

# The Faculty of Party Wall Surveyors



**FPWS**



## GUIDE TO THE CODE OF CONDUCT

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Published  
February 2024

## Introduction

This Guide to the Faculty's new Code of Conduct is designed to assist the membership in interpreting the various rules and enable them to achieve standards of best practice.

It is also designed to provide examples of the type of conduct that the Code of Conduct is intended to encourage or to indicate behaviour which may constitute non-compliance with the Rules of the Code of Conduct.

It is not however designed to be a document that exhaustively covers or itemises all the possible scenarios that would, or could, constitute a breach of the Code of Conduct.

The Code of Conduct is replicated below, with the guidance provided in dark red beneath each rule.

Members **MUST** have regard to the Guide.

Failure to follow the Guide is a factor that may be considered in any disciplinary proceedings for breach of the Code of Conduct.

Failure to follow either the spirit or the letter of the Guide will not of itself be proof of a breach or non-compliance with the Code of Conduct but a Member will need to be able to justify his/her departure from the Guide and demonstrate that notwithstanding the departure from the relevant guidance the obligation of the Code of Conduct has been discharged.

## CODE OF CONDUCT Rule 1: Overarching Provision

**Members shall conduct themselves at all times in a manner that befits their professional status and membership of the Faculty, and shall not engage in behaviour that may reasonably be regarded as prejudicial to the interests of the Faculty or its other members or which might tend to bring the name of the Faculty into disrepute.**

This Rule is a catch-all provision.

Providing comprehensive examples of the types of conduct that do not befit one's "professional status and membership of the Faculty" would be an impossible task, except to say that one would probably immediately identify such conduct when encountering it. It should be noted that this Rule applies to all members, irrespective of whether they practise as party wall surveyors or not.

## **CODE OF CONDUCT Rule 2: Compliance with Faculty Rules**

**Members shall comply with all Bye-Laws and published Guidance of the Faculty, where applicable.**

Breach of the Bye-Laws does not in itself immediately and necessarily constitute misconduct and render a member liable to immediate disciplinary action in all circumstances. Some Bye-Laws carry their own sanction, such as failing to pay the annual membership fee on time (Bye-Law 4.6.3) whilst some of the Bye-Laws are merely designed to formalise the internal working of the Faculty.

However, the existence of provisions in the Bye-Laws of an automatic sanction in the event of failure to comply does not prevent disciplinary action being taken for breach of the Code of Conduct.

Breach of Bye-Laws, Regulations and/or the published Guidance of the Faculty may amount to a breach of the Rules of the Code of Conduct and is a factor that may be considered in any disciplinary proceedings for breach of this Code of Conduct.

### **Use of Faculty's Post Nominals**

Only Corporate Members shall use the post nominals MFPWS, FFPWS, HonMFPWS, HonFFPWS, RetMFPWS or RetFFPWS respectively, and strictly in accordance with their requisite membership status.

The guidance given below under CODE OF CONDUCT Rule 3 in relation to advertising and the use of the Faculty's logo also applies to the use of the Faculty's post nominals.

## **CODE OF CONDUCT Rule 3: Ethical Behaviour**

- (1) Members shall act with honesty and integrity and shall avoid, so far as is reasonably possible, conflicts of interest at all times.**
- (2) In carrying out their statutory functions under section 10 of the Act, Members shall act impartially and shall not undertake and charge for work that is not reasonably necessary for the resolution of the parties' disputes.**
- (3) Members shall, at all times, respect and maintain all owners' and occupiers' confidentiality and privacy as necessary, and insofar as is practically possible.**

Party wall surveyors act in a 'quasi-judicial' capacity and therefore they should always act impartially and with integrity.

Members shall avoid actions or situations that are inconsistent with their professional obligations.

Members are personally responsible for not only their own conduct and behaviour but also that of anyone else who is purporting to act on their behalf and/or who to whom they have legitimately delegated any work or responsibility or who carry out work under their supervision in a party wall matter.

Members must not unlawfully discriminate against, victimise or harass any other person on the grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, gender re-assignment, sexual orientation, marital or civil partnership status, disability, age, religion or belief, or pregnancy or maternity.

### **Conflicts of Interest**

Members must at all times be alert to, and seek to avoid, any potential conflicts of interest when acting as a party wall surveyor or considering an appointment or selection. Conflicts of interest may be either real or apparent.

Appointments or selections should not be accepted where there is a known conflict of interest (real or apparent).

