



RICS Regulation of Firms

Consultation document



Contents

1.0	Introduction.....	4
2.0	About this consultation	6
3.0	Proposals in detail.....	6
4.0	Questions.....	11
	Appendix: Definitions	13

1.0 Introduction

This document sets out proposed changes to the way we regulate firms. We invite professionals, firm representatives and all others with an interest in how we regulate the chartered surveying profession to provide us with their thoughts on the potential impact of these changes. All comments we receive will help inform the Regulatory Board's policy in this area.

About RICS Regulation of Firms

Professional standards in property, land, infrastructure and construction advisory services matter to the welfare of society, the environment and the economy.

In addition to our regulation of individual members, we regulate 11,000 firms around the world. Regulation by RICS means that clients of surveying services and employers in the sector can be confident they are dealing with service providers/professionals that embrace our professional, technical and ethical standards of practice and work in the best interests of their clients while appropriately upholding the wider public interest.

RICS first began regulating firms that provide surveying services, in 2007. This step was taken in recognition of the increasingly important role that firms (as well as the individual professionals within them) play in ensuring appropriate standards are met and also to assist with efficient regulation. Since then RICS has registered a growing population of firms, mostly in the UK, but increasingly across the world. Through association with RICS, Firms demonstrate their commitment to external scrutiny and regulatory oversight with international standards underpinned by a robust, independent disciplinary regime. A valuable effect of our regulatory regime is that it helps to enhance registered firms' professional reputation and market standing,

Under our current regulatory rules firms that offer surveying services to the public and have 50% or more RICS-qualified principals in the UK are required to register with RICS for regulation. This rule was introduced in 2007 to ensure RICS regulatory control over firms led by RICS-qualified professionals.

Firms with at least one RICS-qualified principal anywhere in the world are eligible to apply for regulation by RICS.

The scope of what constitutes a "surveying service" is broad and often misunderstood. In order to assist common understanding of this proposal we have included the existing definition, along with some explanatory notes on our interpretation of the definition in the appendix. The appendix also includes the definition of other key terms such as principal, firm and contact officer.

How does RICS regulate?

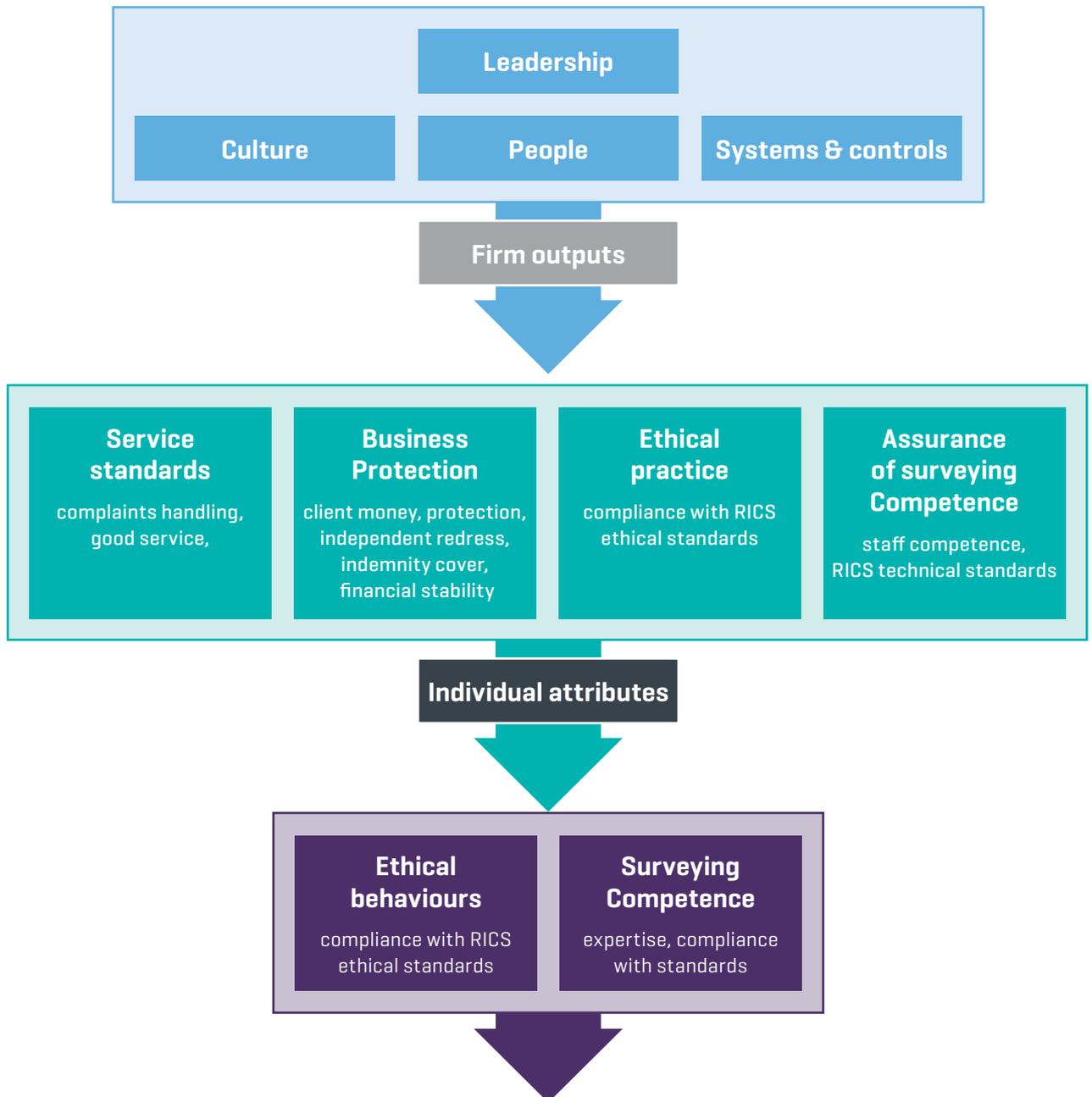
RICS regulates the profession against principles-based Rules of Conduct (for Firms and Members) underpinned by mandatory and advisory practice standards covering professional behaviour, conduct of business and technical competence.

