

RESPONSE TO IVSC ON (1) THE EXPOSURE DRAFT FOR A PROPOSED CODE OF ETHICS FOR PROFESSIONAL VALUERS AND (2) THE DISCUSSION PAPER ON DEFINITION OF A PROFESSIONAL VALUER

The RICS is pleased to submit the following formal responses in relation to the two papers issued by IVSC in July for comment by 30 September 2010.

David Rusholme

XX September 2010

(1) EXPOSURE DRAFT ON A PROPOSED CODE OF ETHICS FOR PROFESSIONAL VALUERS

For convenience, we have sought to group our responses under the specific questions posed in the Exposure Draft.

Overall opinion

We welcome the proposed removal of the Code of Ethics from the International Valuation Standards (IVS) themselves and note that the new draft IVS 101 (reflecting recommendations from IVSC's own Critical Review Group) states at paragraph 22 "[These standards] are not concerned with the relationship between those commissioning valuations and those undertaking them, and matters relating to the conduct and ethical behaviour of valuers is for professional bodies or other bodies that have a regulatory role over valuers". We nevertheless recognise the rationale for development by the IVSC Professional Board of a model Code of Ethics to assist the development of the profession in emerging economies, to which the current Exposure Draft is directed.

However, we believe any model Code should, like the IVS themselves, be principles-based rather than prescriptive, recognising that (per the Overview accompanying the June 2010 IVS Exposure Draft) "valuers in different sectors are regulated to a greater or lesser degree in different ways, sometimes by state licensing system, sometimes by self-regulating professional bodies, sometimes by their employers and sometimes by a combination of these." We are therefore concerned to note that the present Exposure Draft, whilst beginning as a principles-based document, quickly gets into a level of detail which we believe is too prescriptive to accommodate this diversity of circumstance.

Our **overall opinion** on the Exposure Draft therefore is that it is too detailed and too prescriptive, and fails to align with IVS 101. But, as will be clear from what follows, we think a remedy is available by separating out the fundamental principles from their detailed practical application.

Q 1: Structure of the Code and Q 4 Conflict with local regulations or valuation disciplines?

Consistent with our overall opinion, we believe the structure could be improved, clarity aided and the remit to avoid over-prescription met by:

- Bringing together into an Introductory Section those background and general points to be retained that are currently in the Preface, in the first paragraph of Section 1 and in Section 2
- Following with the fundamental ethical principles (currently set out at 1A) to 1E)) in a separate Section (as now)
- Positioning Section 3 (Rules of Conduct) as a “model” code – perhaps in the form of an Annex.

We support adoption of the 5 fundamental ethical principles (integrity, objectivity, professional competence and due care, confidentiality and professional behaviour), as set out at Section 1 of the draft, alongside the proposed new IVS.

We endorse the statement in Section 2 that the Code “does not have formal authority in law, nor is it intended to be other than complementary to the rules, by-laws, and regulations of national societies or professional organisations that control or monitor the activities of Professional Valuers”. There is a counterpart in the last sentence in the Preface which states that: “It is incumbent upon IVSC member organisations and/or domestic bodies to write supplemental standards to enforce the principles articulated within this Code of Ethics”. This, too, we accept and endorse if it refers only to the (fundamental ethical) principles in Section 1 and not also to the “rules” in Section 3.

We have a major difficulty with the statement – also in Section 2 – that “a valuation under IVS binds a Professional Valuer to follow this Code of Ethics”. This crystallises our objections. Firstly we believe it is at odds with the stated IVSC intention not to impose a Code; secondly, as already indicated, we believe the Code as drafted is too detailed and prescriptive; thirdly we question the need for formal definition of the term “Professional Valuer” and have various objections (see later below) to the content of the separate IVS Discussion Paper that sets out a proposed definition.

Reinforcing our first objection (the question of imposition), as a professional body with global coverage, the RICS sets and (even more importantly) enforces ethical standards for its members that meet and in certain respects exceed the proposals here. Consistent with its overall philosophy when setting mandatory requirements, these are principles-based. They derive from a combination of the RICS’ Royal Charter, its by-laws, its practice statements and its schemes of registration and regulation. Neither Royal Charter nor by-laws can be altered except with the approval of the UK sovereign government on the advice of the Privy Council, and certainly cannot be amended to accommodate small differences of language or emphasis. Making the proposed IVS Code of Ethics mandatory in its entirety would therefore involve adoption of two parallel sets of requirements and would potentially cause confusion both to members and to valuation users. For example, the RICS is required by its Charter to maintain and promote the usefulness of the profession for the “public advantage” – a more stringent criterion than the “public interest”. If the proposed IVS Code of Ethics is a “model” code, we are satisfied that RICS members will be compliant: but if it is to be a “mandatory” code, it will result either in overlap or duplication (eg acting both in the public interest and to the public advantage). .

If IVSC wish to retain this point we suggest the following revision:

Where the valuer adopts IVS a statement shall be made in the scope of work statement that the valuer complies with a code of ethics (quoted) that is of no less a standard than the IVSC code of ethics.

**Q 2 Are there any topics that need to be included or deleted from the Code and
Q 3 Should the Code be more or less expansive to professional needs?**

On the second objection above (the level of detail), we believe that the heading “Rules of Conduct” to Section 3 indicates clearly that it is moving beyond principles to matters of detailed application and indeed in some aspects becoming almost discursive (for example at 3.2.13). This could be addressed by making clear that the Section 3 material is intended as a “model” code.

