

RICS Reconsideration Policy

Version 1, February 2022

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It is important that RICS Regulation makes fair, justifiable and transparent decisions when dealing with Regulated Members. This is important to ensure that we build and uphold confidence in the robustness and fairness of our regulatory approach. This policy is designed to assist decision makers and to ensure consistency.

RICS can only reconsider the following regulatory decisions made under the delegated authority of the Head of Regulation:

- referral of a case to a Single Member of the Regulatory Tribunal
- a decision to close a case.

RICS cannot reconsider decisions made by a Single Member of the Regulatory Tribunal acting as a single decision maker or decisions made by the Regulatory Tribunal at a hearing.

Reconsideration of a decision pursuant to Rule 9 of the Regulatory Tribunal Rules

Rule 9 of the Regulatory Tribunal Rules sets out the test to be applied by the decision maker when considering new evidence that was not previously available at the time a decision was made to close a case, and if it had been, whether the evidence would have materially affected the decision.

All reconsideration decisions will focus on the public interest, which includes protection of the public. The following factors are relevant to the public interest:

- Does the decision leave the public at real risk of harm from the Regulated Member?
- Does the decision affect confidence in the profession?
- Is there a realistic prospect of establishing that a Regulated Member is liable to disciplinary action?

If the decision maker determines that one or more of the criteria above are met, they will then go on to consider whether:

- it is in the public interest for there to be a review or
- a review is necessary to prevent injustice.

If it is established that a decision needs to be reconsidered, the case will be referred to a Single Member of the Regulatory Tribunal to determine the outcome.

Reconsideration of a decision pursuant to Rule 10 of the Regulatory Tribunal Rules

Rule 10 of the Regulatory Tribunal Rules sets out the possible outcomes of a case, should it be referred pursuant to Rule 9 of the same rules. The Single Member may decide to:

- reopen the original matter and undertake further investigation or
- open a new enquiry or
- take no action and may inform the Regulated Member if s/he considers that it is in the public interest to do so.

Reconsideration of a decision outside of Rule 9 and 10 of the Regulatory Tribunal Rules

If RICS, as part of its internal review process, has concerns about a decision that has been taken to close an investigation, then it may be appropriate for that decision to be reconsidered. If legitimate concerns arise about the accuracy, proportionality or transparency of a decision, it may require reconsideration.

Reconsideration of a decision will be made by a senior member of staff acting under delegated authority as Head of Regulation.

The decision maker can reconsider the decision to close the case where they believe the decision was materially flawed and in the public interest. The following factors are relevant when considering whether a decision has been materially flawed and in the public interest (this is not an exhaustive list).

- A failure to comply with the procedural requirements of the RICS Regulatory Tribunal Rules or relevant guidance such as How does RICS decide when to investigate and Deciding when to take disciplinary action.
- A failure to provide the Head of Regulation with relevant evidence that was in RICS' possession at the material time.
- A failure to consider relevant evidence, or the consideration of irrelevant or inaccurate evidence.
- There is cogent evidence to suggest that the decision maker was affected by apparent or actual bias.
- A failure to have sufficiently investigated a case in order to make an informed decision.
- A failure to have given adequate reasons for a decision.

The Head of Regulation may decide to:

- take no action
- direct further investigation be undertaken.

Delivering confidence

We are RICS. Everything we do is designed to effect positive change in the built and natural environments. Through our respected global standards, leading professional progression and our trusted data and insight, we promote and enforce the highest professional standards in the development and management of land, real estate, construction and infrastructure. Our work with others provides a foundation for confident markets, pioneers better places to live and work and is a force for positive social impact.

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