RICS' regulatory oversight and enforcement falls into three principal areas of activity:

- **Proactive assurance** – through monitoring compliance with standards. We monitor firms which are 'Regulated by RICS' for compliance with the Rules of Conduct for Firms. These rules cover requirements for client indemnity, solvency, handling clients' money safely, complaints handling procedures and training of employees. Monitoring of firms is carried out through a combination of annual returns provided by the regulated firm to RICS, and regulatory audits by RICS experts to check compliance with valuation standards and (in the UK) compliance with regards to security of clients' money. We also review individual registered valuers for compliance with valuation standards
- **Investigation** – of concerns arising from our compliance monitoring, or from complaints/wider public criticism
- **Disciplinary enforcement action** – In cases of compliance failure, misconduct or incompetence, RICS can impose a range of actions through its disciplinary regime which, for the most serious cases, involves referral to an independent regulatory tribunal.

The role of firms in meeting professional standards is summarised in the following diagram.

Role of firms and individual professionals in delivering high quality professional services



World class professional surveying services

What is the value of RICS standards and regulation offer to the market and the public?

- Confidence that the firm has agreed to meet RICS international standards and, if necessary, RICS will hold that firm to account
- A commitment to continuous technical, professional and service improvement, meeting international best practice in surveying and professional conduct
- Consistency across the whole property and service lifecycle
- An internationally recognised and professionally respected brand

2.0 About the consultation

Scope of this consultation and rationale

The RICS brand carries increasing weight with the public and the profession globally. As a professional body with a non-statutory regulation function, we must meet the challenge of ensuring that compliance with our standards by the firms and individuals that make up the profession, carries the same weight as would a statutory framework.

We believe that it is the right time to strengthen further the architecture of our regulatory relationship with the profession and for this reason, RICS is reviewing and, where necessary, clarifying the baseline requirements of our regulatory system, to ensure they are fit for the future.

We are now considering two key changes to our approach to the regulation of firms. The strategic objective of these proposed changes is to ensure that our regulatory framework provides for sufficient corporate and personal accountability for meeting RICS' standards at board and senior levels in the firms that we regulate. This is because we see the leaders of firms as critical to the implementation of high standards. In this context, the specific issues currently under consideration include:

- strengthening the eligibility rules that determine which firms may register for regulation – in particular the minimum expectations relating to the proportion of RICS' qualified leaders in a firm; and,
- introducing requirements to clarify the role played by principals within a registered firm to ensure RICS' standards are implemented in the delivery of surveying services.

