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RTPI
Practice
Advice



ETHICS AND PROFESSIONAL STANDARDS

Advice for RTPI Members

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RTPI

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Introduction

This advice has been prepared to support the RTPI Code of Professional Conduct (the Code) and to guide RTPI Members on their professional responsibilities. Candidates for membership should take note of this advice when preparing their submission.

RTPI Members who work as independent consultants or manage the work of other professionals as managers or employers also have specific responsibilities.

The RTPI Code of Professional Conduct www.rtpi.org.uk/professionalstandards/ sets out the required standards of professional conduct and practice expected of RTPI Members. Its purpose is to protect and guide practitioners, and to serve as a tool to maintain public trust in the profession. All members, irrespective of their class of membership, are required to adhere to its five Core Principles:

- Competence, honesty and integrity
- Independent professional judgment
- Due care and diligence
- Equality and respect
- Professional behaviour

Professional planners are held in high regard because they deal with important long term issues affecting the general public. Issues can be complex and planners will weigh up and balance often competing demands for the use or development of land. Planners therefore play a key role in ensuring economic, social and environmental factors are appropriately considered by local politicians and communities. This guidance should help steer you through a number of different situations.

The structures and practices of any workplace are important in setting expectations and influencing the attitudes and ethics of those working there. As an employer or a manager your behaviour sets the tone for the organisation and sends out a powerful signal to others about the importance of professional behaviour to an organisation.

The Code applies to all RTPI Members regardless of the territory which they work in. Businesses with staff who are based overseas to the UK or Ireland should tailor their management practices to take the local context and cultural sensitivities into account.

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1 Maintaining standards

Professional institutions play a key role in defining ethical behaviour and setting standards to regulate the education, accreditation and practice of their members. It is the application of values and principles that helps to build public trust and confidence in a profession. The planning profession operates across a range of organisations and businesses, including private firms or consultancies, local planning authorities, sole practitioners or national agencies and governments.

Being a member of the RTPI exacts responsibilities and obligations and not only involves a high level of technical competence, but also meeting certain standards of behaviour. Any alleged breach in the Code is dealt with through the RTPI's Complaints Procedures www.rtpi.org/professionalstandards. Complaints can be brought by other RTPI Members, members of the public or clients. The RTPI can also investigate matters without a formal complaint.

The following penalties, increasing in sanction, may be imposed on RTPI Members found to be in breach of the Code:

- Warning,
- Reprimand,
- Suspension, or
- Termination of membership.

RTPI Members may or may not be named in the published report of the decision and advice on how to conduct themselves in the future can also be given, whether or not a penalty is imposed.

2 Ethical challenges

It is the mark of a reflective practitioner to demonstrate the ability to weigh up competing issues or tensions in order to come to a reasoned professional decision. Ethics is generally defined as moral principles governing human behaviour and therefore are central to the way RTPI Members conduct themselves as professionals.

A defining feature of the planning profession is the duty "to advance the science and art of planning (including town and country and spatial planning) for the benefit of the public" www.rtpi.org.uk/professionalstandards under our Royal Charter.

Historically acting in the public interest has been defined in terms of protecting public health, public amenity and the environment from 'harm'. However RTPI Members serve a range of interests. Acting in the public interest involves having regard to the expectations of clients, employers, the local community and politicians as well as future generations. Tensions can often arise when trying to reconcile these different interests and challenges.

An ethical challenge is generally recognisable by the need to ask the 'But, what if...?' question and a feeling of awkwardness or tension around how to respond. There may not necessarily be a right or wrong answer depending on whether the issue falls within the requirements set down in the Code.

Ethical challenges exist in areas of planning practice such as (but not limited to):

- The implications of being asked by a private client to influence a friend working for the public authority assessing a planning application,
- Applying legislation or process requirements correctly in your professional opinion, but which is at odds with the advice from a client or line manager,
- Determining how far advice from local politicians or from a private sector client is 'materially relevant' to a professional assessment of the impact of a development proposal.

Professionalism is a related, but different skill and competency to ethics. **Professionalism is the way that you handle and are accountable for such situations and the behaviour with which you conduct yourself.** You need to have regard for the reputation of the profession and the RTPI. The professional standards required of RTPI Members is set out in the Code and apply to areas of planning practice such as (but not limited to):

- Acting in accordance with the terms of engagement / fees for a project,
- Selecting or managing consultants in an objective and auditable manner,
- Submitting information in relation to, or dealing with, planning applications, development proposals, policy or research reports in an accurate and truthful way in accordance with legal requirements,
- Running a consultation event, or responding to or taking account of community engagement / responses, in a proportionate and open manner,
- Treating colleagues and stakeholders with respect, even if you have a differing professional viewpoint,
- Other activity that does not bring the reputation of the RTPI or the profession into disrepute.

3 Ethical decision making

It is often best to deal with an ethical challenge, however big or small, by setting aside sufficient time to run through a considered process rather than making a snap decision. Asking yourself a series of questions, such as the ones in the flow diagram below, should help you consider the implications of the decision you make.

