

Barbers Rural Consultancy LLP
Conflict of Interest Policy Statement

General statement of policy

Barbers Rural has an obligation to meet the standards stipulated by the regulating bodies, the Royal Institution of Chartered Surveyors (RICS).

The RICS published its Professional Statement (PS) on Conflicts of Interest 1st Edition in March 2017. This document, which is effective from 1 January 2018, is a Professional Statement and is therefore **mandatory**. All RICS members and those working for RICS member firms **must** comply with its contents. It provides new guidance in addition to that which has been provided previously. All members and employees should be aware of its contents.

The Professional Statement sets out that:

An RICS member or regulated firm must not advise or represent a client where doing so would involve a Conflict of Interest or a significant risk of a Conflict of Interest, other than where all of those who are, or may be, affected have provided their prior Informed Consent.

Informed Consent may be sought only where the RICS member or regulated firm is satisfied that proceeding despite a Conflict of Interest is:

- a) in the interests of all of those who are, or may be, affected and
- b) is not prohibited by law

and that the conflict will not prevent the member or regulated firm from providing competent and diligent advice to those that may be affected.

Every RICS member working independently or within a non-regulated firm or within a regulated firm must:

- a) identify and manage Conflicts of Interest in accordance with this Professional Statement
- b) keep records of the decisions made in relation to whether to accept (and where relevant, to continue) individual professional assignments, the obtaining of Informed Consent, and any measures taken to avoid Conflicts of Interest arising.

There are additional legal obligations to clients under S21 of the Estate Agents Act 1979 and to Partners under S10 of The Partnership Act 1890 to disclose all connections with parties or properties for whom or upon which we are acting (available to view via the link: www.legislation.gov.uk/ukpga).

1.0 Definitions and situations giving rise to possible conflict

- 1.1 Any reference to 'the firm' means Barbers Rural Consultancy LLP

- 1.2 Any reference to 'personnel' means any Partner, member or employee of Barbers Rural Consultancy LLP.
- 1.3 'Conflict of Interest' means:
- a) a situation in which the duty of the firm and its personnel to act in the interests of a client or other party in a professional assignment conflicts with a duty owed to another client or party in relation to the same or a related professional assignment (a '**Party Conflict**')
 - b) a situation in which the duty of the firm and its personnel to act in the interests of a client in a professional assignment conflicts with the interests of the firm itself or the interests of any of the individuals in the firm (an '**Own Interest Conflict**')
 - c) a conflict between the duty of the firm and its personnel to provide material information to one client, and the duty to another client to keep that same information confidential (a '**Confidential Information Conflict**')
- 1.4 'Confidential Information' means: confidential information, whether held or disseminated electronically, verbally or in hard copy.
- 1.5 'Information Barrier' means: the physical and/or electronic separation of individuals (or groups of individuals) within the same firm that prevents confidential information passing between them.
- 1.6 'Informed Consent' means: consent given willingly by a party who may be affected by a Conflict of Interest, that party having demonstrated to the firm concerned that the party understands:
- a) that there is a Conflict of Interest or a significant risk of a Conflict of Interest
 - b) the facts known by the firm that are material to the Conflict of Interest
 - c) what that Conflict of Interest is or may be
 - d) that a Conflict of Interest may affect the ability of the firm and its personnel to advise or act fully in the interests of a client.

2.0 Actions

2.1 The initiation of the Conflict of Interest

- 2.1.1 In all cases and in any event prior to accepting any new instruction by new or existing clients, Conflict of Interest (COI) checks must be made to identify any possible conflict.