The RICS Regulatory Board will be considering these proposed changes to support its strategy relating to regulation of firms during 2018. In advance of Board consideration of these proposed changes we are undertaking an open consultation to help inform the Regulatory Board's policy decisions.

Timing of introduction of changes agreed

If adopted, we envisage that these proposals would apply to newly registering firms during the first half of 2019. A reasonable transitional timetable will be applied to firms already registered for regulation by RICS. Our thoughts on the length transitional of transitional arrangements are included next to the specific proposals.

Consultation period

The consultation runs from 26 Feb to 20 April 2018. There are several ways in which you can respond please **Log in to RICS iConsult** to see the full details. If you have not registered with iConsult already, you will need to complete the user-friendly registration process, but should you need further support with registration please contact:

Ellie Scott or Katherine Andrews
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escott@rics.org **kandrews@rics.org**

Confidentiality

Unless you state otherwise, we may decide to publish all or part of your response to this consultation, including your name, professional qualification(s) and any organisation you represent or belong to. Please indicate clearly if your response is confidential.

What happens next?

Following closure of this consultation, RICS Regulatory Board will consider the matters under consultation with reference to the consultation responses received. Following this we will publish a summary of the responses received, together with an explanation of how the responses have informed the Board's final decision on changes.

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3.0 Proposals in detail

Below we set out, in detail, the specific areas of change that we envisage. This is followed by a number of questions on which we would like your views.

Minimum threshold of qualified principals

Having strong and clear commitment to the standards, values and competencies of the profession embodied in the individuals who lead the business is very important to delivering the standards we, the profession and public expect.

Current position

At present, a firm may register for regulation if a single principal is an RICS qualified member. A principal is currently defined under RICS rules to be:

- a. a sole practitioner, or
- b. a partner, a director or a member of a limited liability partnership, or
- c. a person whose job title includes the word “partner” or “Director”, or
- d. a person who performs the function of a sole practitioner, a partner, director or member of a limited liability partnership, or equivalent.

The wide scope of this definition means that registered principals (for RICS purposes) encompass both the leading/directing executives of firms and, in many firms, the wider senior management group.

Proposed change

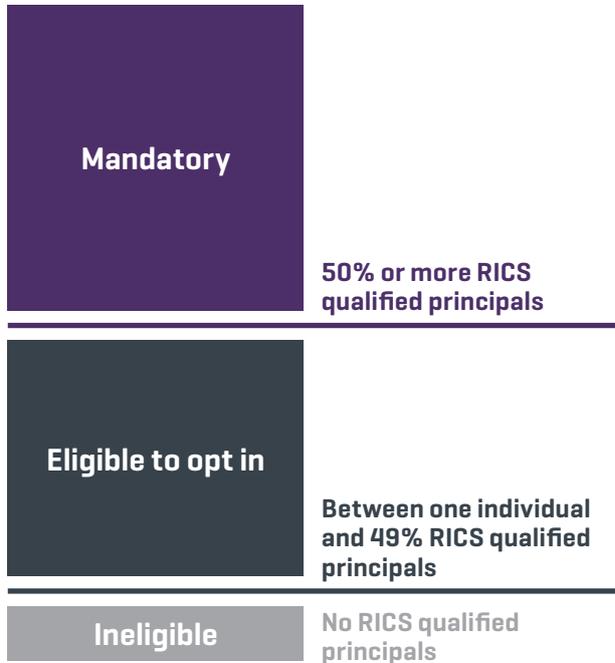
We are concerned that as the RICS profession and brand grows, having a single RICS qualified principal does not provide sufficient assurance that RICS professional standards have adequate influence within the senior management of all firms. In order to address these concerns, we propose the following changes:

