agreed with the client, this may be on a property-by-property basis or as single figure provision.
- Compensation to utilities and statutory undertakers is often based on the cost of reprovision or relocation of equipment and may sit in the construction budget or the PCE. The approach adopted should be agreed with the client and made clear.
- Professional fees incurred by the acquiring authority (as distinct from those reimbursed to affected parties) are typically outside the scope of PCEs. However, the approach adopted should be agreed with the client and made clear.
- Stamp duty land tax (SDLT), land and buildings transaction tax (LBTT) in Scotland, payable by the acquiring authority on acquisition (as distinct from SDLT or LBTT on replacement premises reimbursed to affected parties) may be in or out of the scope of a PCE but the position should be made clear.
- Costs of promoting the order may be in or out of the scope of a PCE but the position should be made clear.
- Costs of accommodation works or noise insulation would not normally form part of a PCE but the position should be made clear.

- Statutory interest modelling may or may not be included, and the inclusion or otherwise should be agreed with the client and made clear.

5.5.18 A PCE will constitute a valuation or valuations. As compensation is negotiated, the negotiation exception would normally apply. Other exceptions may be applicable depending on the circumstances. However, the limited investigation undertaken does not remove the need to apply VPS 1–5 as good practice.

#### Advice during the course of negotiations

5.5.19 Advice given to clients during the compensation negotiations would be within the negotiation exception.

#### Upper Tribunal Reports

5.5.20 When preparing submissions to the Upper Tribunal or Lands Tribunal Scotland as an expert witness, the expert witness exception will apply. The same exception would apply to expert witness submissions to an order inquiry, but these would not normally include valuation evidence. In such instances, the provisions of RICS' [Surveyors acting as expert witnesses](#) and [Surveyors acting as expert witnesses in Scotland](#) are relevant and **must** be adhered to.

#### Reporting settlements

5.5.21 Where compensation has been agreed subject to client approval, reports recommending settlements for land value or injurious affection would not usually be subject to further negotiation. The negotiation exception would therefore not apply. The internal reporting exception may apply but should be treated with caution. Acquiring authorities' development partners or funders may see settlement reports, and lenders or other stakeholders may see reports written for claimant clients.

## 5.6 Working with VPS 1-5 as good practice

5.6.1 This section gives more detailed guidance on the application of VPS 1–5 to different types of valuation within compulsory purchase. Where an exception applies, the application of VPS 1–5 is good practice. Therefore, requirements of VPS 1–5 in this section are referred to as **should** (good practice). Where an exception does not apply, VPS 1–5 will be mandatory and you **must** ensure that you apply their requirements accordingly.

5.6.2 Note that some of the guidance in this section will apply to multiple VPSs and, in the interests of clarity, excessive repetition has been avoided.

#### VPS 1 Terms of engagement and VPS 3 Reporting

5.6.3 Circumstances in which VPS 1 and 3 cannot reasonably be complied with will be rare and, as with all the VPSs, you should ensure that, if there is an exception in force, you comply with them as good practice unless you also have a good reason for not doing so.

5.6.4 You **must** keep a written record of the scope of instructions falling under this professional standard, but not all of your work will constitute valuation advice. VPS 1 will apply (as good practice or mandatory) to those parts of your instruction that constitute valuation advice. In practice, you may find it easiest to have terms of engagement for your compulsory purchase work as a whole, with supplementary terms that are VPS 1 compliant, which can be included for the valuation elements.

5.6.5 Ensure that the VPS 1 terms of engagement reflect the specific valuation advice being provided. Particular attention should be paid to the interest to be valued, purpose of valuation, basis of valuation, valuation date and extent of inspection and investigations (for PCE work especially).

Other general requirements of terms of engagement relating to valuations are set out in VPS 1, section 3.

5.6.6 Where an exception is in force, this **must** be clearly stated in the terms of engagement along with a statement that the valuation will not be in accordance with the IVS.

5.6.7 As stated in Red Book Global Standards, VPGA 10, the reporting of values within a stated range or the use of qualifying language such as 'in the region of' is not good practice and would not normally be regarded as an acceptable form of disclosure. In most cases, the valuer should provide a single figure in order to comply with the client's requirements.