Do you have enough reliable information?	If you don't have sufficient evidence or facts consider asking or clarifying information with a colleague. Try and separate facts from any emotional response from yourself or others.
Is it legal?	If you are not sure if proceeding is legal, consider talking to a colleague or manager.
Does it comply with your employer's policies?	If you are not sure if proceeding would be within your contractual rules consider talking to a colleague or manager.
Is there a conflict of interest?	How would others see any personal or professional relationships between you - existing or previous employers or clients or stakeholders? Is it in accordance with the RTPI Code?
Have I considered all relevant stakeholders?	This could include colleagues, clients, the general public, and other professionals? How may others be affected by your decision? Have you consulted?
Can I clearly state the reasons for my decision?	Have you considered different options? Have you considered the risks or impacts?
How would my actions be perceived by others?	Assessing potential courses of action through the eyes of others can help see potential questions. How would your actions be received if they were made known to the public? Is it in accordance with the RTPI Code?
Take action	Have you kept a record or note of your decision and reasoning in case your actions come under scrutiny at a later date?
Reflection	It is important to reflect on the ethical challenge. Would you do anything differently in the same situation?

4 Conflicts of interest

The Code requires RTPI Members to act honestly and take all reasonable steps to ensure their personal and professional interests do not conflict. A conflict of interest occurs when personal or other interests affect your ability to exercise independent professional judgment and can call into question your professional integrity. Such conflicts may arise at any time and RTPI Members should be alert to situations where potential conflicts could occur and declare an interest to their employer or client as soon as they become aware of one.

CASE STUDY EXAMPLE: An RTPI member had been advising their local neighbourhood planning group in a voluntary capacity. The consultant owned a parcel of land within the plan area, which the group had identified as suitable for residential development. Concerned about the appearance of bias, the RTPI Member declared an interest and stepped down from their commission. Had they continued to act and was party to decisions in which they stood to benefit financially, they would have been in breach of the Code for failing to take reasonable steps to ensure their personal and professional interests did not conflict.

Identifying a conflict does not necessarily mean you have to stop work, but it does mean that you need to take reasonable steps to ensure that it does not affect your decision. This might mean declining or standing down from a commission, or requesting that someone else deals with a case, or in some circumstances having clearly laid out internal safeguards in instances where members within the same organisation are advising on different sides of a planning matter.

CASE STUDY EXAMPLE: An RTPI Member working in local government is asked to handle a planning application submitted by a former school friend. The officer has not been in contact with their former friend for a number of years, however concerned about the appearance of bias to members of the public, the officer requests that a colleague handles the application.

RTPI Members changing their employment are particularly vulnerable to conflicts of interest arising. You may wish to choose not to work for clients known through previous employment, or within the same geographical area for a period of time in order to prevent such a conflict from arising.

CASE STUDY EXAMPLE: A former local authority planner took on an instruction to appeal a planning application refusal where they were the case officer who determined the refused application. This would amount to a conflict of interest and the RTPI Member would be liable to receive a warning or reprimand for their conduct.

RTPI Members undertaking any private consultancy work in addition to their primary (e.g. local authority) employment should obtain the written agreement of their employer before taking a commission. This also applies to staff working on a part time or contract basis. You should not undertake any private planning work in the area where you are in the position to recommend the making of any decision materially affecting the development or use of land. Exceptions to this include your own residence or where you are giving free planning advice to the public as part of your employment.

RTPI Members who engage in planning activities in their spare time (both paid and voluntary) should make clear that any advice given is done so in a private capacity.

Managing conflicts

In instances where consultancies merge, any information which each company has obtained will pass to the new company and conflicts of interest could arise. This may be overcome by the creation of 'Chinese walls'. However the new company should not now continue to act for two opposing parties engaged in litigation or a formal inquiry against each other.

CASE STUDY EXAMPLE: A large consultancy advertises a close alignment with a large retailer client on its website and one of its regional offices is instructed by the local authority to provide independent advice in respect of retail assessments submitted by the same retailer. This could lead members of the public to perceive a conflict of interest. However, provided the necessary checks are in place and both clients are aware and content, this would not necessarily amount to a breach of the Code, as it is accepted that within a large national company with many branches across the country it is quite usual and legitimate for different branch offices to act for the private / public sector in support and / or against the same retailer.

The RTPI would normally request information such as: the company's conflict check procedures and how these are applied; internal policy documents to manage Chinese walls; whether files are held electronically or via hard copy and how access to these are monitored; how staff are instructed on the operation of any such policy; and any correspondence the company sends to the local authority or client regarding any potential conflict of interest.

As an employer or manager you must act upon any information disclosed to you by a staff member or consultant and decide how best to manage the situation to ensure that no conflict arises. This might mean reallocating the task to another member of the team or, where the risk to your independence is too great, standing down from a commission.

In all cases, the client or employer should be provided with the full facts of the conflict or potential conflict so they can make an informed decision as to whether or not they would like you to continue to act. Written confirmation should be sought to confirm this.

CASE STUDY EXAMPLE: A complaint was received about an RTPI Member working as a private consultant and renting office space from former client, a developer, while sitting on a parish council advisory group promoting site allocation owned by

the developer. The Member was found in breach of the Code for failing to take reasonable precautions to prevent a conflict of duty from arising. The Member received a warning for their conduct.

5 Acting fearlessly and impartially

The RTPI and its Members work to “advance the science and art of planning for the benefit of the public” and in meeting this objective, the Code requires RTPI Members to act fearlessly and impartially when exercising their professional judgement. Under most planning regimes, professional planners will recommend a course of action to a ‘decision maker’ for example a senior manager, client or politician. As a private consultant or a head of a local government service, you may also be the decision maker.

RTPI Members can fulfil their ‘public interest’ duty by having regard to:

- Long term consequences of the planning proposal or issue in question and their professional involvement,
- Inter-related and cumulative effect of decisions,
- Use of accurate and relevant technical information,
- Views of stakeholders and public agencies and representations made by local residents and businesses,
- Protection of natural and historic environments or any features of special interest,
- Public amenity, safety, design and accessibility.