- Require, as a mandatory criterion for registration, that the firm must have at least one RICS qualified officer who is a Directing Principal.
- Define “Directing Principal” within the Rules for the Registration of Firms as being those principals who lead a firm (normally sitting on the board or executive team and making the leading contribution to strategy and other leadership decisions).
- Require that 25% of a firm’s principals (who are responsible for surveying services) must be RICS-qualified (MRICS, FRICS or AssocRICS).
- Where we administer a number of regulated firms as a group, these requirements would apply to each registered entity in the group.
- Outside the UK, where the scope of the registration applies to only a specified surveying service (such as valuation), the 25% would be based on the total number of principals involved in that service.
- Our intention is that we would allow a transitional period (probably 2 years) to bring in the change and work closely with those firms to support them in meeting the new requirement, from the point of introducing the rule change.
- In the UK, we propose to retain the requirement that a surveying services firm must register for regulation if the firm or legal entity within a firm is run by RICS-qualified principals (by which we mean 50% or more of the principals are associates, professional members or fellows of RICS). We propose to extend the mandatory model (currently only mandatory in the UK) to other markets, on a country by country basis, over the next five years. This is to bring as much global consistency as possible to our regulatory framework. Factors we would consider in determining market readiness for the introduction of a mandatory firm registration model would include:
 - Market and public recognition of RICS
 - Transparency and the rule of law in the country
 - Readiness of the profession to comply with mandatory registration
 - The ability for RICS to enforce mandatory registration on firms within the legal jurisdiction.

The current proposed changes are summarised graphically below to assist understanding

Within the United Kingdom

Current

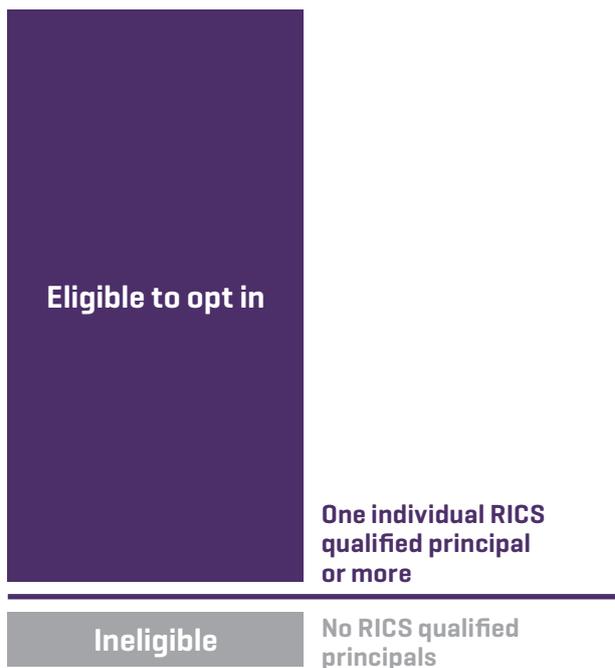


Proposed



Outside the United Kingdom

Current



Proposed*



*But moving to the UK proposed model [above] on a country by country basis over an assumed five-year period

We believe that these changes will give clients confidence that, in using a regulated firm, they are procuring surveying services from a firm where a significant proportion of the senior managers have been assessed for competence and ethical awareness under RICS' world class professional assessment programme. Our initial impact assessment indicated that only a small number of existing firms would be affected by this change, however we consider that it is important to set strong foundations of future growth in the number of regulated firms globally.

Responsibility of principals

We recognise that there is increasing public expectation in many countries that transparent and proper corporate governance requires that the appropriate business leaders should be held to account for personal or 'corporate' failures of professional conduct, performance or service. We are therefore considering measures to ensure that senior leaders and decision makers of RICS regulated firms are more clearly accountable for their firm's compliance with RICS' standards.

Current position

At present a regulated firm nominates a Contact Officer who provides information to RICS. The Contact Officer can be anyone within an organisation, and not necessarily an RICS-qualified individual. The responsibilities of this individual are limited to being the main liaison point between the firm and RICS and he or she is the person authorised by the firm to submit the firm's regulatory annual return to RICS. The focus of this arrangement is largely administrative and designed to support timely cooperation with RICS and as such the Contact Officer does not hold any accountability for ensuring that standards are met.

Proposed change

We propose to introduce the position of "Responsible Principal", in addition to the existing role of Contact Officer. A Responsible Principal will have primary responsibility for ensuring that RICS' professional, technical and ethical standards are applied, upheld and supported by an appropriate assurance framework within a registered firm, and for ensuring corporate co-operation with our regulatory processes (such as monitoring, investigations and disciplinary processes). Our expectation is that the Responsible Principal would normally be an RICS member Directing Principal within the firm.

This would align RICS firms' regulatory regime more closely with other professions with established practice/firm based regulation, such as auditors, pharmacists or solicitors.