- 2.1.2 It is essential that when opening a new file, clear and concise information is given as to:
- a) Who the client is
 - b) Where the relevant property is located
 - c) The nature of the instruction
 - d) Any potentially affected third parties (see 2.1.4 below)
- 2.1.3 In most cases, the client will be the party giving instructions although there are cases where a third party might be giving instructions on behalf of the client, for example a solicitor or accountant acting on behalf of their existing client, or, in limited cases, the client will be an external body such as a matrimonial court. It is essential to identify who the client is for the purposes of the COI check.
- 2.1.4 Potentially affected third parties must be identified as part of the COI check. Examples of where potentially affected third parties must be identified are given below:
- a) For a valuation instruction, everybody affected by the instruction must be identified. If the client is a bank, the landowners/leaseholders must be identified as a potentially affected third party. For matrimonial valuations, the client may be the matrimonial court but the landowners/ leaseholders will be affected third parties.
 - b) In landlord and tenant matters, you may be instructed by the landlord, however, the tenant must be identified as an affected third party.
 - c) In all cases, any professional advisors acting for a potentially affected third party in respect of the instruction, such as an agent, surveyor, solicitor or accountant, must be identified in the COI check.
- 2.1.5 In the case of an existing management client arrangement COI checks should be made:
- a) annually
 - b) whenever a new instruction outside of the management agreement is made
 - c) when the structure of the client changes
 - d) when new trustees/executors/directors/partners are appointed

- 2.1.6 In the case where anyone in the firm is acting as arbitrator or mediator, no appointment will be accepted if any negative response is received from any other party within the firm that indicates a possible Conflict of Interest following the prior circulation of the prescribed online pro forma.
- 2.1.7 In the case where anyone in the firm is appearing as a witness (howsoever appointed) in a judicial or quasi-judicial hearing, then no appointment will be accepted if any negative response is received from any other party within the firm that indicates a possible Conflict of Interest following the prior circulation of the prescribed online pro forma.
- 2.1.8 In the case of any other instruction where a conflict, or significant risk of a conflict, has been identified, the instruction must not be accepted unless Informed Consent has been obtained from the party or parties who may be adversely affected. Informed Consent can only be sought where it is in the interests of those affected for Barbers Rural to continue to act, where it is not prohibited by law and where the conflict will not prevent competent and diligent advice being given. See Section 3 for further requirements relating to Informed Consent.

2.2 Monitoring of Conflicts of Interest

Before any new job is accepted all staff who undertake client work should check on Flightdeck for any previous instructions or other previous conflicts of interest

‘Every RICS member working independently or within a non-regulated firm or within a regulated firm must identify and manage Conflicts of Interest in accordance with this professional statement.’

2.2 Responding to Conflicts of Interest

- 2.2.1 Where any circumstances give rise to either an actual or potential Conflict of Interest, as set out in the examples under 1.0 above or otherwise, the prescribed pro-forma reply must be completed and submitted. If there is any doubt as to whether a conflict exists, this must be discussed and agreed the Managing Partner as outlined under 9.0 below whose decision is final and binding.
- 2.3.2 After undertaking the procedure outlined in 3.0 below, in all cases, the New Project Instruction Form will be suitably endorsed, whether or not there is any Conflict of Interest identified or reported.

3 Identification of possible conflict

- 3.1 Where a potential for a COI arises, the surveyor responsible for the job must decide whether or not that response identifies a conflict or potential conflict of interest.

- 3.2 In cases where a conflict or potential conflict is identified, the following action must be taken:
- 3.2.1 In cases arising under 2.1.7 and 2.1.8 above, the instruction will be declined.
- 3.2.2 In all instances where accepting an instruction would constitute an own interest conflict, the instruction must be declined.
- 3.2.3 In cases arising under 2.1.9 above, the surveyor must decide whether to decline the instruction or proceed by requesting Informed Consent from the party or parties who may be adversely affected. In making this decision, the surveyor must decline the instruction if it is considered that:
- a) That the client would be best served by instructing another firm
 - b) Acceptance of instructions might reasonably be perceived to imply a lack of integrity
 - c) Acceptance of instructions might cause embarrassment to the profession
 - d) Acceptance of instructions might mean that you are unable to advise and represent each client objectively and independently
- 3.2.4 If none of points a) to d) in 3.2.3 apply to a specific instruction, it may be appropriate for the surveyor to request Informed Consent. All parties who may be adversely affected will be immediately contacted in writing, via letter or email, fully disclosing the circumstances and requesting Informed Consent as to whether the instruction should continue. The written request for Informed Consent should use the wording of the template letter in Appendix B below and must state the following:
- a) That there is a Conflict of Interest or significant risk of a Conflict of Interest
 - b) The known facts that are material to the Conflict of Interest
 - c) What the Conflict of Interest is or may be
 - d) That a Conflict of Interest may affect the ability of the firm to advise or act fully in the interests of the client
- 3.2.5 Following the disclosure of all facts of the conflict or potential conflict to the parties involved under 3.2.3 above, if the parties provide Informed Consent in writing using the template in Appendix B, this must be recorded on the file and the New Project Instruction Form appropriately annotated under 'Informed Conflict'. No work should commence until Informed Consent has been received in writing.