5.6.8 Where you provide written advice to your client on the quantum of a claim for the value or change in value of a land interest, it will constitute a valuation and should be reported in line with VPS 3. You should provide written advice to your client when establishing the quantum of claim for the value or change in value of a land interest and when your opinion of that quantum materially changes.

5.6.9 Compliance with VPS 3 requires the inclusion of the information set out in VPS 3, but it does not require a lengthy report and can take the form of a letter or email if that is appropriate. The report should fulfil the terms of engagement and be fit for the stated purpose of the valuation.

#### VPS 2 Inspections, investigations and records

**5.6.10 Where an inspection of any property is required, it must always be carried out to the extent necessary to produce professionally competent advice having regard to its purpose and the circumstances of the case.**

**5.6.11 A suitable record of the size, configuration, relevant features and condition of the property which is representative of the circumstances at the compensation valuation date must be prepared and, where possible, agreed with the other party.** As the property is likely to have been vacated at the valuation date you should consider taking additional photographs and records of the property, its use, configuration and condition prior to vacation. Such records may be of assistance in assessing and evidencing disturbance compensation as well as property value.

5.6.12 Keeping records is particularly important for compulsory purchase work as the valuation date may be historic or become historic during the instruction, particularly if the claim is ultimately litigated. The nature of the property is also likely to change significantly once possession is taken. Buildings may be demolished or land used for construction works. With this in mind you should also consider whether making a record of the property's surroundings, including views, is necessary.

5.6.13 In some cases, the acquiring authority will provide a record of condition for property prior to taking entry. The affected party's surveyor should review the record and raise any issues regarding the accuracy or suitability of the record in writing with the acquiring authority at the earliest opportunity.

5.6.14 For PCE work, inspections may not be appropriate but this may not always be the case. Where there is a limited number of properties, and the parties are aware of the proposed acquisition, inspection may be appropriate and this should be discussed and agreed with the client as part of the scope of instruction.

5.6.15 Where 'desktop' PCEs are provided, care should be taken when relying on satellite or street level imaging platforms as imagery may be out of date. Where possible, inspections from publicly-accessible areas should be undertaken.

5.6.16 Similarly, where PCEs are being refreshed as the scheme progresses, inspections and wider investigations may become appropriate. Information gained from engagement with landowners and occupiers should also be updated and incorporated into PCEs.

5.6.17 Record keeping for PCEs should include key inputs and calculations. This will also be of benefit when updating PCEs later and reconciling changes in the PCE with the client.

5.6.18 Whatever level of investigation and inspection is agreed with the client, it **must** be fit for the purpose of the valuation and should be recorded in the terms of engagement and reported in line with VPS 1 and VPS 3.

#### VPS 4 Basis of value

5.6.19 The basis of value for compulsory purchase will be the basis set out in the applicable statute. While the statutory basis of value for land taken under compulsory purchase refers to the value achievable on the open market, the statutory definition differs from the definition of market value in VPS 4. This distinction **must** be recognised when you are carrying out valuations for compulsory purchase.

5.6.20 Adopting a mandatory statutory basis of valuation instead of one of the bases set out in VPS 4 is not in itself a departure from VPS 4 but the basis of value used should 'be clearly defined and stated in the report' as required by VPS 4 (and PS 1.6.3, VPS 1 and VPS 3). The report **must not** state that the valuation is in accordance with IVS.

#### Assumptions, special assumptions and statutory assumptions

5.6.21 Assumptions and special assumptions used in the valuation should be clearly set out in the terms of engagement and the report as required by the VPSs. Assumptions may be required where information is not available or cannot be verified at the time of the valuation.

5.6.22 Statutory assumptions, such as the no scheme principle, form part of the basis of value and should be referenced in the description of the basis of value required by VPS 4. In the interests of clarity, statutory assumptions can also be noted alongside any other assumptions in the terms of engagement or report. Where this is done, statutory assumptions should be identified separately rather than as assumptions or special assumptions.

#### VPS 5 Valuation approaches and methods

5.6.23 Valuations for compulsory purchase and statutory compensation will be subject to the statutory basis of valuation but the valuation approach is your responsibility. As VPS 5 does not dictate a particular valuation method, it will rarely be necessary to depart from it, even where an exception exists.