Whilst not expressly forbidden by the Act, undertaking a statutory appointment as a party wall surveyor in conjunction with other roles such as the project architect or project manager could possibly be, or appear to be, incompatible and should preferably be avoided. For example, employees, or those who regularly work under a contract for services of an appointing owner should advisedly, and as a matter of best practice, not act as their employer's party wall surveyor. Essentially, if you could exploit, or appear to exploit, the functions of your statutory role inequitably, for financial gain, or for other benefit, then this could be considered as a conflict of interest.

Party wall surveyors from the same firm or company should also advisedly avoid accepting appointments for the same matter from both building owner and adjoining owner, as a matter of best practice. However, a third surveyor should almost certainly avoid working for the same firm or company as one of the party appointed surveyors.

Party wall surveyors will often select third surveyors who are known to them, and whom they trust to have the suitable experience, competence and integrity to deal with a referral as and when required. However, third surveyors who have business connections or other close personal relationships with a party appointed surveyor should ideally not be selected, or not without those connections first being made known and declared to the other appointed surveyor.

More crucially, if the third surveyor is known to any of the appointing **owners**, in either a personal or business/professional capacity, he should not be selected.

When selecting a third surveyor, Members should therefore declare to the other appointed surveyor any known and relevant connection to a proposed third surveyor (whether personal or professional) which might reasonably be perceived as creating a conflict of interest or lack of impartiality. When proposing a fellow Board member as the selected third surveyor, Directors of the Faculty shall disclose that connection to the other appointed surveyor.

Where a conflict of interest subsequently becomes apparent or arises, Members shall immediately inform their appointing owners and, where appropriate, any other appointed surveyors.

### **Honesty and Integrity**

Members must always act honestly and must not provide untruthful or misleading information or encourage anyone else to do so. Members should not knowingly or recklessly mislead, attempt to mislead anyone, or cause or permit any party or other surveyor involved in a party wall dispute in respect of which they have been appointed or selected to be misled.

Members must not abuse their professional position.

Acting with honesty and integrity also requires that Members shall:

- (i) not create disputes and should always encourage the parties to resolve matters between themselves where possible;
- (ii) not undertake, and charge for, work that is not reasonably deemed necessary for the resolution of the parties' dispute;
- (iii) not charge excessive costs;
- (iv) not misuse or misappropriate appointing owner's funds;
- (v) not instruct or refer work to others where it is not in an appointing owner's best interests in pursuance of the Act;
- (vi) not instruct or refer work to others for commission, discount or other similar such arrangement;
- (vii) reject bribery and all forms of corrupt behaviour and at all times comply with the duties and obligations set out in the Bribery Act 2010 or any other relevant legislation relating to anti-corruption.

### **Impartiality**

Members must carry out their duties with objectivity and impartiality.

Members should not only act impartially, but it is also vitally important that they should be **seen** to be acting impartially. Members are cautioned to avoid any behaviour which might give the impression of partiality to one side of a dispute.

Whilst maintaining impartiality, party appointed surveyors should nevertheless also act with due regard to the interests of the party who appointed them.

With respect to third surveyors, the duty of impartiality will mean being open and transparent in all the communications they have with the parties or their appointed surveyors.

Acting impartially in a ‘quasi-judicial’ role means keeping appointing owners adequately informed. Matters relating to the Act’s procedures should be clearly explained to an appointing owner from the outset, so that the parties have an understanding of what is involved in the process of making an award, and what they can and cannot expect from that process. Similarly, surveyors should take into consideration their appointing owner’s concerns and desires, and act upon them **where appropriate** and provided that it is in the interest of resolving the dispute. However, doing so is of course fundamentally not the same as receiving instructions and acting upon them as if they were the agent of the appointing owner. **Ultimately, the Act is there to enable building works to be undertaken whilst simultaneously protecting owners’ property rights, and surveyors should bear that in mind when resolving the statutory dispute.** They should most certainly not act upon an adjoining owner’s instructions where they have been provided, for example, in an attempt to thwart the proposed works, or to perpetuate historic disputes between neighbours.

## Costs

To quote the Court of Appeal in **Gray v Elite Town Management (2016)**, “the statutory procedure is intended to be a simple, inexpensive dispute resolution mechanism”. The Faculty endorses that view, and remains concerned that some party wall surveyors are increasingly being seen by both the general public and commercial developers alike as expensive red tape, the cost of whom is often out of proportion to the notifiable works proposed. Surveyors should therefore remain mindful of, and manage, any costs as they accrue ensuring that they remain ‘reasonable’ as required by the Act.