Furthermore, as currently drafted, Section 3 overlaps with, and in some respects adopts slightly different language from, the proposed new IVS themselves – for example comparing Section 3 with IVS 104 (scope of work) and IVS 105 (valuation reporting) regarding competence and assumptions. So far as possible, duplication should be avoided and unintended ambiguity removed (eg the term “hypothetical condition” in 3.2.11 may or may not be a “special assumption” in IVS terms).

On the third objection (definition of a Professional Valuer) our detailed comments are immediately below in our response to the separate Discussion Paper.

(2) DISCUSSION PAPER ON DEFINITION OF A PROFESSIONAL VALUER

We again seek to group our responses under the specific questions posed in the Discussion Draft.

Overall opinion

We question the need for a formal definition of a professional valuer. We note that it is not used as a defined term in the proposed new International Valuation Standards and so expressly excluded from the Glossary of Terms in the Exposure Draft issued in June 2010. Similarly the term ‘professional’ has well understood definitions and this draft is at odds with the comment in the overview on the new IVS exposure draft that ‘Another feature was the many superfluous definitions where the IVS definition was no different to the common dictionary meaning of the word or words’. We note also that draft IVS 101 introduces (professional) competence at paragraph 24 as a set of principles-based, high level requirements (“it is a fundamental expectation that valuations are prepared by an individual or firm having the appropriate technical skills, experience and knowledge of the subject of the valuation, the market in which it trades and the purpose of the valuation”). Any additional requirements in particular contexts are then reflected in the appropriate detailed standard.

Part of the problem is that we are not clear to which audience(s) this paper is primarily directed (eg to governments, regulators, other standard setters, IVSC member organisations, or to valuation users) nor what the outcome is intended to be. Linking as it does through the Code of Ethics draft – on which we have commented above – this Discussion Paper envisages a mandatory definition and set of criteria that is at variance with the principles-based approach of the IVS themselves.

Our **overall opinion** on this Discussion Draft is that the purpose and audience for which it is being prepared first needs to be clarified; that the need for a formal definition of a Professional Valuer is not clearly demonstrated; and that the content is in places unsatisfactory.

General matters for comment (Q 1-4 on page 2)

Dealing with the overall structure and main content:

- Section 1 (Introduction): The paper is arguably over-ambitious in attempting a definition of “profession” – whilst the attributes quoted are recognisable, they are acknowledged not to be comprehensive. Moreover they imply a monopoly in any given environment (“a professional body governing the *profession*”) whereas there will often be more than one professional body active in a particular state or nation.
- Section 2 (Core competency framework): In providing an explanation of how competency is achieved, a focus on development of skills rather than simple acquisition of knowledge is clearly right. There will be greater commonality of coverage during initial, formal training than post-qualification, when continuing professional development becomes more personalised. The statement “most professional competencies apply to all professionals although some may be level or role dependent” seems far too generalised. And it is questionable whether, in the last sentence, “deleted” is the right word.
- Section 3 (How are competency requirements defined?): The classification here is rather forced, and uncertain whether it is largely addressing matters of general application (eg communications and interpersonal effectiveness – though that is hardly the exclusive preserve of the professions) or specific to the valuation profession (eg best or “leading” valuation practices). Also “industry” is not the best choice of word – part of this is about knowledge and understanding of property markets and participants in them, part about practical application of technical and professional skills in particular contexts with the consequent growth of expertise. It is also not clear why scepticism should be singled out under “professional” – this is but one facet of a wider skill set around powers of analysis and interpretation.
- Section 4 (What types of competencies do professional valuers need?): A single list would be very difficult to construct, given the sheer diversity of activity and of roles across the valuation profession. Yet it is also overstating the point to say that a “wide array” is needed, that depends both on the degree of seniority at which an individual operates, and on the particular sector or specialism covered. It goes too far to say that “professional valuers should be familiar with the latest spreadsheet, database, word processing, accounting, business and presentation software packages” – to what purpose? And project management skills can be developed to varying levels through both formal and practical training and experience according to role and need – it is not just about planning and prioritisation of work. Equally a professional valuer might well be working as part of a multi-disciplinary team rather than necessarily leading it.
- Section 5 (Credentials/necessary requirements for a professional valuer): This is again rather generalised. A clearer distinction might be made between qualification (education and examination), developing and maintaining competence (experience and continuing professional development) and aspects of professional practice (adoption of and adherence to standards etc).

Specific matters for comment (Q 1-6 on page 3)

Dealing with the additional questions on the finer detail:

- Whether more in-depth discussion of some of the topics introduced would be of benefit will depend on clarification of the purpose of, and intended audience for,

the paper: the more expansive the material, the less likely it is to be of everyday relevance.

- Given the huge diversity of activities and roles across the valuation profession, inclusion of additional competencies to cover all aspects would be of dubious benefit.
- The RICS believes it important that there should continue to be flexibility around routes to membership. The crucial point is not about requiring a university degree at the point of (first) entry to the valuation profession but about ensuring that full membership of a professional body such as RICS is, and is seen as, at least the equivalent of a university degree
- Licensing or regulation requirements are essentially matters for individual states or nations, or for professional bodies, rather than being a matter for IVSC that sets standards but does not oversee compliance with them
- The relationship with a Code of Ethics has been covered in the responses above

[Signed]

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