- 3.2.6 If, in the circumstances of 3.2.4 above, if there is any objection from any party involved then we will make the offer to the client that all our instructions on the matter should be withdrawn following which it may then be appropriate for the name/s of alternative surveyors or professional practices to be suggested. Note that there is no ability to decide to continue with the instruction unless all adversely affected parties consent to such continuation.
- 3.2.7 In all cases, the surveyor must choose to decline an instruction in the event that impartiality is compromised to the extent that it is not considered possible to act in the best interests of the client.
- 3.2.8 Where a connection is identified with a person in the firm relating to a sale, purchase or letting, the Managing Partner must also be consulted before the instruction is accepted or, in the case of purchase of a property being offered by Barbers Rural, before an offer is made.
- 3.2.9 In the case of a sale, purchase or letting that is approved in writing by the Managing Partner (a copy of which must be retained on the file), a written declaration of the connection with a person within the firm (or any party connected to them), must be clearly included in the marketing material and, in the case of a purchase, the vendor must be notified in writing that the potential purchaser has a connection with Barbers Rural or the firm along with the nature of that connection and clear written records retained on the file.
- 3.2.10 Where a Conflict of Interest does not exist upon instruction from a client, it may arise during the assignment. This policy statement must be considered and acted upon throughout the full period of each instruction and not just at the outset. It is necessary to raise another COI check during an instruction if information comes to light that may give rise to a Conflict of Interest, for example, if potentially affected third parties are identified during the instruction.

4 Consultants and Sub-contractors

- 4.1 Barbers Rural does not usually use consultant and sub-contractor surveying firms to undertake client work. However in the event that such an instruction is contemplated, prior to instructing a consultant or contractor to undertake such work, it is essential that the Partner responsible obtains written confirmation from the consultant/sub-contractor that they do not have a Conflict of Interest in respect of that instruction. If a Conflict of Interest is identified, the instruction should not be given to that consultant/sub-contractor.