As is often the case there will be tensions between these issues, however as a professional planner you are responsible for reconciling these in a way which best serves the achievement of sustainable development. This should be considered within the context of wider social, economic and environmental factors, and international, national and local planning policies and legislation.

It should be helpful to remember that ultimately **the requirement for RTPI Members is to exercise their judgement independently and provide planning advice in a professional manner.** A client, planning committee or other decision maker can follow or disregard this advice as they choose. Another planning professional can also legitimately express an alternative opinion.

Planning systems are governed by legislation and elected politicians are often involved in making decisions on behalf of their constituents. Local community groups themselves might also commission planning advice. Therefore RTPI Members should understand the position of others and explain the reasons for the professional advice or action they are recommending. Where you anticipate possible conflicts it may be helpful to adopt an approach of listing potential courses of action and the associated planning dimensions so that the decision maker can weigh up the

options and outcomes available to them. This would also apply when working for private clients. Information on community engagement and on probity for local politicians can be used for training purposes¹.

6 Giving evidence at inquiries

Given the regulatory nature of most planning systems, an appeal process is generally available to applicants to challenge a planning decision. This appeal may be heard in public at a hearing or inquiry. Being a recognised member of the RTPI a mark of professional standing and therefore RTPI Members are often commissioned to appear in support or against a proposal at appeal.

The Code requires RTPI Members to act with integrity and express their own professional view. As an 'expert witness' at a planning inquiry or hearing, you are there to give evidence in the form of facts and professional opinion. Facts must be true and professional opinion must be first hand. If the evidence is someone else's opinion e.g. an assistant planning officer giving evidence of a chief officer's recommendation to the local authority they can only do so as evidence of a matter of fact. There may be times where you must deal with a situation where your professional view is under scrutiny.

For RTPI Members employed by a public body (such as a local planning authority) in particular, you may be asked to defend a decision that differs from the public report you wrote recommending an alternative view. This can sometimes be referred to as a 'committee overturn'. For RTPI Members employed in a private consultancy, a client may commission you to represent or 'advocate' their interests where, on balance, in your opinion the proposal that is being tabled at appeal needs improvement.

Dealing with committee overturns

It may be the case that you are required to express a view at an inquiry which is not your own professional opinion. RTPI Members acting as witness for a decision taken by a local planning authority that is contrary to their professional recommendation do not need to volunteer that this is the situation. However, if challenged on the point, they must be prepared to declare an opinion.

¹www.planningofficers.org.uk/downloads/pdf/positive_engagement_v4.pdf
www.local.gov.uk/c/document_library/get_file?uuid=1e064236-6ba6-4ea5-8e96-db4a07c226f7&groupId=10180

Clearly the RTPI Member whose professional opinion does not conform with recommendations the evidence is supposed to support is unlikely to be the best witness in such circumstances. You should discuss this possible situation with your manager who will want to consider the consequences for the employer if any difference in professional judgement comes to light during the appeal process. Concerns should be raised in good time to allow for any changes in personnel to be arranged.

The authority may still consider asking the officer to give technical evidence at the inquiry, but call someone else who is in the position to speak with conviction of the planning reasons for the authority's decision. This could be another council employee who is quite appropriately able to form a different professional view or in some instances the local politician who, as Chair of the Planning Committee, made the decision.

An authority may alternatively employ a planning consultant to undertake the task who can weigh up the information and form a different professional view based on development plan policy and other material considerations.

Planners as advocates

The role of an advocate is quite different from acting as an expert witness and involves taking the wider role of presenting to the inquiry or hearing what the authority or client would say for themselves. An RTPI Member who takes on the role of advocate will need to have skills in advising on case content and presenting a case, and may need to seek further legal advice.

It is possible that you may be asked to act as an advocate and appear as an expert witness at a hearing or inquiry. You must decide whether the two roles are reconcilable, possibly after discussion with colleagues. You must have confidence that you are able to retain professional integrity, whilst serving the best interests of their client or employing organisation.

RTPI Members may still act as an advocate in cases where their professional views differ from the evidence being advanced, provided that they do not wilfully mislead the inquiry or fail to give the inspector or other officer the help they are entitled to receive.

7 Confidentiality

All RTPI Members have a responsibility to protect information acquired in confidence over the course of their work and ensure that it is not used to the advantage of themselves, their employers or clients. An RTPI Member who acquires information on behalf of a prospective client is still bound by the duty of confidentiality even if no fees have been incurred, or if there is no subsequent retainer.

RTPI Members moving from one employment to another should be aware that issues under discussion at the time of their former employment may still be current and any confidences relating to these issues will be especially 'sensitive'. A situation might arise whereby a Member risks breaching the confidence of their former employer if knowledge gained over the course of their former employment is disclosed, yet they owe a duty of care to act for, and in the best interests of, their new employer or clients as appropriate.

You must not act if there is a risk of a breach of confidence, or if the knowledge which you possess would give an undue advantage to a new client or employer. If the confidentiality of particular information is in question then the test is whether or not it would have been revealed to a member of the public making the most diligent but fair enquiry. If after careful consideration it appears that a conflict might arise, you should discuss the matter with your former employer. If this discussion confirms the possibility of conflict, you should advise your client that you cannot personally undertake the work.

You may still act against a client of a former employer, provided you have not worked directly for that client in respect of the same matter or have personally relevant information about the affairs of that client.