5.6.24 When selecting a valuation method for compulsory purchase and statutory valuation the considerations set out in VPS 5 should be applied. Constraints imposed by the statutory basis of valuation should be considered, such as not adjusting the valuation in respect of events occurring after the valuation date.

5.6.25 Where the Upper Tribunal or Lands Tribunal Scotland has expressed views on valuation approaches in similar circumstances these may be taken into account but in doing so you should consider the circumstances of your case compared to the Tribunal case, the type and quality of evidence available in each case, and whether the views expressed by the Tribunal referred to the suitability of the approach for that type of asset or claim or the quality of its execution in the particular case.

## 6 Reports

- 6.1 Your written advice should always be presented in an organised and referenced way, distinguishing, where possible, between matters of fact, expert observations and external influences.
- 6.2 **In reporting your advice you must consider all matters material to the instruction.**
- 6.3 You should provide written advice to your client at appropriate intervals including when establishing the quantum of claim or parts of the claim, and when your opinion of that quantum materially changes.
- 6.4 See also section 5 regarding compliance with VPS 3 where your report includes a valuation.

## 7 Claims and negotiations

7.0.1 For ease of reference, in this professional standard a landowner or occupier from whom an interest or right is required is referred to as a **claimant**. Where negotiations occur prior to the exercise of compulsory purchase, there may be no statutory right to a compensation claim (see section 7.2). The same term also includes parties with a statutory claim or anticipated claim for injurious affection where no land is acquired.

7.0.2 A client seeking to acquire land or rights where the use of compulsory purchase powers (by the client or another body) is contemplated is referred to as an **acquiring authority**. However, for the purposes of this professional standard this includes developers and other parties that may not have direct access to compulsory purchase powers. The same term also includes the compensating authority for injurious affection where no land is taken.

### 7.1 Access to information

7.1.1 When undertaking negotiations for the sale or purchase of land or rights under compulsory purchase or the shadow of compulsory purchase you should take appropriate steps to ensure that the parties have access to information about the compulsory purchase process and compensation principles.

7.1.2 When advising a client seeking to acquire land or rights you should advise the claimant or their professional adviser of the existence of the following information and where they can access it. Alternatively, copies can be provided:

- this RICS professional standard
- the [RICS consumer guide on compulsory purchase](#)
- the [Land Compensation Claims Protocol](#) published by the Compulsory Purchase Association
- any relevant material your client has produced for affected landowners, this may include information about the scheme, the compulsory purchase process, compensation principles, advance or voluntary acquisition schemes, assistance with the cost of professional advice or other assistance available to affected owners and occupiers
- [UK government compulsory purchase and compensation guides 1–4](#) (as applicable).

7.1.3 When advising a claimant client, you should provide any of the information above that you receive.

7.1.4 In all cases, you **must** advise your client of the application of this professional standard and provide a copy on request.



## 7.2 Negotiations prior to compulsory purchase

7.2.1 UK government guidance on the use of compulsory purchase powers recommends negotiation for the acquisition of land and rights by agreement prior to and alongside seeking compulsory purchase powers. It is for the acquiring authority and the claimant to decide whether and when to engage in such negotiations, but you may be instructed to undertake negotiations or to advise your client on whether or when to engage. Such negotiations prior to the triggering of statutory compensation are referred to as being under the 'shadow' of compulsory purchase powers and are referred to as shadow negotiations in this professional standard.

7.2.2 A statutory right to compensation will not arise until the power of compulsory purchase is exercised in respect of a right or interest. This will be by the service of a notice to treat, the execution of a general vesting declaration or the acceptance of a blight notice. The date statutory compensation is triggered is not the same as the valuation date, but it creates the statutory entitlement to compensation.

7.2.3 Where no right or interest is acquired, statutory compensation may be triggered by other circumstances such as a dispossession from land, interference with a right or after the opening of works for public use.

**7.2.4 You must be aware of the distinction between shadow negotiations and the negotiation of statutory compensation following the exercise of compulsory purchase powers and how this affects your client's interests.** The principal differences are set out below.

