



## Conflicts of interest: Implementation and impact

A review of the RICS professional statement

June 2019



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## Acknowledgments

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## Key findings

# 87%

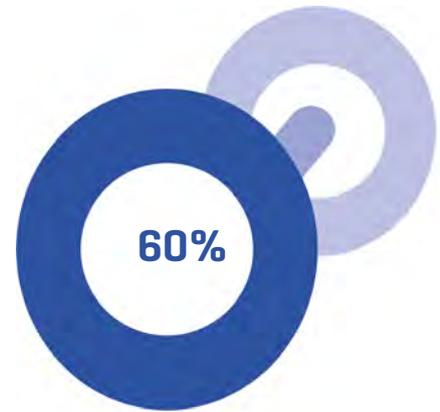
of firms believe that staff are **familiar** with the professional statement



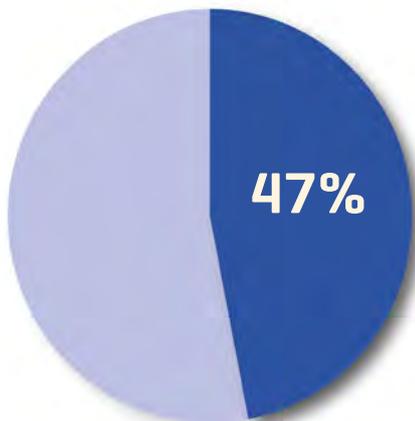
One in three firms experience a conflict of interest **every six months**

# FIVE

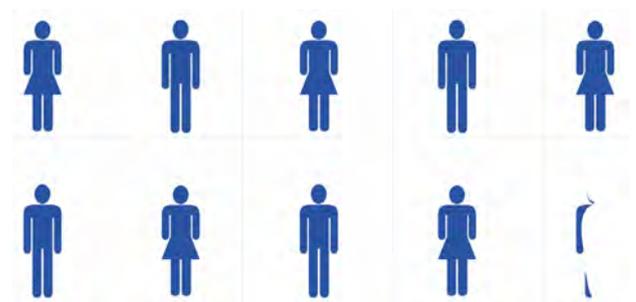
**One in five** firms have difficulties managing aspects of the process



**60%** of respondents thought the professional statement strengthened **client confidence**



**47%** informed clients of potential conflicts of interest **immediately**



**93%** consider managing conflicts of interest to be **very important**

# 1 Introduction

RICS is committed to ensuring that surveying professionals adhere to high professional standards. RICS achieves this through a regulatory framework that is responsive to the demands of an evolving market, fosters innovation and facilitates the delivery of excellent services.

The effective identification and management of conflicts of interest is a challenging but essential component of professionalism. The RICS professional statement *Conflicts of interest*, 1<sup>st</sup> edition came into effect on 1 January 2018. It sets out mandatory requirements that RICS members and RICS-regulated firms must follow and provides supporting guidance. The professional statement is not sector specific and has global application.

Following implementation of the new requirements, RICS commissioned this review to look at the effectiveness of the professional statement and how the professional statement is being implemented. The research was conducted in two phases, beginning with a web-based survey sent to over 10,000 firms (40% responded), followed by detailed interviews with a much smaller sample. This document presents the findings from this research.

## Major findings from the review

RICS members and regulated firms value the professional statement on conflicts of interest, primarily because it adds to the confidence and trust that clients have in their firms.

- Almost all RICS members and firms consider the management of conflicts of interest to be important, with a combined 93% believing it is either 'critically important' or 'very important'.
- The majority (87%) of firms believe staff are quite familiar with the professional statement.
- The process for identifying, managing and informing clients about conflicts of interest varies significantly across firms. Some firms have a less formal approach in place, which may result in inadequate record keeping or management of conflicts of interest.
- Identifying and managing conflicts of interest comprehensively can be complex and challenging for professional services firms and, as a result, firms stressed the need for maximum clarity, and more supporting material to be provided.