CASE STUDY EXAMPLE: A complaint was lodged by an objector to a neighbour's planning application. The complaint was against a consultant member who was acting for the neighbour. The complainant was a previous client of the planning consultant who alleged that the Member was in receipt of confidential information which they may use for the benefit of the neighbour. The RTPI Member was entitled to act as the complainant was no longer a client and ceased being so some years ago. However, they have a duty to ensure that they do not make use of any knowledge or information acquired in confidence from when they acted for the complainant, for the benefit of the new client. The RTPI Member should not be seen to express a materially different professional opinion on the matter except where new material considerations have arisen since acting for the previous client.

8 Inclusive working practices

Equality and respect is a core principle of the Code. As an RTPI Member you will be promoting equality and challenging discrimination in all your professional activities; and as an employer or manager there is much you can do to promote equality within your own workplace. Management practices should recognise and respect diversity and ensure that everyone is treated without bias. This might include:

- Providing training on diversity matters and making staff aware of their individual legal responsibilities,
- Challenging unacceptable behaviour and attitudes promptly,
- Dealing consistently with complaints or grievances,
- Keeping and maintaining records on recruitment and selection.

Equality considerations

RTPI Members practicing in England, Scotland and Wales should be aware of their legal duties under the Equality Act 2010 www.legislation.gov.uk/ukpga/2010/15/contents.

The Equality Act makes it illegal to discriminate against people with a protected characteristic: age; disability; gender reassignment; marriage and civil partnership; race; religion or belief, pregnancy or maternity; sex; and sexual orientation. In effect every person has one or more protected characteristic, so the act is designed to protect everyone. The Act also introduced a Public Sector Equality Duty which applies to all public authorities in the UK. The broad purpose of the duty is to integrate consideration of equality and foster good relations into the day to day business of public authorities. More guidance on the duties under the Equality Act is available www.equalityhumanrights.com/private-and-public-sector-guidance/public-sector-providers/public-sector-equality-duty.

Discrimination can come in a number of forms:

- Direct discrimination – treating someone with a protected characteristic less favourably than others,
- Indirect discrimination – putting rules or arrangements in place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage,
- Harassment – unwanted behaviour linked to a protected characteristic that violates someone's dignity or creates an offensive environment for them,
- Victimisation involves treating someone unfairly because they have complained about discrimination or harassment,
- Failure to make reasonable adjustments for a disabled person.

RTPI Members working in countries other than the UK should therefore act accordingly with a view to upholding the professional standards and the Code's core principle of 'equality and respect'.

As an employer you could be liable for any acts of discrimination carried out by people you employ over the course of their employment, as well as anyone engaged to act on your behalf. You can reduce the risk of being held legally responsible by taking reasonable steps to ensure that staff and others with whom you work with are aware of their individual responsibilities. This might take the form of a policy defining acceptable behaviours, training or a requirement in an employee's terms of engagement or contract with another organisation.

Diversity and inclusive planning

The Code requires RTPI Members to treat everyone equally. Treating everyone with respect and without bias is central to the integrity of planning. For example, professional planners should always be respectful and considerate to others and challenge discriminatory practices. RTPI Members should also take the opportunity, where possible, to educate and support public understanding of town planning as a process to achieve sustainable development since an important outcome of the process is the making of decisions for future generations.

The planning profession is uniquely placed to promote equality and create inclusive places which meet the needs and aspirations of everyone. The RTPI defines inclusive planning as a process that ensures that all buildings, places and spaces can be easily and comfortably used by everyone, not just in terms of design, but spatially and socially. This includes the location of development and its impact on, for example, access for an ageing population and access for the young, not just to individual buildings but to development that meet their needs for homes, for education, for health and jobs. Planning also has a wider role in addressing the impact of the built environment on tackling poverty and inequality and contributing to social justice. RTPI Members should be able to identify and respond appropriately to the needs of others in all aspects of their professional practice.

9 Consulting with the public

Members of the public are increasingly involved in planning matters across many different jurisdictions and planning systems. It is important that professional planners gather and respond to the views of communities and those affected by planning decisions. Any consultation should be proportionate to the scale and impact of the proposed development and should be inclusive to ensure the widest possible audience is given the opportunity to participate and share their views.

There are a wide range of methods and good practice available for RTPI Members to use for effective community involvement and engagement in planning. Although there is a trend towards e-surveys and other web based online tools, more traditional approaches including workshops and consultation events should not be neglected, as they give all sections of society the opportunity to

get involved. There should be an appropriate balance between qualitative and quantitative methods, recognising a propensity of some groups to respond to particular techniques. It is good practice to keep an audit trail demonstrating how the data has been analysed and how it has informed the planning decision. In some instances where there could be a perception of bias, it may be more appropriate to publish raw data and seek third party involvement to analyse and interpret the results.

10 Discriminatory representations

Only comments and representations made on material planning grounds should be taken into consideration when assessing a development proposal through the planning process. Representations brought on discriminatory grounds should be omitted from the decision making process. A discriminatory representation is one which could include words, phrases or comments which are likely to:

- Be offensive to a particular group,
- Be abusive, insulting or threatening,
- Apply pressure to discriminate, or
- Stir up hatred or contempt of a particular part of the community.

The context in which such words, phrases or comments are used must be carefully considered in order to ascertain their true meaning and effect.

Written representations which are considered discriminatory with no material planning considerations should be returned to the person who wrote them with a letter explaining why the representation is discriminatory and why it is unacceptable and will not be considered as part of the decision making process. In the UK, in all cases where there is pressure to discriminate or where discrimination has taken place or is likely to take place, consideration should be given to whether it is appropriate to refer the matter to the Equality and Human Rights Commission (EHRC) in England, Scotland and Wales, the Equality Commission in Northern Ireland or to the police. It should not be identified in any officer, committee or consultation report as it is not material.