Statutory compensation negotiations	Shadow negotiations
Obligation to sell or grant right	No obligation on the affected party. The acquiring body is seeking to acquire by agreement in accordance with government guidance. Efforts made are likely to be tested at inquiry.
Statutory right to compensation for reasonable professional fees	No statutory right to reimbursement of fees for the affected party. The affected party is at risk unless a fee agreement is entered into with the acquiring body. UK government guidance recommends that acquiring authorities consider reimbursement of reasonable costs for negotiations (not objections) in the shadow period.
Compulsory purchase compensation code applies	Compulsory purchase compensation code is not mandatory. The code may be used by agreement between parties, another basis can be used, or departures from the code can be mutually agreed. UK government guidance recommends the acquiring body offers code-based settlements unless the property is already on the open market.
Acquisition of land or rights is outright.	Options or conditional agreements can be used if agreed between the parties.

### 7.3 Statutory compensation claims

7.3.1 When making a claim for statutory compensation following the exercise of compulsory purchase powers, you should use any model form that exists.

7.3.2 When submitting a statutory claim for compensation you should ensure that the claim form or claim letter together with any supplementary valuations, calculations or other information provides sufficient information to enable the compensating authority to understand the claim and how it is supported. This should include an indication of how the quantum has been calculated and the evidence or reasoning relied on.

7.3.3 You should provide a quantified and supported claim unless you can demonstrate a good reason why it is not possible to do so wholly or in part. Where it is not possible, you should provide a quantified and supported claim as soon as you are reasonably able to do so (see section 5.5).

7.3.4 When advising an acquiring authority, you should provide a quantified assessment of the compensation in response to the received claim to the claimant or their professional adviser in writing as soon as you are reasonably able to do so. This should provide sufficient information to enable the claimant to understand the acquiring authority's position and how it is supported. This should include an indication of how the quantum has been calculated and the evidence or reasoning relied on.

### 7.4 Conduct of negotiations

7.4.1 When negotiating statutory compensation, you should have regard to the principles below. When negotiating in advance of the exercise of powers, the principles should be followed subject to the proviso that the claimant is not obliged to engage in negotiations. To the extent that the claimant does wish to engage, they are not necessarily constrained by the compulsory purchase compensation code. The parties should:

- discuss each other's positions constructively with the objective of agreeing as much as possible and identifying as precisely as possible the issues that cannot be agreed
- ensure that at appropriate points each party's position is clearly set out in writing
- from time to time review their own positions in respect of the negotiation, and communicate any change in those positions to the other party promptly and in writing
- consider at all stages whether alternative dispute resolution would assist in resolving either the whole claim or specific issues within the claim and
- disclose sufficient information to enable the other party to understand properly the substance of the party's position, the evidence available to support it and any other material information relevant to the negotiation.

### 7.5 Without prejudice

7.5.1 In the context of a compensation claim, the 'without prejudice' rule means that any admissions or offers to settle cannot be used against the party making them in any reference to the Upper Tribunal (Land Chamber). The words 'without prejudice' mean 'without loss of rights', and they are part of the law of privilege. The Tribunal cannot, subject to the exceptions noted below, see such privileged material, whether it is in written or oral communications.

7.5.2 If you are trying to settle a compensation claim, and you do not want your admissions and offers to be used against your client in the Tribunal, you should preface any correspondence with the label 'without prejudice'. If you engage in negotiations in person, you should state at the beginning that 'these discussions are "without prejudice"' and make a written note of that condition. In each of these circumstances, you can then make any admissions or offers to settle knowing that

such communications cannot be used against your client in any subsequent Tribunal proceedings, as such communications benefit from the law of privilege. The purpose of the 'without prejudice' rule is to encourage the settlement of disputes.

7.5.3 Where the label 'without prejudice' is used at the commencement of a course of communications, the law of privilege protects all material in the same course of communications, even if the label is not used in every communication.

#### **What happens if you forget to use the label 'without prejudice' in any communications?**

7.5.4 If it is clear that the genuine purpose of the communications is the settlement of the claim, then the law will treat them as being 'without prejudice', even if that term was not expressly used. But because the failure to expressly use the label 'without prejudice' may result in an expensive dispute as to the true purpose of the communications, you should always use the term in the appropriate circumstances.

