

RICS PS

1. Is this document clear and easy to understand?

The mandatory professional behaviours are clear, but require amendment as indicated in the comments we have made to the draft PS. The guidance provided by the PS is unnecessarily detailed and prescriptive in some areas, while being vague and ambiguous in others. If the guidance is to be detailed, then it should be clear and comprehensive, containing no ambiguity. Alternatively it should be less detailed and prescriptive and allow for broader interpretation – as the current PS does

2. Are you satisfied that this document sets the standards required for this area of practice?

A number of the proposed mandatory behaviours require amendment to avoid being overly prescriptive. We have noted where we consider this to be appropriate in the comments we have made on the draft.

We are concerned that producing a PS that is seen as being overly prescriptive in some areas, but is vague and ambiguous in others, could result in an increased threat of litigation. A perception of increased litigation risk is likely to increase the cost of professional indemnity insurance. This, together with a more general perception than professional requirements are overly prescriptive may influence some practitioners to not undertake compulsory purchase and compensation work at a time when it is important to attract more surveyors into the industry to cope with increased demand. The CPA recognises that it is important to maintain professional standards in compulsory purchase. However, there is a balance to be drawn between maintaining professional standards and creating standards that unduly limit reasonable professional discretion and practice. As we have noted in our comments on the draft PS, we consider that it does not meet that balance in a number of respects.

We also consider that some sections of the guidance within the PS would be better presented in other RICS publications. For example, section 7.5 which deals with without prejudice negotiations, provides general guidance that extends well beyond the field of compulsory purchase. **It is not clear why compulsory purchase surveyors would need to have regard to this guidance while surveyors undertaking negotiations in other fields (e.g. lease advisory negotiations) would not. We are also of the view that any clarification of how the Red Book Global Standards apply to compensation valuations should sit within the Red Book, with the PS simply confirming that those standards should be adhered to. It appears incongruous for Red Book valuation guidance to sit within the PS and not the Red Book itself. It is not clear why the RICS considers VGPA16 to be inadequate and as we note in our answer to question 3, we are of the opinion that there is a distinct danger that, as currently drafted, section 5 of the PS will lead to confusion.**

3. Is there any reason why you could not adopt this standard?

As noted in our detailed comments on the draft PS, we consider there are some mandatory behaviours that require amendment in order to avoid them being impractical and unadoptable by at least some surveyors currently operating in the compulsory purchase field. For example,

mandatory professional behaviour 1 appears to require a proper understanding of all statutes, statutory documents, case law and government guidance in respect of the compulsory purchase process and compensation. However, compulsory purchase is a broad discipline and surveyors acting in specialist fields (e.g. Part 1 claims or utilities) will not need to have an understanding of all compulsory purchase and compensation practice to successfully undertake their roles to an acceptable professional standard. The mandatory behaviour should therefore be amended to require an understanding of statutes etc. in relation to the advice that is being provided.

We also have some concerns about the suggested application of section 5 of the PS – Valuation and Red Book Global Standards. The guidance appears to be aimed at Rule 2 valuations and injurious affection, but compensation surveyors also provide a range of other valuations and compensation assessments that may be partly, but not wholly, based on the market value of land. For example Rule 5 compensation, compensation for temporary possession and compensation under s.20 of the Compulsory Purchase Act 1965. The guidance is not clear whether these types of valuations should be considered ‘Red Book’ valuations.

We would also question the suggestion that PCE’s are in fact valuations for negotiation purposes (and so qualify as an exception). PCEs (certainly initial PCEs where the availability of the information necessary to undertake an accurate compensation assessment) are more properly considered by most practitioners as a budgetary and financial risk management tool and strict adherence to them for the purpose of negotiation would be considered by many to be bad practice. If PCEs are considered an exception, this should be made clear to avoid confusion in the industry. It will often be difficult to comply with many aspects VPS1-5 when undertaking a PCE.

4. Do you have any further comments?

The CPA considers that the RICS needs to review its approach to the PS. We are of the view that the existing 1st edition PS broadly met the requirements of the profession and requires only limited modification. It is not clear what significant deficiencies in this document the draft 2nd edition PS is trying to address, and we consider that parts of the 2nd addition are likely to create confusion rather than greater clarity.

The PS appears to be almost exclusively focused towards surveyors advising in relation to compensation. However, surveyors are often involved with many other elements of promoting an order that includes compulsory purchase powers, such as obtaining survey access, engagement, objections and assistance with obtaining order powers. Consideration should be given as to how this should be reflected in the PS.

While the draft PS refers to other best practice guidance we are of the view that it adds little to the existing PS that it will improve some of the poorer acquiring authority behaviours seen in the compulsory purchase process. In this respect, the PS appears to be more focused on surveyors advising claimants.

The CPA is willing to work with the RICS to ensure that the 2nd edition PS is fit for purpose.