Written representations which are considered discriminatory, but which also contain material planning considerations should be returned to the person who wrote them because of their unlawful discriminatory content. In doing so it should be explained that if the person wishes the valid material planning considerations to be taken into account they must write again dealing only with these considerations. If the writer fails to do this, and the original representation raises a material planning consideration which has not already been raised, the matter should be documented so that the objector cannot challenge the decision. Again, in the UK, it should be considered whether it is appropriate to refer the representation to the relevant equality commission or the police.

Verbal representations are much more difficult to assess. Sometimes people are not aware that the remarks they are making are discriminatory and therefore unlawful. On other occasions, whilst the motivation for the views held is discriminatory the reasoning given is not expressed in such a way as to be immediately described as discriminatory even at a low level. In these situations Members should seek clarification from the person who made the comments as to their intent. RTPI Members must be careful not to slander members of the public by attributing discriminatory views to them when they have not been openly expressed, whatever reservations they might have privately.

In other instances where it is clear that comments are motivated by discrimination, the speaker should be advised that any discriminatory elements in their views will be disregarded in any planning decision. Public authorities in the UK have a legal duty to take action against discrimination and to actively promote equality under the Public Sector Equality Duty.

This advice applies to RTPI Members working outside of the UK and Ireland and you should seek clarification of the legislation and procedures of the country you are working in to ensure that your actions comply with the legal position. It is also the case that any Member should never jeopardise their own personal safety when dealing with discriminatory representations.

11 Professional competence

The Code requires RTPI Members to act within the scope of, and take all reasonable steps to maintain, their individual professional competence. Continuing Professional Development (CPD) enables you to develop and maintain their professional competence. RTPI Members must undertake CPD in accordance the RTPI's CPD regulations. This requires you to assess, plan and reflect upon your learning and development needs. The RTPI has issued practice advice on how to comply with these CPD requirements www.rtpi.org.uk/cpd. This includes:

- Annually spending time preparing a professional development plan (PDP) which identifies your development needs for the next two years,
- Undertaking and recording a minimum of 50 hours of CPD activity within each two year period,
- Recording the type of CPD and the number of hours for each activity,
- Reflecting on and explain the value of each CPD activity,
- Reflecting on the relationship between your CPD activities and your PDP, and
- Submitting your records when requested to do so by the RTPI.

Affiliates, Student members, Retired members and currently, Licentiate members, are exempt from CPD monitoring.

CASE STUDY EXAMPLE: An RTPI Member was asked to submit their CPD plan and work undertaken. They failed to comply with this request and were consequently suspended for six months with the requirement to submit the requested information during that period. This was again refused and the membership was subsequently terminated.

RTPI Members working part time or job sharing are expected to be equally as competent as those in full time work and are required to undertake the full 50 hours CPD over any two year period. Similarly, RTPI Members who choose to take a career break or who are approaching retirement are still obliged to comply with the CPD regulations.

RTPI Members must be sufficiently competent in the professional activities they are engaged or commissioned to undertake. You should be realistic about your abilities and should not take on tasks or accept commissions where you do not possess the appropriate level of knowledge or expertise or cannot obtain the appropriate expertise over the course of the instruction. This might include accessing the knowledge or expertise of others. It is best to raise the matter where appropriate to your employer or client since it might be that the work would be more appropriately handled by a colleague or another practitioner, or that some training, work shadowing or mentoring would be useful while undertaking the task.

Supporting staff training

The Code sets managerial responsibilities regarding the competence of employees in order to support planners and the reputation of the planning profession. Although the responsibility for meeting the RTPI's Continuing Professional Development (CPD) obligation rests with the individual RTPI Member, there is a great deal that employers and managers can do to support their staff. Employers and managers can support staff to review their personal development objectives on an annual basis. This could be through the organisation's performance review scheme which may identify the same objectives as the staff member's Personal Development Plan (PDP) or by giving staff the time to prepare their PDP. Further information is available in the RTPI's Practice Advice on CPD www.rtpi.org.uk/cpd.

As an employer or manager, you may wish to use team meetings or one-to-one meetings with individuals to review workflow and identify opportunities for additional training, work shadowing or mentoring of less experienced members of the team.

Access to training

Employers and managers can support planning staff by allocating a training budget and time for learning. Where this responds to the objectives and needs identified in an individual's Professional Development Plans this is also CPD. The RTPI is aware that budgetary constraints affecting many RTPI Members with fewer opportunities for training. You should consider some self-directed learning through online training, articles or blogs to keep up-to-date with, for example, local changes to planning law. The training portal RTPI Learn <http://rtpilearn.org.uk/> has a series of modules accessible to members in the UK, Ireland and internationally.

Organisations should consider conducting a learning needs analysis and develop training programmes to ensure planning staff remain fully up-to-date with changing legislation and practice. Staff training should enhance an individual's professional practice and can cover aspects of career development such as interpersonal skills or negotiation techniques.

Some private consultancies hold in-house policy briefings or seminars for employees and may open these up to other stakeholders, including local government officers.

In the UK and Ireland, local free or low-cost CPD events are arranged by the RTPI and Members are encouraged to review the RTPI Events Calendar www.rtpi.org.uk/events/events-calendar/ for more information.

12 Accuracy, referencing and recording of information

The Code requires RTPI Members to act honestly and with due care and diligence. Planning decisions have wide and long term implications for individuals, businesses and communities. RTPI Members have a professional responsibility to ensure that the information they use as part of their professional activities is accurate and not misleading.