7.5.5 The term 'without prejudice save as to costs' may be added to a communication containing an offer to settle. This is sometimes referred to as a Calderbank offer. While the offer cannot be referred to in any Tribunal proceedings dealing with the substantive issues, when the Tribunal comes to determine the legal costs of the reference the offer to settle may be referred to as indicating the reasonableness of the party that made the offer. But if a party used only the label 'without prejudice' in respect of an offer to settle, such an offer cannot be referred to in relation to the determination of costs; on this point the position in Scotland is different as communications labelled only with the words 'without prejudice' can be referred to in relation to the award of costs (expenses).

7.5.6 While the above guidance can apply to compensation claims for the compulsory acquisition of land, particular regard should be paid to any statutory provisions relating to costs in the applicable jurisdiction. First, because the general rule is that the claimant, acting reasonably, should be entitled to their costs, it is unnecessary for a claimant to make a Calderbank offer. Second, because the award of costs may depend on whether the acquiring authority has made an unconditional offer of any sum of compensation. If the sum awarded does not exceed such an offer, the claimant may be ordered to bear their own costs and pay the costs of the authority as they were incurred after the offer was made.

7.5.7 Except in Scotland, it is not possible for one party to unilaterally waive the privilege of 'without prejudice' communications as the privilege is a joint legal privilege. The principal circumstances where 'without prejudice' material can be seen by the Tribunal are as follows. First, where both parties so agree, which is unlikely. Second, where there is a dispute as to whether the material is properly 'without prejudice'. Third, to show that the parties have agreed to settle the claim. Fourth, and only in Scotland, 'without prejudice' will not necessarily prevent an otherwise unequivocal statement of fact being founded on for the purposes of the litigation.

#### **When should the label 'without prejudice' not be used?**

7.5.8 You should not use the label when making the claim for compensation. That is because the compensating authority will not know whether the real claim is yet to be made, and you are only putting figures forward for the purposes of negotiations. This is particularly important where there are time limits for making a compensation claim. A claim **must** be a claim, not a 'without prejudice' offer to settle. An inappropriate use of 'without prejudice' could mean that no valid claim is treated as having been made and a critical time limit is missed. Also, the use of the label 'without prejudice' does not invoke the protection of privilege to communications that are not directed to a genuine attempt to settle the claim.

## 8 Fees

8.1 This professional standard supersedes the RICS guidance notes *The Calculation of fees relating to the exercise of statutory powers in connection with land and property* (1st edition (2006) and 1st edition for Scotland (2014)). Members in Scotland **must** adhere to this professional standard including Appendix A.

8.2 **Where a basis for calculating fees is proposed, the initiative will usually come from the claimant's surveyor, having received instructions from a claimant. You must ensure the basis for fees and disbursements is reasonable in relation to the work required**

8.3 Surveyors' fees incurred in advising a claimant on a statutory compensation claim are generally recoverable by the claimant as an additional part of the compensation if they have been reasonably and properly incurred. However, this only applies once a statutory compensation claim has arisen (see the section 7.2).

8.4 Practitioners advising in relation to compulsory purchase require a detailed understanding of a complex area of law and a host of professional, technical and 'soft' skills, as well as knowledge of valuation and an understanding of the use and basis of occupation of the property to be acquired. As a consequence, it would be reasonable to have regard to the following:

- The work required is the correct measure.
- The work required may be increased by the circumstances of the claim, for example, if entry dates are materially deferred requiring claim items to be updated or refreshed.
- Travelling costs (including the time spent) of a surveyor travelling long distances to carry out the case. For example, claimants will reasonably wish to employ experts who are already familiar with their property or business and that may lead to a better outcome for both parties. The number of times long journeys are made may also be relevant as once site inspections have been carried out, attendance on site may not be necessary and the overall cost of travelling may not be unreasonable in the context of the claim.
- Some claimants may require more reassurance and guidance than others, particularly those that have little exposure to business or property matters. RICS members should seek to deliver an efficient and cost-effective service, but this may still require additional time to advise the client appropriately in some cases.

