

# Know your risks

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**Members and regulated firms should consult not only the new RICS professional statement but also the complementary regulations and legislation so they know their reporting responsibilities when it comes to bribery, corruption, money laundering and terrorist financing**

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An increasingly tough and complex set of laws on financial crime around the world puts more and more of an onus on law-abiding businesses and individuals to play their part in preventing, detecting and reporting such activity. The recently published RICS professional statement [Countering bribery and corruption, money laundering and terrorist financing](#), 1st edition, both imposes requirements and gives guidance on these issues for RICS-regulated firms and members, alongside applicable local laws. It is therefore important to understand this legal context before putting the statement into practice.

In the UK, the principal relevant laws are the [Terrorism Act 2000](#), the [Proceeds of Crime Act 2002](#), and the [Bribery Act 2010](#). Broadly speaking, the 2000 and 2002 Acts prohibit, among other things, the purchase of property with the proceeds of crime or its use for terrorism, and enable anyone with suspicions about such acts to report them, overriding any duties of confidentiality. The 2010 Act prohibits the payment of bribes and makes commercial bodies criminally liable for such payments by persons associated with them, unless they can show they had adequate procedures in place to prevent it. In practice, reports are made via an [online portal](#) to the National Crime Agency (NCA).

UK law also imposes various further requirements on businesses in the regulated sector, including those providing financial or estate agency services, as well as most solicitors and accountants. Under the 2000 and 2002 Acts, they are required, whereas others are merely enabled, to report where there are reasonable grounds to suspect money laundering or terrorist financing. Under [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) (the MLR), they are also required, for example, to produce a written assessment of their firm's risks, to apply due diligence measures to their customers ? which for estate agents now also includes the counterparty to the transaction ? and to appoint a money laundering reporting officer, whom employees can advise of suspicions.

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There are other UK laws in financial crime that may be relevant to RICS-regulated firms and members, including some that have recently been revised, but which are not covered by the professional statement. The most important are probably those on corporate offences in the [Criminal Finances Act 2017](#), under which a firm can be criminally liable if a person associated with it enables evasion of UK or foreign tax, for instance by deliberately providing

a false valuation of a property. Firms should also be aware of the law on targeted financial sanctions, including, insofar as they are regulated, their duty to report targets and breaches of sanctions.

The professional statement's requirements are much stricter than UK law: with respect to bribery, the statement requires firms to plan compliance with applicable laws, ensure any such plans are followed, and perform periodic written evaluations of their risks in this area. Importantly, it also requires firms and members to report to the relevant authorities any activity which they are aware breaches bribery or corruption laws, and demands members ensure they have sufficient knowledge of bribery and corruption to comply with the statement.

When it comes to money laundering and terrorist financing, the statement imposes requirements on all firms and members roughly equivalent to those in the UK regulated sector in general. For firms, that includes the same requirements as those governing bribery and for conducting appropriate due diligence on clients and customers. Importantly, though, the statement's obligation to report suspicions of money laundering or terrorist financing to the authorities applies to all firms and members. So, while an employee of a firm in the regulated sector could comply with UK law by advising the firm's reporting officer of any suspicions, to comply with the statement they must report it to the police or NCA as well. Notably, there would seem to be no defence in the statement, as there is in the 2002 Act, for a member who has not had adequate training, so the onus is very much on the individual to ensure they know enough to report when required.

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To help firms and members comply with its requirements, the statement goes on to provide guidance. With respect to bribery, this is consistent with that from the [UK Ministry of Justice](#) to help with adequate procedures under the 2010 Act, and firms would be well advised to consult both sets of guidance for these purposes; certainly, any UK court looking at whether a RICS-regulated firm's procedures were adequate would be likely to ask whether it had followed both.

It is worth noting here that the statement refers not only to bribery but also corruption, so arguably covers not just offences under the 2010 Act but also others such as embezzlement and misconduct in public office. The position is more complicated when it comes to money laundering and terrorist financing, and in the UK a lot will depend on whether the firm is also regulated for the purposes of the MLR. If it is, then it will have a supervisor ? such as the Financial Conduct Authority (FCA) or HMRC ? and should refer to that body's sector-wide risk assessment and guidance as well as the professional statement. If not, the firm may be assisted by more generic guidance, such as that of the [Joint Money Laundering Steering Group](#) or the FCA's on [politically exposed persons](#) .

Individual members, meanwhile, will need to have particular regard to their personal duty to report suspicions, though the guidance in the statement is relatively scant, sections 3.2 and 3.6 being the most relevant. Responsible firms will need to fill that gap and provide training and guidance to the members they employ.

As an example of how the statement works in practice, consider a firm regulated by RICS but not by the MLR whose clients include companies and individuals from higher-risk jurisdictions, some of whom may be politically exposed. The statement obliges them to

have plans in place to ensure they do not pay bribes to or for those clients or enter into arrangements by which customers can deal with the proceeds of crime. But it also obliges the firm to conduct due diligence checks on those clients, identifying the beneficial owners, and asking additional questions to politically exposed persons, their family members and close associates, as well as those from higher-risk jurisdictions, about their sources of wealth. If the firm or any individual members involved form a suspicion that a customer is engaged in money laundering or terrorist financing, they must report it directly to the authorities.

Notably, where the customers are referred by, say, an accountant or a solicitor, who has or should have conducted due diligence on them already, it will not necessarily be acceptable for the firm simply to rely on the existing due diligence. Sections 1.4.1 and 3.3 of the professional statement mirror the MLR on this, urging a risk-based approach that takes into account the referrer's reliability as well as the risks of the particular customer or transaction. For a UK-based individual customer who is not politically exposed and is referred by a reputable accountant, for example, simple copies of a passport and utility bill from the accountant may suffice; for a Russian company owned by a politically exposed person, a firm could place little or no reliance on documents provided by a lawyer with whom the firm has not worked before.

Among the statement's later recommendations for firms is to consider appointing a compliance and ethics champion. Certainly, in an increasingly complex compliance environment it is sensible for even the smallest firm to have at least 1 senior person who can demonstrate a familiarity with the relevant laws, rules and guidance, and preferably do so with enthusiasm. As a starting point, whoever takes on this role must know which legal jurisdictions are engaged by the firm's work and consider relevant laws alongside the statement such as sanctions and the tax offences under the 2017 Act, before carrying out a single, firm-wide assessment of all these risks. If done properly, that assessment should help develop internal procedures and training that meet all RICS' requirements and keep it on the right side of the law.

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## Further reading

- The professional statement has now been published and became effective on 1 September 2019 for all RICS members and regulated firms, regardless of geography or industry specialism. It can be found [here](#) .
- Related competencies include: [Ethics, Rules of Conduct and professionalism](#) , [Legal/regulatory compliance](#)
- This feature has come from the [RICS Property Journal](#) , July/August 2019
- Related category: [Ethics and professional conduct](#)