5 Disputes

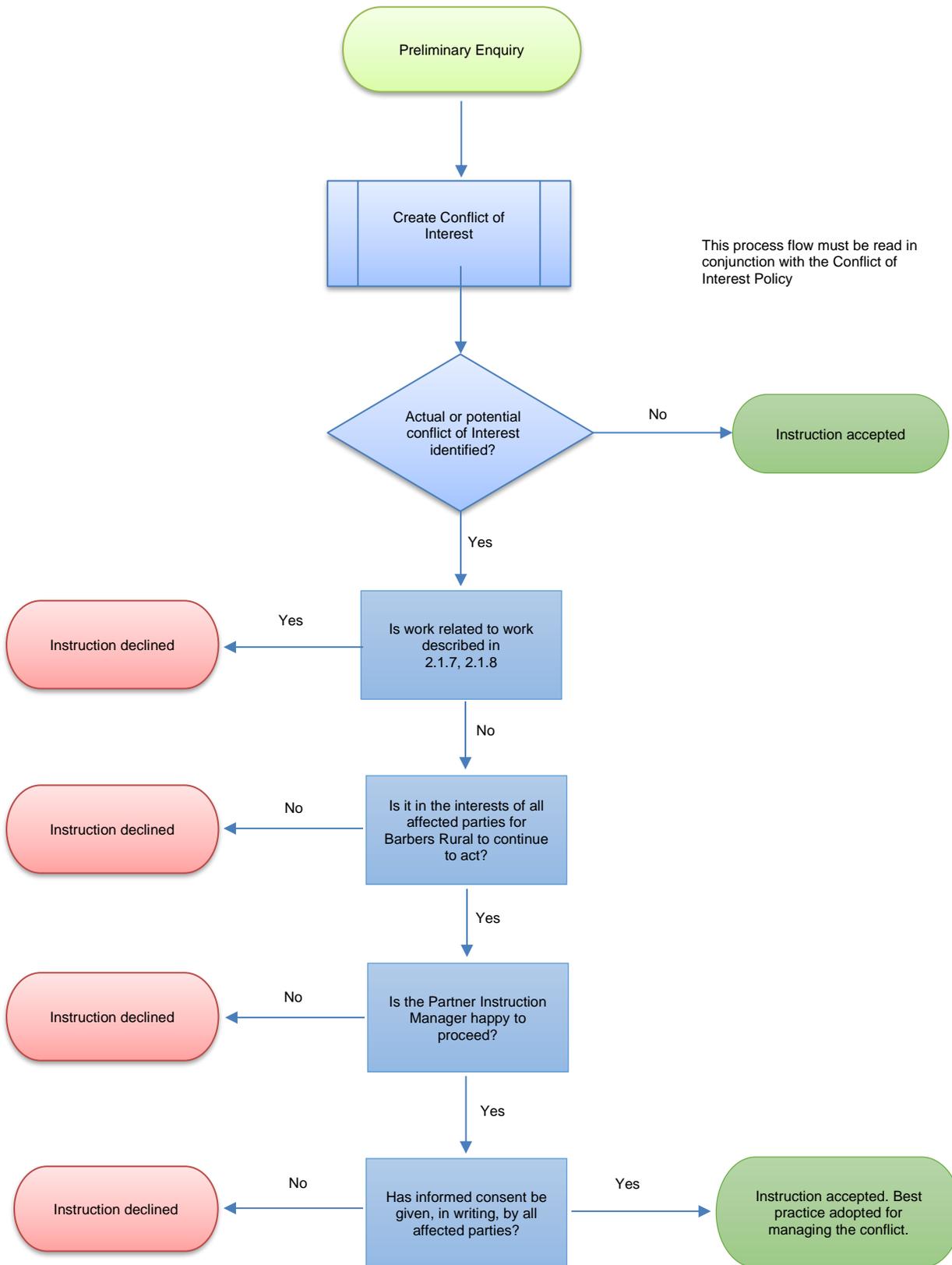
- 5.1 In all instances, where the circumstances give rise to any doubt as to whether a Conflict of Interest arises, the matter must be immediately referred to the Managing Partner whose decision is final.

6 Review

- 6.1 Regular reviews of the effectiveness of this policy are carried out in addition to ongoing monitoring and audits undertaken by the internal audit function in order to provide management with the necessary assurance regarding the operational effectiveness of Barbers Rural controls relating to this policy.

For and on behalf of Barbers Rural Consultancy LLP
M M V Taylor BSc (Hons) FRICS FAAV FNAEA
Senior Partner

Appendix A: Conflict of Interest Process Flow



Appendix B: RICS template letter for obtaining informed consent

To: **[client's name]**

We refer to your recent instruction to Barbers Rural to **[details of instruction]**.

We are required by our professional body, the Royal Institution of Chartered Surveyors, to inform you of certain matters before you confirm our appointment.

Your work will be undertaken by me, **[insert name(s)]**, and I will be assisted by **[insert name(s)]**. I need to make you aware that **[description of conflict or risk of conflict]**.

This means that, in accordance with our professional rules, there is a Conflict of Interest for Barbers Rural, which happens when the duty owed by us to one client conflicts with the duty owed to another client. In this case, a conflict arises because **[insert explanation of conflict]**.

We are satisfied that it is in the interests of both you and the **[insert name of the other conflicted party]** that Barbers Rural should proceed with both professional assignments because **[insert why it is in the CLIENTS' interests to proceed]**.

In order to mitigate the effects of the Conflict of Interest, **[insert the mitigating steps taken, e.g. act from different offices, security of digital and hard copy files etc]**.

If these precautions are taken, it is our professional view that we are able to accept your instructions. However, we recommend to you that you take time to read this letter carefully, and to ensure that you understand it fully. If you do not understand it, we recommend that you send it to your **[solicitors/ accountants/another professional]** and discuss it with them.

If you are comfortable proceeding to instruct us, please indicate your consent by signing below and returning this letter to us.

Signed:

[Client's name/clients' names. Note – you should ask each client to sign, if, for example, you are seeking consent from a couple.]

Dated: