



Llywodraeth Cymru  
Welsh Government

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# Professional conduct rules for registered building control approvers (Wales) (draft)

Draft version of the proposed professional conduct rules for registered building control approvers (Wales).

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# Introduction

The Professional Conduct Rules apply to Registered Building Control Approvers ('RBCAs') in Wales. Welsh Ministers are the Regulatory Authority for RBCAs under section 58A Building Act 1984 ('the Act'). The professional conduct rules are prepared and published in accordance with section 58R of the Act.

The professional conduct rules set out the standards of professional conduct and practices expected of RBCAs. It takes its place at the heart of the regulated building control profession – one in which you are required to take individual responsibility and accountability for your decisions, actions, and behaviour.

A breach of the professional conduct rules may lead to disciplinary action, including the cancellation of registration as a RBCA.

It is essential that you read the professional conduct rules in full and that you understand the principles and standards with which you must comply. The professional conduct rules are in addition to the operational standards rules that apply under section 58Z of the Act. The professional conduct rules can be revised at any time and must be published on revision.

## The principles

The principles are the key provisions which underpin all enforcement action.

The standards supplement the principles and demonstrate the expected behaviour for Registered Building Control Approvers. The principles and the standards are the Professional Conduct Rules for Registered Building Control Approvers (Wales).

You must:

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1. Act with honesty
2. Act with integrity
3. Maintain professional competence
4. Deliver services with professional skill and care
5. Uphold public trust and confidence in the provision of services and the profession
6. Encourage and promote equality, diversity and inclusion

## **Standard 1: Complying with legal, regulatory and professional obligations**

1.1 You must comply with all relevant legal and regulatory requirements:

- a) in the conduct of work activities.
- b) relating to the enforcement of compliance linked to work activities within the profession; and
- c) which apply to the conduct of your business activities, for example anti money laundering, anti-bribery and corruption, data protection and Equalities Act 2010.

1.2 You must comply with your obligations to the Regulatory authority under the Professional Conduct Rules, as set out in Annex 1 and any obligations to other regulatory authorities, local authorities or professional bodies.

1.3 You should comply with industry standards and consider best practice where appropriate.

1.4 You must maintain professional independence and impartiality in the conduct of work activities.

1.5 You must not act in a manner that is likely to bring the building control

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profession into disrepute.

1.6 You must take appropriate steps to ensure that activities undertaken by individuals under your supervision comply with relevant legal and regulatory requirements.

1.7 Where you become aware of a breach of the Building Act 1984 (as amended), or associated legislation, you must use your regulatory powers to secure compliance. If you are unable to secure compliance within a reasonable timescale, you must report non-compliant works to the relevant Local Authority.

1.8 You must work in a co-operative manner with fire and rescue services, statutory undertakers, and similar organisations.

1.9 You must make sure that the terms 'registered building control approver', 'RBCA', 'registered building inspector' and 'RBI' are used accurately and conform to the terms of your registration with the Regulatory authority.

1.10 You must not give design advice, or act as a principal designer, in your professional capacity as an RBCA.

## **Standard 2: Business requirements**

### **Insurance requirements**

2.1 You must only undertake work for which you, and any persons undertaking work on your behalf, are suitably insured.

2.2 You must fully comply with the requirements of your insurance policy, including your duty to report complaints and claims to your insurance provider in

accordance with the timescales stipulated in your policy.

## Financial propriety

2.3 You must ensure that professional finances are managed responsibly.

2.4 You must ensure that you have appropriate accounting controls.

2.5 You must have appropriate procedures in place to ensure that accounting controls are adhered to.

2.6 You must not facilitate financial crime, including money laundering, terrorist financing, bribery and corruption or tax evasion.

2.7 You must ensure that you have appropriate processes in place to prevent the facilitation of financial crime.

2.8 You must not price fix or engage in anti-competitive practices.

2.9 You must ensure that your professional costs are fair and proportionate.

## Written policies and procedures

2.10 You must have clear and accessible written policies and procedures in relation to:

- Conflict of interests
- Equality, diversity and inclusion

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- Health, safety and wellbeing
- Anti money laundering and terrorist financing and anti-bribery and corruption
- Data protection
- Whistleblowing
- Complaints handling
- Learning and Development
- Staff conduct

2.11 You must ensure that all policies and procedures are up to date, reflecting current legislative requirements and guidance (where appropriate).

2.12 You must ensure that relevant policies and procedures are provided to persons undertaking work on your behalf.

2.13 You must have clear and accessible processes that enable persons to raise concerns under such policies as referred to Standard 2.10.

2.14 You must ensure that you have processes and procedures in place to appropriately manage such concerns and resolve them in a timely manner.

## **Conflict of interests**

2.15 You must have processes in place to identify conflicts of interest, and potential conflicts of interest, both prior to the commencement of and during work activity.

2.16 You must not agree to undertake work, or continue to undertake work, where a conflict of interests is identified.

2.17 Where a conflict of interests is identified, you must notify the client and cease to act.

2.18 You must publish your conflict of interest's policy and ensure that it is accessible.

## Use of technology and managing data

2.19 You must ensure that you take steps to identify and mitigate any risks in relation to using relevant technology to support the delivery of your work.

2.20 In addition to complying with data protection requirements, you must take steps to ensure that commercial data is stored appropriately.

## Whistleblowing

2.21 You must publish a 'speak up' or whistleblowing policy

- that enables workers to raise concerns in confidence.
- is accessible.
- is visibly supported at the top of the organisation; and
- is actively promoted within your organisation.

2.22 You must not act in a way which prevents or discourages whistleblowing.

2.23 You must ensure that you implement effective processes and procedures to manage and resolve concerns raised under the whistleblowing policy.

2.24 You must consider whistleblowing concerns that you receive fairly and keep records for at least 5 years from the date of report.



## Complaints handling

2.25 You must publish your complaints handling policy and ensure that it is accessible to relevant persons [1].

2.26 You must ensure that you implement effective processes and procedures to manage complaints and resolve in a timely manner.

2.27 You must implement measures to monitor the effectiveness of your complaints handling procedures.

Culture, staff conduct and the conduct of persons undertaking work on your behalf

2.28 You must ensure that you implement appropriate disciplinary processes and procedures to effectively address concerns in relation to staff conduct.

2.29 You must ensure that you implement appropriate processes and procedures to effectively address concerns raised in relation to the conduct of persons undertaking work on your behalf.

2.30 You must provide appropriate information on how to report any concerns regarding modern slavery, labour abuse or abusive labour practices to persons undertaking work on your behalf.

2.31 You should take steps to support an inclusive culture.

## Learning and development

2.32 In addition to the provisions contained in Standard 3, you must ensure that all employees are provided with regular and up to date continuing

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professional developments activities on:

- data protection requirements
- anti money laundering and terrorist financing and anti-bribery and corruption
- equality, diversity and inclusion.

[1] Relevant persons: any persons who have a valid need to access such policies.

## **Standard 3: Professional competence and continuing professional development**

3.1 Subject to Standard 3.5 below, you must only undertake work for which you (and relevant employees) are registered and have the necessary competence.

3.2 Subject to Standard 3.5 below, you must ensure that any person undertaking work on your behalf is registered (where required) and has the necessary competence.

3.3 You must not take on a management or compliance role, or supervise the work of others, unless you have the necessary competence.

3.4 You must not accept work if you do not have the capability to comply with the Operational Standards Rules and meet the Key Performance Indicators.

3.5 You must ensure that any persons undertaking work on your behalf who are developing their building control competence, are under the direct supervision of a suitably competent RBI.

3.6 You must take steps to ensure that employees undertaking work (including those under your supervision) maintain their competence and comply

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with any Continuing Professional Development requirements issued by the Regulatory authority.

3.7 Pursuant to Rule 3.6, you must ensure that employees undertaking work (including those under your supervision) are provided with:

- relevant up to date training and guidance.
- supervision and advice.
- a structured programme of learning and development including Continuing Professional Development in line with requirements issued by the Regulatory authority.
- sufficient time to reflect on their development needs formally and sufficient time to record the findings and planned actions to meet these needs in accordance with the Continuing Professional Development requirements.

3.8 You must monitor the effectiveness of processes and procedures in respect of learning and development, competence and Continuing Professional Development, including rates of participation.

3.9 You must have processes in place that ensure that records of learning and development, competence and Continuing Professional Development activities undertaken are retained for at least 5 years.

3.10 You must take steps to ensure that persons undertaking work on your behalf maintain their competence and Continuing Professional Development requirements issued by the Regulatory authority.

3.11 You must ensure systems are in place to enable employees (and persons undertaking work on your behalf, where relevant) to refresh their knowledge of the following policies at regular intervals:

- Conflicts of interest
- Insurance arrangements

- Complaints handling policy
- Health, safety and wellbeing policy
- Anti-money laundering and terrorist financing and anti-bribery and corruption policies
- Data protection policy
- Whistleblowing policy
- Staff conduct policy
- Equality, diversity and inclusion policy

## Standard 4: Standard of service

4.1 In the conduct of your work, you must act:

- (a) fairly and objectively
- (b) diligently
- (c) conscientiously; and
- (d) in the best interests of the profession when dealing with individuals, other professions or the public

4.2 In the conduct of your work, you must:

- (a) apply effective governance arrangements
- (b) be accountable for your decisions.
- (c) be accountable for the duties and tasks you delegate to persons in your organisation or contracted by your organisation included within governance arrangements; and
- (d) be accountable for work undertaken under your supervision.

4.3 You must ensure that there are appropriate measures in place to actively manage, quality assure and supervise work activities.

4.4 You must make sure persons undertaking work on your behalf understand:

- their assigned roles
- their responsibilities; and
- any restrictions that apply to them.

4.5 You must ensure that professional advice or decisions are not inappropriately influenced by self-interests, prejudice, bias or personal agenda.