8.5 **When advising claimants, you must ensure in all cases that the basis on which you propose to charge fees, the arrangements for payment, and any subsequent changes are agreed with your client in writing.** Where it is intended to seek reimbursement of fees from the acquiring authority, this agreement should be presented promptly to the acquiring authority. Whilst it is not for the acquiring authority to direct the basis on which a surveyor should charge its client, the acquiring authority should take this opportunity either to agree with what has been presented to them or to raise their concerns to be discussed. This should assist in minimising the potential for disagreement or dispute when fees are claimed. Concerns raised at this initial point are likely to carry more weight should a dispute arise further down the line.

8.6 **Clients (on either side) can, and do, seek to influence surveyors. You must demonstrate your professionalism by maintaining a reasonable and balanced approach to fees.**

8.7 Fees may be included in a request for an advance payment of compensation.

8.8 You should take measures to monitor the level of fees accruing and keep your client and, where appropriate, the acquiring authority informed on a regular basis. Agreeing a schedule for billing may benefit in this regard.

8.9 A compulsory purchase or statutory compensation specialist working with a local surveyor who knows the property and business well may not be double counting and can frequently help identify issues to be addressed. The addition of other specialisms such as minerals, planning,

forensic accounting (and many others) can be invaluable. Such an approach should be discussed at an early stage.

**8.10 You must make clear to your clients, at the earliest opportunity and before time is incurred, that they bear ultimate liability for your fees on the agreed fee basis. You must advise your clients that they will be liable for any fees that are not borne by the acquiring authority.**

**8.11 You must be clear with your clients and advise them when time is to be spent on matters for which claimant's fees are not normally borne by the acquiring authority and do so before that time is incurred.**

## 9 Bases for calculating fees that form part of the claim

9.1 A variety of bases are likely to be utilised for the reimbursement of fees, subject in all cases to agreement between the parties involved. Such bases may include, but are not limited to:

- time spent multiplied by an hourly rate (subject to an annual review where projects span a longer period)
- a predetermined 'fixed fee' arrangement where the scope of work can be clearly defined.

9.2 A fee basis is more likely to be considered appropriate if it would be likely to lead to a fee that is reasonable having regard to the issues under consideration and reflects the extent of work that the surveyor will carry out.

9.3 A fee that is conditional on the outcome of the negotiation, such as only being payable on settlement, is referred to in this professional standard as a 'contingent fee'. A contingent fee should only be used in exceptional circumstances and carries risks that you and your client should carefully consider. You should also be careful to ensure that the contingent basis of your fee does not unduly influence your advice to your client.

9.4 A contingent fee basis is not acceptable for any work where you act as an expert witness or otherwise owe a duty to a court, inquiry, tribunal, or similar body. Further detail on this can be found in RICS' [Surveyors acting as expert witnesses](#) or [Surveyors acting as expert witnesses in Scotland](#).

9.5 Some acquiring authorities propose a fee based on a scale or band relating to the perceived level of activity expected in respect of an acquisition. While this might be an appropriate basis that is acceptable to you and the client, care should be exercised to ensure that the adoption of such an approach does not unreasonably restrict the extent of advice that you are able to give. Members should consider as an alternative, an interim fee limit which can be increased by agreement in the event of further work than initially envisaged being required.

9.6 A claimant should be able to expect an acquiring authority to reimburse the full cost of professional advice incurred in the preparation and negotiation of a compensation claim provided such costs are reasonable and reasonably incurred. An acquiring authority should expect to reimburse reasonable fees on the basis that is contracted between the surveyor and the claimant and notified to the acquiring authority, unless the resulting fee is not reasonable in all the circumstances.

9.7 An acquiring authority has no statutory liability to reimburse professional fees for the preparation and negotiation of a compensation claim until a statutory liability to pay compensation arises (see section 7.2). However, once such a liability does arise it can be retrospective and include costs reasonably incurred before the date the statutory liability arose.

9.8 In cases where no notices have been or will be served and the acquiring authority has not elected to reimburse professional fees, the claimant should build the reimbursement of any fees for any professional advice received in connection with their negotiations with the acquiring authority into those negotiations.

9.9 An acquiring authority or developer partner may choose to enter into an agreement to reimburse reasonable professional costs before a statutory liability arises. Government gives guidance on when such agreements should be considered. Surveyors acting for claimants or acquiring authorities and developer partners should ensure that any such agreement is clear on the basis on which fees will be reimbursed, when they will be paid and any conditions or limitations on the level of reimbursement. Such agreements should be in writing, and it should be clear to whom the acquiring authority or developer partner is agreeing to make payment. This may also have VAT implications.

9.10 Where a basis of fees other than those identified at section 9.1 is adopted for the calculation of standard fees, give due regard to potential conflicts of interest (see RICS' [Conflicts of interest](#), [Surveyors acting as expert witnesses](#) and [Surveyors acting as expert witnesses in Scotland](#).)

## 10 Recording time

10.1 Surveyors should accurately record the time spent and the nature of the work carried out in relation to a compulsory purchase or statutory compensation claim as the time is incurred. In many cases, the time spent working on a claim will form a significant factor in the assessment of the fee. Surveyors may be required to verify and justify the time spent working on a claim. The extent to which the record is accurate and comprehensive may be a significant factor when the reasonableness of the claim is assessed.

## 11 Disputes

11.1 Where a settlement on statutory compensation cannot be reached by negotiation, either party can refer the matter for determination by the applicable Tribunal or court. Courts and Tribunals will consider what efforts the parties have made to resolve or narrow the areas of dispute before resorting to litigation. You should also consider the risk and cost that may be incurred by your client in a litigation and consider alternative means of dispute resolution with your client.

11.2 The *Land Compensation Claims Protocol* published by the Compulsory Purchase Association is recommended to RICS members as an approach to reducing or avoiding the scope of disputes and reducing the potential cost and risk of litigation.

11.3 The RICS Dispute Resolution Service provides a dispute resolution service aimed specifically at [disputes over statutory compulsory purchase compensation](#) and this service is recommended to RICS members.

## 12 Complaints

12.1 Complaints may arise during compulsory purchase instructions. It is an emotive process that can directly impact the homes and livelihoods of those affected.

*Complaints from your client regarding the service received from you as their adviser*

12.2 These complaints should be dealt with through your complaint handling procedure and where necessary, escalated to RICS.

### *Complaints from the opposing party (not your client) regarding your conduct on the case*

12.3 These complaints should be dealt with through your complaint handling procedure and where necessary escalated to RICS.

### *Where your client wishes to make a complaint against an RICS member advising the opposing party*

12.4 You should advise your client on the appropriate course of action.

12.5 Complaints made against RICS members advising an opposing party should relate to the conduct of the RICS member and not a dispute over the quantum of compensation. Where your client is unhappy with the settlement on offer and in your professional opinion there is a case for a different settlement, you should advise your client on appropriate dispute resolution rather than a complaint against the RICS member acting for the opposing party.

12.6 Where there is a conduct matter to be addressed, complaints should not be vexatious. You should advise your client against making vexatious or unfounded complaints against RICS members acting against them.

12.7 Where there is a matter of conduct to be addressed, RICS Regulation can act on concerns from an individual who is not a client of an RICS member or a regulated firm regarding a breach of an RICS professional standard. Evidence would need to show that the RICS member or regulated firm who is the subject of the complaint was culpable for the breach and that the breach was sufficiently serious to warrant disciplinary action and that such disciplinary action was necessary in the public interest.

## Appendix A: Fees in Scotland

A1.01 RICS members in Scotland **must** adhere to this professional standard and Appendix A. This professional standard and Appendix A supersede the guidance note *The calculation of surveyors' fees relating to the exercise of statutory powers in connection with land and property* (1st edition, Scotland).

### A1.1 Background and fee guidance

A1.1.1 Until the RICS guidance note *The calculation of surveyors' fees relating to the exercise of statutory powers in connection with land and property* (1st edition, Scotland) was published, Ryde's Scale (1996) was used in Scotland as the main basis for the calculation of appropriate reimbursement to a claimant by an acquiring authority for the surveyor's fee incurred in respect of handling a claim for compensation following the use of compulsory purchase powers. Ryde's Scale was formally abandoned outside Scotland in circa 2002.

A1.1.2 With compensation cases where the RICS member has a client i.e. the claimant, the fee is payable by the acquiring authority as part of the client's claim by way of [section 12 \(6\) Land Compensation Act 1963](#).

A1.1.3 This Appendix offers appropriate guidance to RICS members on the options available for an appropriate basis for calculating the surveyor's fees relating to the exercise of statutory powers in connection with land and property in Scotland.