We envisage that the "Responsible Principal" would be expected to:

- take reasonable steps to ensure the firm has implemented policies, systems and controls to ensure compliance with all RICS standards and other requirements of RICS registration by the regulated firm, its managers and employees, and be able to demonstrate evidence of this to RICS if required to do so;
- take reasonable steps to ensure the firm has implemented systems and controls to ensure compliance with legal/statutory obligations and be able to demonstrate evidence of this to RICS if required to do so
- ensure that all information provided to RICS is truthful and adequate for the required purpose and that any material change in circumstances are reported to RICS in accordance with the Rules for the Registration of firms;
- ensure processes and systems are in place to record of any failure to comply with RICS requirements or statutory obligations and make such records available to RICS;
- report any material failure to RICS as soon as reasonably practical.

We also believe that a responsible principal would be an empowered conduit between RICS and the firm to support a good corporate culture going beyond baseline compliance, encouraging strong professional values, for example, by promoting:

- appropriate pastoral, health and wellbeing support mechanisms are in place for colleagues;
- appropriate procedures/policies in the practice to ensure that the firm's work environment, values and culture support corporate social responsibility inclusivity, diversity and equality.

The Responsible Principal would act as the focus of RICS compliance within the firm. Under normal circumstances we would envisage this person as being the main point of engagement with RICS in relation to consultation on new standards and compliance issues, albeit that the day to day contact on administrative matters would be operated via the contact officer.

Ultimately, in the small number of cases where RICS has justifiable and evidenced regulatory concerns, we would form a view on whether the Responsible Principal had taken reasonable steps to meet their responsibilities. This would be in addition to potential disciplinary action against the regulated firm itself as an entity, and any other individual RICS members implicated in the matter of concern.

Alongside defining the responsibilities (above) we are also considering a range of matters relating to the effective implementation of a such a regime:

- We envisage that firms would need to decide how a Responsible Principal would fit within their business/corporate structure. This would involve making sure that systems needed to enable the firm to deliver RICS requirements are in place.
- It would be up to the management of the firm to appoint a Responsible Principal who is competent and able to undertake the role and to review the effectiveness of its Responsible Principal regularly.
- RICS would reserve the right to refuse the firm's nominated Responsible Principal, if in its view that individual was not fit and proper.
- In larger firms, we envisage that the Responsible Principal would need to have clear reporting lines that would empower them sufficiently to fulfil their roles and be able to implement changes or introduce new procedures to ensure compliance.
- We recognise that larger firms are likely already to have a dedicated compliance director who may not be a member of RICS. In such cases the firm would still need to appoint a Responsible (member) Principal, even though much of the implementation work relating to standards may, in practice, be led and delivered by others.
- We recognise that some firms offer surveying services from multiple-offices. We are considering adding a requirement for such practices that each "office" from where surveying services are provided to appoint an Assistant Responsible Person in each office to provide on-site supervision and ensure day-to-day compliance with RICS requirements and legal/statutory obligations. We currently consider that the responsibilities of such a role would align with, but not replace, the responsibilities of the Responsible Principal suggested above.
- A substantial proportion of RICS regulated firms are either sole practitioners or sole-principal micro-businesses. In such cases it is highly likely that systems and controls relating to quality and risk management will be much simpler than those of larger firms. In this context our approach aims to ensure that these processes, albeit simple, appropriately achieve the outcomes we expect to see. Our aim is to avoid imposing a one-size-fits-all approach unless deemed absolutely necessary. In the smallest firms the Contact Officer and Responsible Principal would usually be combined.
- For existing registered firms we will allow a transitional period from the introduction of new rules to establish their own procedures. We anticipate this would be approximately 6 months.

Impact

We envisage that these changes will involve a limited increase in administrative burden on firms as they will need to put in place the appropriate systems to select and then declare their responsible principal. Clearly individuals who are the nominated Responsible Principal or Assistant Responsible Person will assume additional, personal accountability, however as there is no imposed change in the actual practice rules, we do not believe there is any material difference to what a well-managed firm should be doing anyway. We do recognize that the creation of these roles is likely to result in more specific training requirements for the individuals nominated.