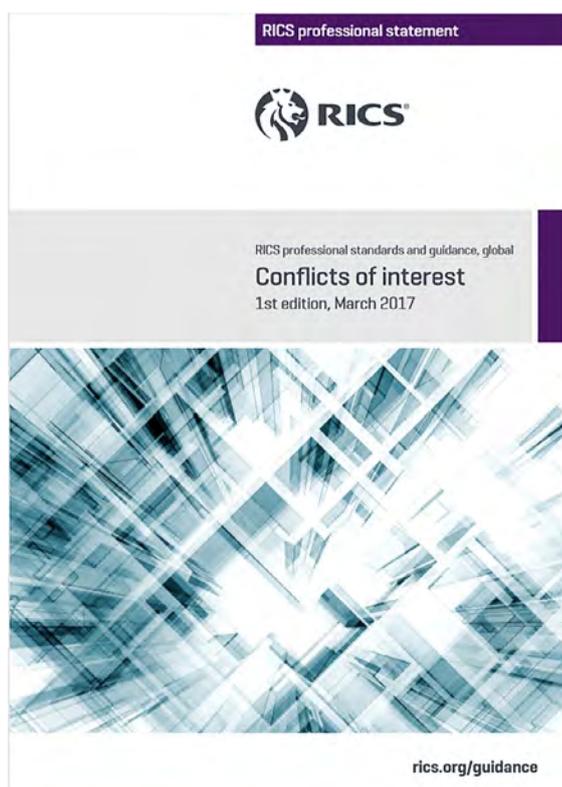
In response to the findings RICS has developed an online training module and published material to support and strengthen understanding/compliance with the professional statement. RICS will continue to monitor how the profession adopts the professional statement and will provide further guidance as needed.

## 2 The RICS professional statement

The RICS Rules of Conduct set out the obligations for RICS members and RICS-regulated firms in relation to conflicts of interest. The rules state that at all times members and firms must ‘...act with integrity and avoid conflicts of interest and avoid any actions or situations that are inconsistent with its professional obligations.’

The RICS professional statement supports the RICS Rules of Conduct and sets out RICS’ expectations of how compliance is to be achieved.

The professional statement is divided into three parts. The first part sets out mandatory requirements and defines terms. The second and third parts give guidance on how members and regulated firms can meet the obligations set out in Part 1.



**Figure 1: The RICS professional statement *Conflicts of interest*, 1st edition**

## 3 Review aims and methodology

### 3.1 Aims

The professional statement review aimed to:

- measure levels of recognition and usage of the professional statement
- identify processes in place within firms to ensure compliance with the professional statement
- establish the extent to which conflicts of interest are communicated with end users, how and when this is done and how it is recorded
- identify common themes, areas of weakness, risk and good practice; and
- establish the improvements needed to inform the future development of the statement and other policies and guidance around conflicts of interest.