CASE STUDY EXAMPLE: A consultant was engaged to submit a planning application for a new agricultural dwelling. The supporting statement included information relating to the number of livestock and operations of the farm business. While the accuracy of the statement was disputed by local residents, the RTPI Member qualified the information by stating it was provided by the client and, in so doing, satisfied the Code's requirements.

It may not be possible to check the accuracy of all the information someone else provides, however RTPI Members must satisfy themselves that they have taken reasonable steps to ensure that any information being relied upon is accurate and could be defended if challenged. Reasonable steps will depend upon many factors including the nature of the information and what it is being used for. A proportional approach should be taken. The more significant the information is to a decision, the greater the need for accuracy.

CASE STUDY EXAMPLE: Objectors to a residential development proposal allege that a consultant member included incorrect factual information regarding the distances between the proposed dwellings and existing local facilities in the supporting documentation. The RTPI Member had relied upon the distances provided by his client without making reasonable checks as to the accuracy of the

information and was found to be in breach of the Code. They received a warning for their conduct.

If the source of information is someone you know to be reliable such as the opinion of another professional, it is reasonable to assume that the information they have given you is accurate. There may be instances where you have cause to question the accuracy of the information provided to you. Again a proportional approach should be taken and you may need to seek independent verification where the matter is of significance and make reference accordingly.

An accurate record should be kept of all matters of relevance to a planning decision. This includes information which is in the public domain or that which may be used by others inside or outside their employing organisation. Handwritten notes should be clear and legible so that colleagues can refer to them in case of sickness or absence from work.

13 Errors and mis-statements

From time to time, errors in planning documentation can occur. Whilst one or two minor errors would not normally be found to be a breach of the Code, sustained errors throughout a document or major errors that bring the entire document into question or call into question the member's professional competence may amount to a breach of the Code.

The deliberate inclusion of misleading information in any planning documentation or withholding information of material significance requires a different test. RTPI Members often have to make planning judgements, based upon a range of considerations. A statement such as "the proposal will not have an adverse effect on a location" is an opinion even though it is not clearly stated that it is one. Differing opinions are not a breach of the Code, unless it can be proved that the planner does not actually believe the statement that has been made. Mis-statements should be brought to the attention of the organisation, employer or client to conduct their own checks. You should seek to clarify any ambiguities in wording if asked to do so.

CASE STUDY EXAMPLE: A consultant was engaged to appeal against a refusal by a local authority for an agricultural building. This RTPI Member was aware the site has a long history of noise and other nuisances and several planning applications had been refused at the site. In preparing the appeal statement, the consultant neglected to include references to previous decisions which would have given the independent inspector relevant context for the professional view being expressed. The RTPI Member was in breach of the Code and received a warning for their conduct.

14 Professional standing

The Code requires RTPI Members to act with honesty and integrity. Maintaining and promoting your professional status is one way to demonstrate this core principle provides reassurance to the public that you are working to the highest standards. The RTPI encourages its members to use the appropriate professional designation and post-nominal letters in their professional activities as a mark of professional standing. This includes, but is not limited to, any professional correspondence (paper and electronic), when giving evidence or on materials promoting their work to clients or members of the public. The following professional post-nominal designations are available:

- Chartered Member – MRTPI
- Fellow – FRTPI
- Legal Member – LMRTPI
- Legal Associate – LARTPI
- Technical Member – TechRTPI
- Retired Chartered Member – MRTPI (Rtd)

It is accepted that there may be situations when it is not appropriate or possible to use your membership details. For example, some employers have corporate email signature or business card 'brand' rules. You should use your discretion in such circumstances however it is always the case that you should never seek to conceal your membership status or wilfully mislead others.

The core principle of professional behaviour imposes an obligation on RTPI Members to comply with relevant laws and regulations and avoid any action which undermines public trust in the profession or the reputation of the Institute.

CASE STUDY EXAMPLE: An RTPI Member was found in breach of the Code for making derogatory comparisons to the work of other professionals in their advertising material. They received a warning for their conduct.

The tone of any professional correspondence should always be polite, honest and respectful. If challenged, RTPI Members should respond firmly and objectively in a way which protects the interests of their business or clients without using threatening or derogatory language.

In today's world of social media, it may be necessary for practitioners to protect themselves and their clients and therefore, at times, the threat or use of legal action may be justified.

15 Gifts, hospitality and bribery

The Code requires that RTPI Members ensure that they do not allow their decisions or professional point of view to be influenced, or appear to be influenced, by inducements, financial or otherwise, that clients or others may offer. Equally they should never try to influence, or appear to be trying to influence, a decision or professional opinion of others through financial gain.

Whilst it is recognised that the occasional offer or acceptance of modest gifts and hospitality can be part of rewarding good work and maintain good business relations, the frequency and scale of any gifts and hospitality accepted should be managed openly to avoid any claims of impropriety. Generally, you should record any discounts, gifts or commissions received from third parties (such as clients, contractors or previous employers) regardless of their value and whether they were accepted or declined.

RTPI Members should refer to their employer's own policy if they are in any doubt as to whether to accept a gift or offer of hospitality. Many public sector organisations prohibit the acceptance of any gift or hospitality, therefore a member may be in breach of their terms of employment if they accept even the most modest of gifts.

CASE STUDY EXAMPLE: A senior planning officer receives an invitation to dinner from an old friend, who is also the owner of a local architectural firm. The firm has recently submitted a planning application to the local authority in which the officer is employed. In deciding whether to accept the invitation the officer considers the appearance of bias from the perspective of a member of the public, but decides to accept the invitation and manage the potential conflict by declaring an interest in the application and taking no part in the decision.