4.0 Questions

In order to allow a managed review of consultation responses we request that you provide input against the following questions. Should you wish to provide further views you may do so following these answers:

Respondent information

Name of respondent (individual or organisation):

Membership number (if appropriate):

Nature of respondent:

- a) RICS regulated firm (large)
- b) RICS regulated firm (SME)
- c) Business consumer of surveying services
- d) Individual RICS member
- e) Individual (non-RICS member)
- f) Other

World Region:

- a) UK or Ireland
- b) Rest of Europe
- c) Middle East and North Africa
- d) Sub-Saharan Africa
- e) North America
- f) South/Central America
- g) Asia
- h) Oceania

Country:

Sector:

- a) Property
- b) Land
- c) Built environment
- d) Other

Threshold of qualified principals

1. **Should RICS increase the minimum threshold of principals within a regulated firm from one RICS-qualified individual to 25% of principals involved in surveying services? (Y/N).**

If not, should it be higher or lower? (higher/lower)

Please give reasons:

2. **Should RICS require at least one of the Directing Principals within an RICS-regulated firm should be a qualified RICS member? (Y/N).**

3. **Do you have any comments on the proposed definition of Directing Principal in section 3?**
-
-
-

4. **When you consider the proposed changes relating to proportion of RICS qualified principals in a regulated firm overall, what level of burden (including the cost) do you believe this would have on your firm? (free text answer)**
-
-
-

5. **Do you agree that RICS should take steps to bring global consistency with the model of mandatory registration for those firms with more than 50% RICS qualified principals? (Y/N).**

If not, why?

6. **Would your firm be subject to mandatory regulation under these proposals? (i.e. are you a sole practitioner or does your firm have at least 50% RICS-qualified principals? (Y/N).**

Responsible Principal

7. Do you agree with the list of envisaged responsibilities of the 'Responsible Principal'? (Y/N)

If not, which responsibility is too onerous, or alternatively should the responsibilities be extended?

8. What training and support would you expect RICS to provide in order to support your firm in successfully introducing the role of Responsible Principal?

9. Should the proposed Responsible Principal should be an RICS member? (Y/N)

10. Should RICS require an Assistant Responsible Person in each office of a regulated firm in order to ensure day to day supervision and compliance? (Y/N).

If not please give reasons

11. When you consider the proposed changes relating to Responsible Principal and Assistant Responsible Person, as envisaged in this paper, what level of burden (including the cost) do you believe this would have on your firm and the quality of surveying services you deliver to clients or the public?

Responsible Principal

12. Do you have any other comments about our approach to the registration or regulation of firms?

13. How do you think we can best promote RICS regulated firm status to clients and the public?

Appendix: Definitions of key terms

The following definitions are derived from the RICS Rules for the Regulation of Firms (currently in force) other than the section in *Italics* which explains the definition of surveying services to assist understanding.

“Contact Officer”

the individual designated by the Firm to be the main liaison point between the Firm and RICS and the person authorised by the Firm to submit the Firm’s Annual Return.

“Firm”

currently means:

- a. the whole or part of any body corporate; or
- b. a partnership; or
- c. a limited liability partnership; or
- d. an unincorporated practice of a sole practitioner concerned with the business of surveying or providing other related services, which is regulated by RICS; or
- e. an equivalent in any of the world regions to any of the above in a–d.

“Principal”

- a. a sole practitioner or
- b. a partner, a director or a member of a limited liability partnership or
- c. a person whose job title includes the word ‘partner’ or ‘Director’ or
- d. a person who performs the function of a sole practitioner, a partner, director or member of a limited liability partnership, or equivalent.

“Surveying service to the public”

means acting to provide a service(s) considered by RICS to be within those which are the responsibility of RICS Professional Groups to professional, corporate, institutional and all other clients.

Explanatory note: *This can be described as the technical and professional skills required to value, measure and manage the whole life cycle of land, property, assets and construction to achieve sustainable outcomes and comprise, but are not necessarily limited to, advising, analysing and reporting on all aspects of these processes.*

For the purposes of regulation we expect firms to seek registration if they provide the following services to consumer or corporate clients:

- (a) *Valuing and advising on investment in land; residential and commercial property, personal property, intangible assets, and minerals and waste;*
- (b) *Managing land, estates, property, minerals and waste;*
- (c) *Advising on planning and development of land and construction;*
- (d) *Surveying buildings and advising on their condition, maintenance, alteration, improvement and design;*
- (e) *Measuring, managing and analysing data about the physical features of the Earth;*
- (f) *Planning, measuring and managing development and construction works including the estimation of costs, procurement of materials and labour and the control of budgets;*
- (g) *Selling, buying or letting property as an agent.*



Confidence through professional standards

RICS promotes and enforces the highest professional qualifications and standards in the valuation, development and management of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to markets and effecting positive change in the built and natural environments.

Americas

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