4.6 You must not agree to undertake work that you do not have time and/or resources to complete.

4.7 You must not agree to undertake work if you do not have the capacity to comply with the Operational Standards Rules and meet the Key Performance Indicators.

## **Standard 5: Engaging with clients**

5.1 You must take all reasonable steps to make your services accessible.

5.2 You must establish who your client is and ensure you record the services being requested and explain the services you can provide.

5.3 You must confirm and state any restrictions that apply to your registration as an RBCA.

5.4 You must not undertake any work until the client has been provided with, and agreed in writing to the provisions of, the terms of engagement letter, as detailed in Annex 2.

5.5 You must inform your client if there are any changes to the terms in relation to their work including cost or time estimates.

5.6 You must be clear and transparent in your policies and procedures and in the explanation of those policies and procedures as to how your work is undertaken. This means you must explain:

- how your decisions have been made;
- how they can be challenged; and
- the process used to resolve issues.

5.7 You must treat information obtained from the client as confidential and only disclose if one or more of the following apply:

- (a) In the prosecution or defence of legal proceedings
- (b) With express written consent of the client
- (c) When required or authorised to do so by law
- (d) To report a crime or breach of building control

5.8 You must make the client aware you may be required to disclose information to the Regulatory authority, Local Authorities and other Regulatory authorities.

5.9 Subject to any right to retain pending payment, you must provide the client with all material information and a copy of their file upon request. This standard does not require the disclosure of any information which cannot be lawfully disclosed.

5.10 You must retain all:

- Evidence
- Instructions
- Advice; and
- Professional judgements and decisions for 5 years from the date of instruction.

# Annex 1: Obligations to the Regulatory authority under these professional conduct rules

1.1 You must co-operate with the Regulatory authority in the conduct of its regulatory functions and the exercise of its statutory powers, you must provide information when requested by the Regulatory authority and:

- in accordance with relevant statutory timescales; or
- where the request is not pursuant to the exercise of statutory powers, as soon as reasonably practicable.

1.2 Information provided to the Regulatory authority should clearly show how decisions have been made/opinions have been reached and be suitable for auditing, quality assurance and regulatory purposes.

1.3 When seeking to vary or renew your registration as an RBCA, you must provide the Regulatory authority with the information specified in the registration conditions.

1.4 You must maintain your insurance and provide a copy of your insurance certificate to the Regulatory authority whenever requested

1.5 You must pay due regard to guidance issued by the Regulatory authority.

1.6 You must notify the Regulatory authority within 3 working days of any conduct of which you are/become aware which is potentially:

- (a) in breach of these Professional Conduct Rules;
- (b) in breach of the Code of Conduct for Registered Building Inspectors (Wales); or
- (c) likely to bring the building control profession into disrepute.

1.7 You must notify the Regulatory authority promptly if you or relevant persons [2] are:

- (a) deemed by a Court, Tribunal or regulatory authority to have acted in breach of, or failed to comply with a relevant legal obligation in the course of conducting your work or business activities; or
- (b) convicted of a criminal or regulatory offence.

1.8 You must notify the Regulatory authority promptly of instances of financial impropriety of which you are aware / become aware, in particular (but not limited to), failure to adhere to requirements in relation to anti money laundering and terrorist financing, anti-corruption and bribery, tax evasion or overcharging.

1.9 You must notify the Regulatory authority within 14 days of any findings of modern slavery, labour abuse or abusive labour practices are made.

1.10 You must notify the Regulatory authority promptly if you or relevant persons:

- (a) enter into a company voluntary arrangement or individual voluntary arrangement.
- (b) are placed in administration or wound up.
- (c) become subject to a debt relief or administration order.
- (d) are declared bankrupt; or
- (e) are struck off as a Director.

1.11 You must notify the Regulatory authority promptly if you or relevant persons are subject to disciplinary findings by another regulatory authority or professional body.

1.12 You must notify the Regulatory authority within 14 days of any informal or formal findings of misconduct under your organisation's staff conduct policies and procedures



[2] Relevant persons include employees, those undertaking work on behalf of the RBCA, directors, employees of directors

## Annex 2: Provision of information to clients

In order to comply with your obligations under Standard 5.4, you must provide each client with a terms of engagement letter which contains the following information:

- A clear summary of the services you will provide.
- The name of the RBI responsible for supervising or conducting the work.
- Any conditions on your registration, or the registration of the RBI responsible for supervising or conducting the work.
- A time estimate required for you to complete the work, or if staged, the estimate for when work will be undertaken in relation to each stage.
- A clear and transparent description of your fees and charges.
- Details of any relevant referral fees that you pay or receive.
- A total cost estimate for the completion of your work.
- A description of how the client's information will be used and reference to how they can obtain your data protection policy.
- Details of your complaints policy and how they can raise a complaint.
- Details of the relevant insurance held by you and/or your employees.
- A clear statement that you are regulated by the Regulatory authority

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