### 3.2 How was the review conducted?

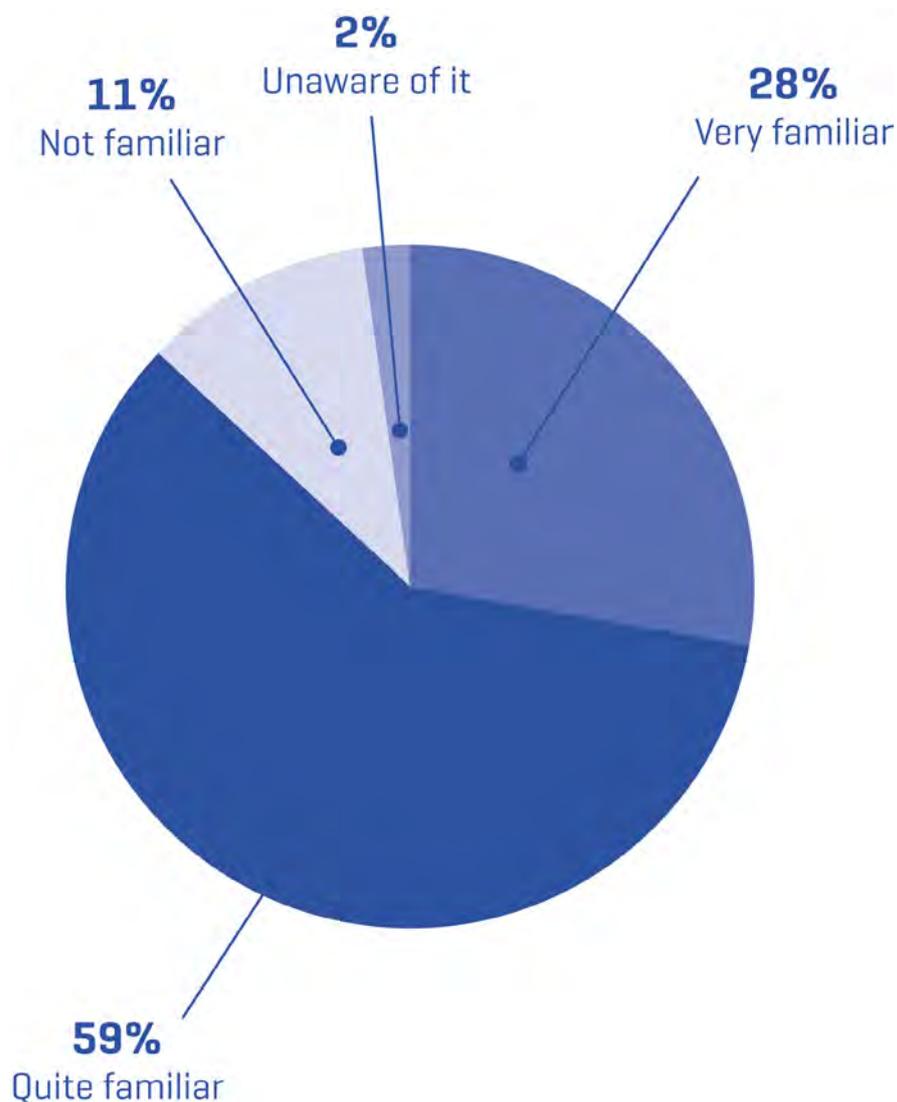
The review was undertaken across two phases. Phase 1 surveyed all 10,051 RICS regulated firms with email addresses and was carried out in July and August 2018. The response rate to the survey was 40%. The breakdown of responders by firm size and location closely matched that for all RICS regulated firms worldwide. A large majority (94%) were small firms, with fewer than 10 staff, and a further 5% had between 10 and 49 staff. Most respondents were based in the UK.

For Phase 2 of the research, undertaken between September and December 2018, RICS interviewed contact officers or specialist staff representing 31 firms. These firms were drawn from those who had responded to Phase 1.

A selection process was devised to ensure that a range of different firm types and sizes were represented from across the world. The Phase 2 sample differed from that for Phase 1 and included a much greater proportion of large firms (50% of firms had more than 50 staff), and a higher proportion (57%) of firms from outside the UK or which operated internationally. Given the significant proportion of responses from sole practitioners and micro-firms in Phase 1, the composition of the Phase 2 sample was designed to help ensure RICS gained insight into the implementation of the professional statement in larger, complex organisations as well as smaller firms.

## 4 How has the professional statement been received by the market?

Overall RICS members and firms value the professional statement because it adds to client confidence and trust in firms. It was encouraging to find that most firms (87%) believe that staff are very familiar with the professional statement; and over one quarter suggest that they are 'very familiar'.



**Figure 2: Familiarity of staff with the RICS professional statement**

The review also found that 60% of respondents thought that the professional statement strengthened their clients' confidence in the services they provided, and around half said the professional statement was helpful in demonstrating professionalism.

#### 4.1 Understanding of the professional statement

## 46% of respondents

said they found the professional statement to be straightforward to implement

Some respondents noted issues with the clarity of definitions and language used in the professional statement. This may be partly because conflicts of interest is a complex and nuanced topic.

Most responses indicated the advice in the professional statement was clear, the language was unambiguous, and the terms were adequately defined. However, when representatives were asked to explain what is meant by a conflict of interest, both from their reading of the professional statement and from their broader knowledge and experience, we found that about half the responses to this question demonstrated a lack of clear and accurate understanding of the term.

The other main issue highlighted was a lack of guidance as to what the 'correct' response to a potential conflict situation should be. Additionally, there was also some misunderstanding as to which parts of the professional statement are mandatory and which are good practice guidance. Some respondents considered clarification was required.

Overall several improvements were proposed by respondents, for example guidance on how to perform a conflict of interest check, improvements in presentation of the professional statement, and greater clarity in wording, especially of definitions, together with a more user-friendly layout and the use of visual aids.