Bribery and corruption

The RTPI requires RTPI Members to comply with anti-bribery and corruption legislation relevant to the country which they operate in as part of their professional duties under the Code.

RTPI Members should be aware that they may be committing a criminal offence under the UK Bribery Act 2010 if they offer or receive a bribe. The Act defines a bribe as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for already having done so. It includes extra territorial jurisdiction to deal with bribery offences committed outside the UK and covers:

- Bribing another person;
- Being bribed,
- Bribing a foreign public official, and
- Failure of a 'commercial organisation' to prevent bribery by persons associated with them.

The Ministry of Justice have published guidance on the Act

www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf

Employers may also be liable to prosecution if a person associated with the organisation bribes another person with the intention of gaining a business advantage for that organisation. 'Associated persons' do not necessarily have to be employees, they can include persons who perform services for the organisation such as contractors, suppliers or consultants.

Organisations should have adequate procedures in place to prevent a situation arising where they could be prosecuted for failing to prevent bribery. The UK Ministry of Justice has issued guidance on what might constitute adequate procedures.

Generally, any procedures should be proportionate to the risks an organisation faces. For instance, larger organisations who work in countries with high levels of corruption or on high value projects involving many different contractors or intermediaries are typically at a greater risk than smaller practices who work on lower value projects for clients in the UK. It is up to the individual organisation to carry out their own assessment of risk and implement their own policy to prevent, mitigate and manage it effectively. Procedures should be communicated to staff with appropriate training provided

CASE STUDY EXAMPLE: A consultancy tendered to undertake planning work in a country known for high levels of corruption. The tendering process was judged to be fair and a tender has been submitted. However the consultancy then found that during the tender evaluation period the panel included people who are involved in other projects the consultancy is working on. At this stage it was too late for the consultancy to demonstrate that they have prevented corruption by these 'persons associated with them' so they withdrew their tender in order to meet their professional and legal obligations.

In some countries outside of the UK and Ireland, the practice of 'facilitating payments' is sometimes raised. RTPI Members are advised to note guidance from the UK Ministry of Justice and consider ethical and professional factors such as:

- Unfair competition,
- Questionable business practices with particular regard to public interest,
- Risks to investment and contracts.

16 Offering planning services to members of the public

The Code requires RTPI Members to provide services that are appropriate to their client's requirements. Organisations and consultants offering planning services should only bid for commissions or agree to take on work which they are competent and qualified to undertake. The decision should be based upon a realistic assessment of the skills and expertise available within your team. This includes consultants or external associates with whom you have a professional relationship.

Any limitations to an organisation's professional competence should be identified and discussed with the client. All services offered as part of a commission should be appropriate to the client's requirements. However, you may need to help the client identify the scope and key issues as they may not always correspond with their initial understanding of a situation.

Advertising planning services

The Code requires RTPI Members to disclose their professional status where possible, as a mark of professional standing. In advertising services you should ensure that any materials used are accurate, truthful and do not make misleading claims about the scope of the services offered. Materials should not unfairly discredit other RTPI Members or encourage unacceptable behaviour particularly in attempts to 'poach' work from other planning consultancies.

Use of RTPI logo

The RTPI logo is an instantly recognisable image which can be used to promote your business. The logo can be used by Chartered Members, Legal Associates and practices employing two or more Chartered Town Planners.

If you are using the RTPI logo at a practice where you are the only Chartered Member, you must make it clear that the relationship with the RTPI is with you individually and not your practice.

The use of relevant designatory letters (such as MRTPI for Chartered Town Planners) is expected on professional correspondence, where possible, as a mark of professional standing. On letterheads and websites, the RTPI logo should be displayed in the footer and not positioned next to any other logo to indicate a partnership between the two. On email signatures, the RTPI logo should be underneath your contact details and not positioned next to other logos. For further advice see www.rtpi.org.uk/membership/member-benefits-and-support/use-of-the-rtpi-logo/.

Terms of Engagement and Fees

The Code requires RTPI Members to ensure services and fees are appropriate and clearly indicated. Businesses are required to ensure that their terms of engagement are set out in writing and agreed prior to starting work. Any additional work to that previously agreed should also be set out in writing and confirmed as being acceptable to the client before it is undertaken. Hourly rates, with no upper limit or estimate of hours to be worked, are not normally considered to be sufficient to meet this requirement. There are various means of managing written terms such as providing updated terms at key stages of a project.

CASE STUDY EXAMPLE: A consultant took on a commission from a member of the public without setting out in writing what the commission was, or the fee to be charged. They had verbally stated their hourly rate. The RTPI Member was in breach of the Code. They should have in place procedures to ensure that a written contract stating the nature of the work, and fees to be charged, are always issued before starting work.

Unclear fee rates or terms with clients are a cause of dissatisfaction and can lead to complaints against RTPI Members. You might also find yourself in situations where the client will dispute payment. It is therefore good practice to send the client a covering letter or proposal with the terms of engagement that:

- Set out clearly what the practice is being asked to do (the brief),
- State the appropriate hourly or daily rates, car mileage rate, and any additional fee arrangement,
- Detail the arrangements for payment.

CASE STUDY EXAMPLE: A complaint was lodged against an RTPI Member alleging a failure to adhere to the requirement to provide written terms of engagement. The planner did set out their terms of engagement in writing to the client and obtain the clients approval, but part way through the instruction the RTPI Member became VAT registered and so added VAT to the client's invoice. The consultant then went on to carry out additional work on an appeal which was not covered within the scope of the terms of engagement provided. The RTPI Member was found to be in breach of the Code for failing to honour the terms of engagement originally provided and failing to obtain the client's consent to the VAT being added. A further breach arose from undertaking work on the appeal thereby incurring additional fees to those previously agreed.