### A1.2 Bases for calculating fees

A1.2.1 In Scotland, a variety of bases are likely to be used to calculate the fee:

- a) time spent multiplied by an hourly rate basis (subject to an annual review where projects span a longer period)
- b) a pre-determined 'fixed fee' arrangement where the scope of work can be clearly defined.



A1.2.2 It is strongly recommended that the hourly rate option is adopted whenever possible. Where a basis of fee other than those outlined in 1 and 2 above is adopted, it is recommended that caution should be exercised and due regard given to potential conflicts of interest (see RICS' [Conflicts of interest](#) and [Surveyors acting as expert witnesses in Scotland](#)).

A1.2.3 Other bases in use include:

- a) a percentage of the compensation received (provided that the matter is settled by negotiation and is not determined through legal proceedings where the surveyor involved is acting as an expert witness)
- b) the charging arrangements agreed from time to time with utility companies.

## Appendix B: Fees scope of work

B1.1 To assist RICS members acting for claimants and acquiring authorities when assessing the scope of reasonable professional fees, this Appendix sets out examples of work that might reasonably be required in advising a claimant client. The list is not exhaustive, nor will all the items listed apply to every case:

- undertaking anti-money laundering and conflict of interest checks
- meetings, emails, written correspondence and phone calls with the client, acquiring authority and/or its representatives (this may also include the client's professional team, e.g. legal, accountants, town planners, engineers, etc. as reasonably required).
- review of formal documentation from the acquiring authority, e.g. notice to treat, general vesting declaration, book of reference, etc.
- comparable research, valuation due diligence and valuation work
- advice on mitigating loss
- advising on accommodation works
- property inspection(s)
- review of lease/tenure documentation
- relevant and reasonable case law research and other research
- review/consideration of accounts/trading information
- collation and consideration of disturbance evidence
- planning investigations/research
- liaison and documentation of possession
- preparation of claims and supporting evidence
- negotiations
- updates and reporting including report on agreed terms
- liaison with legal advisers on documentation of settlement
- reasonable travel and disbursements.

## Appendix C: Glossary

Term	Definition
Acquiring authority	A client seeking to acquire land or rights where the use of compulsory purchase powers (by the client or another body) is contemplated is referred to as an <i>acquiring authority</i> in this professional standard. However, for the purposes of this standard, this includes

	<p>developers and other parties that may not have direct access to compulsory purchase powers. The same term also includes the compensating authority for injurious affection where no land is taken.</p>
Assurance (also referred to as undertaking)	<p>A written commitment given to the affected landowner by the acquiring authority before or during the examination of the compulsory purchase order or other instrument. The commitment usually provides some form of practical mitigation to the impacts of the scheme and is given in return for the withdrawal of the affected owner's objection to the compulsory purchase order or instrument.</p>
Claimant	<p>For ease of reference, in this professional standard a landowner or occupier from whom an interest or right is required is referred to as a <i>claimant</i>. Where negotiations occur prior to the exercise of compulsory purchase, there may be no statutory right to a compensation claim (see section 7.2). The same term also includes parties with a statutory claim or anticipated claim for injurious affection where no land is acquired.</p>
Compulsory purchase compensation code/compensation code	<p>The compulsory purchase compensation code is a generic term referring to the body of statute and case law that concerns assessment of and eligibility for compulsory purchase compensation.</p>
Instrument	<p>The statutory instrument containing compulsory purchase powers. This may be a compulsory purchase order, development consent order, transport and works order or other instrument. For the purposes of this professional standard the term also includes Hybrid Acts of Parliament conferring powers of compulsory purchase for a specific scheme.</p>
Property cost estimate (PCE)	<p>An initial estimate of compensation payable across a scheme for budgetary purposes. It is often undertaken at an early stage before the scheme is in the public domain and therefore contact with potentially affected parties and internal property inspections may not be appropriate. Premature contact with affected parties may cause unnecessary concern when a scheme is still at the feasibility stage and might not be progressed.</p>
Scheme	<p>The works or development for which the compulsory purchase powers are being sought or used. This may include related works for</p>

	which compulsory purchase powers are not required.
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