#### Our response

In April 2019 RICS launched a *Conflicts of interest e-learning course*, to support and strengthen compliance with the professional statement. The course provides clear rules for RICS members and regulated firms to identify and manage potential conflicts of interest. Post-course feedback on further training needs is monitored and will be used to ensure the content remains relevant and useful.

The course can be found [here](#).

## 5 How conflicts of interest are managed

Nearly all RICS members and firms consider the management of conflicts of interest to be very important. However, the process for identifying, managing and informing clients about conflicts of interest varies significantly across firms. For some firms, less than adequate approaches to the management of conflicts of interest are in place and this may result in inadequate record keeping.

### 5.1 Identifying conflicts of interest

It was encouraging to find that almost all respondents considered the management of conflicts of interest to be very important. Often respondents stated that, because it is a mandatory RICS requirement, they took conflicts of interest seriously.

However, the review highlighted variation in the processes firms have in place to identify conflicts, including cross-checking against databases, checklists and file records. Around half of firms claimed to have difficulties identifying and managing conflicts. This may be due to the processes and procedures firms had in place to identify such conflicts.

Larger firms mainly used electronic databases to check for conflicts of interest when a new instruction was received. Other firms circulated details to staff members who were required to comment if a potential conflict was suspected. In some cases, a single member of staff was responsible for all checks. These processes were sometimes coupled with internal discussions among staff members or directors.

Larger firms found the processes more challenging than smaller organisations, with small firms therefore tending to adopt fewer formal procedures. However, it is a mandatory requirement of the professional statement that firms must have effective systems and controls in place appropriate to the size and complexity of their business. This includes identifying, managing and recording conflicts of interest. Firms should therefore take the opportunity to review their procedures to ensure they are compliant.

**1 in 3**  
firms experience a  
conflict of interest  
every 6 months

**93%**  
consider managing  
conflicts of interest  
to be very important

**1 in 5**  
firms have  
difficulties  
managing aspects  
of the conflicts of  
interest process

**Case example: How conflicts of interest were identified**

✘ Bad practice	✔ Good practice
<p>Some smaller firms and sole practitioners relied on memory to identify conflicts. Such statements were sometimes accompanied by an indication that conflicts rarely arose in their businesses.</p>	<p>Many firms, including the smallest firms, noted that electronic databases were used to identify conflicts of interest. The electronic databases allow employees to check if there are any potential conflicts of interest before an engagement is initiated.</p>

**Our response**

In June 2019 RICS released supporting material titled *Identifying conflicts of interest* for members and firms outlining the key requirements and best practice for identifying conflicts of interest.

The supporting material can be found at [rics.org/coireview](https://www.rics.org/coireview)

**5.2 Managing conflicts of interest**

The review found that the size and complexity of the business had a clear impact on the type of conflict management systems and controls used. Most large firms emphasised the need for formal procedures and consistency across the organisation, supported by a central database and quality assurance procedure. Such firms also highlighted the importance of training to ensure a consistent approach.

Responses from small practices and sole practitioners indicated that managing potential conflicts could be a relatively straightforward process, undertaken via internal discussions or online communication – processes also referred to by some of the larger organisations. Issues relating to management controls, systems, consistency and training were considered less important or irrelevant by many smaller businesses.

More than half the firms reported that procedures to manage conflicts of interest were audited. Some adopted internal audit procedures, others employed external auditors or had both internal and external audits.

We examined in detail how a conflict, once identified, was managed within a small number of firms. A minority of firms relied on the professional judgement of the person responsible for the instruction,

or employees' professional training to identify and manage conflicts in jobs for which they were responsible. The reliance on these more informal processes may result in a lack of adequate record keeping if a robust process is not followed.

One in five firms indicated that they have some difficulties managing the different aspects of the conflicts of interest process, especially identifying conflicts and obtaining informed consent.

### **5.3 Communicating with clients**

The research indicated that there was a reasonable level of communication between firms and their clients regarding conflicts of interest. Around half of those questioned, informed clients of potential conflicts immediately as they were identified, and a further quarter did so later, once further investigations had been carried out.

Most respondents indicated they would simply turn down the instruction if a conflict was suspected – a preference to avoid rather than resolve. Some indicated they would discuss the situation with the client and attempt to resolve it. Relatively few referred to the need to make a record of the discussion.

During more in-depth questioning RICS asked for examples of disagreements between the client and the RICS member/firm as to what constituted a conflict and examined how these were resolved. We found that around half of firms, mainly smaller firms, had not encountered issues with clients and others commented that it arose infrequently. The most commonly referenced disagreement occurred when the client still wished the surveyor to proceed after a conflict of interest had been identified because of a valued long-term business relationship.

### **5.4 Recording conflicts of interest**

Two-thirds of firms indicated that records of conflicts of interest were kept, these being mostly written records. During in-depth questioning, it was found that centralised electronic means of record-keeping were only used by large firms, while file records were kept by firms of a variety of sizes. Some respondents were not clear about the means of recording used.

Smaller organisations had a variety of methods for keeping records of conflicts including checklists, spreadsheets and WhatsApp correspondence. Around one-quarter (generally smaller firms and half from outside the UK) stated either that no records were currently kept or were unclear in their answer. This may be at least partly because some small firms had not encountered conflicts of interest.

Matters recorded typically included the client, property details, the nature of the instruction, details of the potential conflict, correspondence and discussions, results and persons responsible.

**Case example: How conflicts of interest are recorded**

✘ Bad practice	✔ Good practice
Some firms did not keep records of conflicts of interests that arose.	Many firms kept records in a centralised electronic database – ranging from spreadsheets to much more sophisticated systems. This allowed records to be accessed easily and kept up to date as required by employees.

**Our response**

In June 2019 RICS released supporting material titled *Recording conflicts of interest*, outlining the key requirements and good practice methods for recording conflicts of interest. The material sets out why recording keeping is important and identifies methods for recording conflicts.

The supporting material can be found at [rics.org/coireview](https://www.rics.org/coireview)

**5.5 Resolving conflicts of interest**

The review found that the procedures for obtaining informed consent may not be employed as widely as expected. The research indicated that 95% of respondents had dealt with informed consent. However, during in-depth questioning 20% of firms said they would not seek informed consent in the event of a potential conflict and would simply decline the instruction. Time constraints were identified as one possible reason for this.

Questioned about processes for obtaining informed consent, most large firms referred to written contact with the client and/or to a written or electronic record of the process. Smaller firms either tended not to have standard systems in place, did not seek informed consent or produced unclear responses.

When resolving a potential conflict, commercial considerations should not influence or impair professional judgment. A significant proportion of mainly smaller firms had no process in place to review decisions and ensure professional judgment had been correctly applied. Of the firms that undertook reviews, smaller firms tended to do this in ‘real time’ while others carried out reviews over a longer timescale. The reasons for this were varied and not always stated, although the time taken to review the matter through a pyramid or decision tree structure appears to be an issue for larger firms.

### Our response

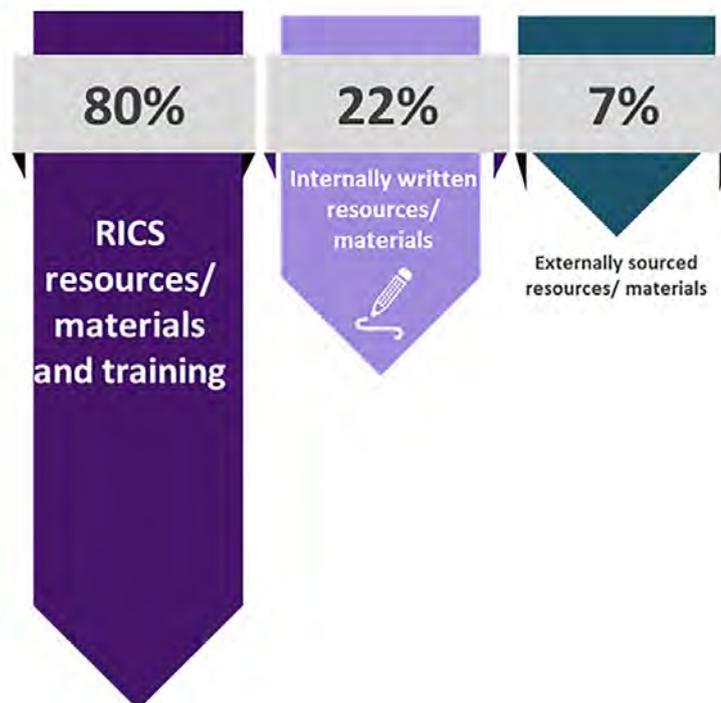
Along with further training on how to resolve conflicts of interest we have released supporting material titled *Understanding informed consent*. The supporting material outlines what informed consent is, how and when it should be used and what it should look like in practice.

It can be found at [rics.org/coireview](https://www.rics.org/coireview)

### 5.6 Professional training

Larger firms tended to provide in-house training on conflicts of interest and some included this as part of their induction process. Other firms circulated information to staff and some audited or tested knowledge levels. Some firms indicated that a formal system of training and updating existed, but others relied on less formal approaches. A small number of firms indicated that as their staff were RICS members they expected them to keep themselves up-to-date on guidance and their professional obligations. About 20% of firms, mostly small firms or sole practitioners, undertook no training.

Many firms have used RICS resources to ensure staff are kept up to date with the professional statement. Team meetings and smaller discussions are used most prevalently to help ensure continued familiarity.



**Figure 3: Resources used to ensure staff are up to date with the professional statement**

Nearly 40% of respondents indicated that additional training on the professional statement would be beneficial. This was reinforced further in more in-depth questioning where there were suggestions for further support, advice, training and guidance from RICS. Several firms proposed that training on conflicts of interest should be reinforced as part of the Assessment of Professional Competence (APC) and many others suggested Continuing Professional Development (CPD) training, especially via webinars. More traditional CPD seminars and presentations were also proposed.

Training requirements appeared to vary with the size of the firm. Externally provided training may be particularly relevant for mid-sized or smaller firms who are large enough to encounter a significant number of conflict issues but who may not have the resources to develop a structured conflicts management strategy or to provide in-house training.

Many respondents suggested that RICS-developed case studies and live examples to illustrate conflicts management in practice would be helpful, as well as practical tools such as templates or checklists.

### **Our response**

In April 2019 RICS launched a *Conflicts of interest e-learning course*, to support and strengthen compliance with the professional statement. Post-course feedback on further training needs is monitored and will be used to ensure the content remains relevant and useful.

## 6 Developing and improving

RICS is committed to delivering professional standards to a high standard. RICS continually monitors feedback from the profession on the usability and application of professional standards.

Considering the findings from this review RICS will:

- **Support the development:** Professional statements will be supported with guidance and good practice case studies as appropriate to highlight real world application.
- **Provide training:** Training will be provided on all aspects of the professional statement via online modules and webinars, etc.
- **Focus on smaller firms:** Additional assistance will be offered to smaller firms to ensure they meet the obligations required by professional statements.
- **Raise awareness:** New developments with professional statements will be highlighted to smaller firms who may not have the resources available to monitor changes in the regulatory environment.

RICS will use the findings from the review to improve future professional statements. Outlined below are the actions RICS will take going forward.

RICS has already implemented several changes, having previously conducted an informal review of the professional statement that fed questions into this research around firms' understanding of key terms. Learning lessons from this project – as well as others – have led to several user-centred improvements. These improvements are already being reflected in RICS professional statements and include:

- **Increasing author engagement and support:** We have implemented author briefing meetings and additional support for authors based around early intervention and constructive feedback.
- **Implementing plain English:** Plain English does not mean oversimplifying language, but making sure wording is as clear as possible and written with the audience in mind. This is particularly important for a regulated document. A lack of plain English was deemed to be a key area of weakness within the professional statement, particularly around defined terms. Plain English is now featured prominently in author briefing and while briefing anyone undertaking any form of review (such as working groups and legal reviewers).

- **Enhanced and accessible design:** The pagination and layout of the professional statement contributes to difficulties in discerning the mandatory elements from the good practice content. We have implemented a series of design changes, including adopting single-column layout and 12pt font to align with good practice in accessibility.
- **Ensuring regulatable standards through independent oversight:** We have introduced additional independent regulatory board scrutiny of new professional statements to ensure that all mandatory RICS requirements are proportionate and regulatable.
- **Joined up consultation:** Detailed user questionnaires are now included at consultation and we are working on developing proposition plans for projects so that we get early engagement from the right stakeholders wherever possible. Engagement of this kind will specifically ask what ancillary products should be provided to assist with understanding and compliance.



## 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.

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