17 Professional Indemnity Insurance

The RTPI requires that any Member providing planning services to the public holds professional indemnity insurance (PII) to cover any claims made against them by clients or members of the public. Full details are found in the Annex of the Code of Professional Conduct www.rtpi.org.uk/professionalstandards. 'Planning services' covers all work which RTPI Members hold themselves out as being professionally qualified to undertake. It includes training but does not include teaching or lecturing. The 'public' includes professional, corporate and institutional clients. The requirement applies to members practicing in the UK and Ireland who are:

- A partner or director of a firm offering planning services,
- An employee of a firm offering planning services,
- A consultant to a firm offering planning services, and
- A consultant offering planning services.

In the case of Members who are employed by a firm offering planning services, cover must be provided under their employers insurance, or you must hold your own PII insurance. It is the responsibility of the individual member to check they are covered.

Volunteering

RTPI Members who undertake planning services for clients, or offer voluntary professional advice on an adhoc or occasional basis, or who act as an unpaid professional planning advisor to organisations or individuals (including family, friends and acquaintances) should also hold PII cover.

Volunteers who provide planning advice through the RTPI's Planning Aid England service are covered and would not require separate insurance for this specific work. RTPI Members should check with other independent planning aid organisations if they are also covered when they volunteer their services. The PII regulations would also not apply to non-practicing RTPI members i.e. Retired Member class nor apply to voluntary non-planning advice that a member may provide to organisations, separate from the 'day job'.

Levels of cover

The minimum level of cover required is as follows:

- £100,000 for each and every claim if in the preceding year your practice's gross income was less than £40,000, or

- two and a half times the gross income for each and every claim if it was between £40,000 and £200,000, or
- £500,000 for each and every claim if more than £200,000.

The policy must have a maximum uninsured excess (i.e. the amount the practice has to find from its own pocket for any claim) of:

- not more than £7,500 if the limit of indemnity is £250,000 or less,
- not more than 2.5% of the sum insured, or £10,000, whichever is greater, if the limit of indemnity is more than £250,000.

Some clients may require you to carry a minimum limit of indemnity which is disproportionate to the amount or type of work that is being undertaken. In the UK it is not uncommon for local authorities to require self-employed planning consultants to carry a limit of £2m or more. For this reason you may wish to consider buying as much cover as you reasonably afford as the premiums for higher limits do not increase in proportion with the increase in cover (a £2m limit will not cost twice as much as a £1m limit).

You are also strongly advised to consider holding 'run-off cover' for a period of six years after you have ceased trading as you will only be protected if the cover is in place when the claim is made against you, rather than the date the advice was given.

RTPI Members undertaking work outside the UK or Ireland should obtain the best available cover for the work they undertake. The RTPI Insurance Hub gives further advice and support www.ps-insurance-hub.com/.

18 Use of social media

Social media, such as Twitter, Facebook, LinkedIn and Instagram is increasingly a feature of professional activities and personal lives. Where there is overlap, you should consider making a distinction between personal and professional viewpoints, for example by adding a disclaimer to make it clear that the opinions expressed are your own and not the views of your employer. You may wish to consider having separate accounts for personal friendships and professional acquaintances, and be mindful whether you include your professional designation on any personal accounts. Contacts should be managed carefully as having clients or service users listed may give rise to claims of bias.

It is always advisable that RTPI Members check their online privacy settings so that they understand who can see the information they publish and who can view their personal information. Information can often be traced even after it has been deleted therefore site content should not

contain confidential information or disparaging remarks or commentary (as opposed to professional opinion) about clients or professional colleagues. Your employer may have a policy covering the use of social media which should be observed.

19 Raising or reporting concerns in the workplace

RTPI Members are encouraged to raise concerns about poor ethical practice, misconduct or wrong doing particularly where it is in the public interest. Concerns should first be raised internally with a manager but if this does not address your concern, or your manager is part of the issue, you may want to discuss with a colleague or independent agency.

RTPI Members practicing in the UK or who are engaged by a UK company and who are considering raising a concern, or whistleblowing, should be aware of the provisions of the Public Interest Disclosure Act 1998 www.legislation.gov.uk/ukpga/1998/23/contents. The Act affords individual protection from action taken by an employer for reporting a concern whether or not the information is confidential or whether the malpractice occurred within the UK or overseas. Personal grievances (e.g. bullying, harassment, discrimination) should be dealt with through employer procedures or alternative dispute resolution services.

20 Criminal convictions

RTPI Members typically exhibit high professional standards and disciplinary conduct cases are very rare. However, anyone found guilty of a significant criminal offence such as fraud or impropriety which might be perceived by others as affecting a Member's professional credibility should inform the RTPI. Convictions might include offences not directly connected with the Member's professional practice but are reported in the public domain and make reference to the profession. It will be up to the discretion and judgment of the RTPI's disciplinary panel as to what action should be taken on a case-by-case basis. Any mitigating factors with regards the personal circumstances and the nature of the offence would be taken into account. A proportionate approach will be taken - minor offences which have no bearing on the professional integrity or competence of an RTPI Member, such as speeding fines should not be reported.

For more information please visit:

rtpi.org.uk/knowledge/professionalstandards

This paper was written by
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The principles of good practice contained in this advice are applicable to all RTPI Members. However, for reasons of clarity where legislation is discussed only the UK system is stated. If you are working outside the UK please refer to the legislative system for that country.

The RTPI operates a part time complaints and advice service.



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