With respect to surveyors’ costs, the following observations should therefore be noted:

- (i) that the hourly rates of party wall surveyors, particularly in London and the South East of England, continue to rise at an alarming rate, and that these rates are often far higher in comparison to other professionals involved in other areas in the construction industry. It is difficult to understand why this should be so;
- (ii) a surveyor’s costs must ultimately be “reasonable” irrespective of the hourly rate charged. In many cases, particularly residential ones, if the costs of the surveyors are not proportionate to the actual cost of the notifiable works, then those costs would not under

any common-sense judgment be considered reasonable. Often, the notifiable works (and therefore the cost of them) will form a very minor part of the overall works proposed. Party wall surveyors' costs should therefore reflect that, and be in proportion to the extent, complexity and the cost of the notifiable works;

- (iii) where a party wall surveyor has kept an accurate time sheet of the work done, this still does not mean that the total cost of doing all that work will necessarily be proportionate (i.e. 'reasonable') and should be paid by either of the parties. Party wall surveyors should 'act effectively' and efficiently;
- (iv) in minor residential works, it may be preferable to agree a fixed fee for the making and serving of the primary award that authorises the works and regulates their execution, and/or the agreed surveyor route should also be used where possible for such works (provided it is made clear that the agreed surveyor will be the sole arbiter in the matter). The use of a fixed fee should not however mean that a party wall surveyor fails to allocate appropriate time and diligence to the matter. Fixed fee appointments should only be considered if the surveyor is totally committed to the administration of the Act fully and properly in all respects, regardless of whether the fee is exceeded as the matter progresses. When acting as Building Owner's Surveyor, this includes supplying all appropriate information in a timely manner requested by the Adjoining Owner's surveyor. It is the duty of both surveyors to discharge their duties fully and properly, and if one surveyor neglects to do this, costs can naturally be expected to mount up on the other side.
- (v) if surveyors' costs are to be included in an award, then a surveyor has a duty to ensure that the costs of his opposite number are also reasonable. In particular, the costs claimed by adjoining owner's surveyors are sometimes simply accepted in full by the building owner's surveyor and inserted into an award without any questioning as to the reasonableness of those costs. Such a practice is inequitable, and only those costs which both surveyors agree are proportionate and therefore 'reasonable' should be included in an award. It should be remembered that a surveyor's signature on an award is effectively an endorsement that the costs cited in that award have been agreed by that surveyor as being 'reasonable' in accordance with section 10(12)(c) and 10(13) of the Act.

### **Unsolicited Approaches**

The Faculty also notes that it is the practice of some party wall surveyors to make unsolicited approaches to potential adjoining owners and inform them that building works are proposed for the neighbouring property that may involve notifiable works under the Act, and to then seek a statutory appointment as an adjoining owner's surveyor, often in advance of any notices being served. Such approaches to adjoining owners usually occur following a search of local authorities' planning applications, and surveyors who engage in such a practice are often regarded as being akin to ambulance chasing lawyers.

The Faculty certainly **does not endorse such an approach**, believing that it is more likely than not to have the effect of encouraging a dispute which does not yet, and might never, exist without such a letter.

Whilst the Faculty would absolutely prefer its members not to engage in such approaches, it does not seek to prohibit them from obtaining work in this manner. However, the Faculty expects Members to take real care with the wording of any unsolicited letters so as to avoid, so far as is reasonably possible, creating disputes between neighbouring owners.

It is of paramount importance that any unsolicited letter should be neutral and measured, informative, avoid any unduly emotive language and be meticulously fair to both the potential building owner and the potential adjoining owner by being clear about all the available options and the consequences of those options.

The Faculty considers that as a bare minimum, any pre-emptive approach to an adjoining owner **MUST** explain, **in the clearest of terms** that:

- (i) an adjoining owner may consent in writing to a notice and allow the works to continue without the need for surveyors to be appointed and an award to be made;
- (ii) consenting to a notice does not affect an adjoining owner's rights under the Act should a dispute relating to the works subsequently arise, and at that subsequent time if necessary, a surveyor of the adjoining owner's choosing can be appointed;
- (iii) once an appointment form is signed agreeing to a surveyor's appointment, that appointment cannot be rescinded, as per section 10(2) of the Act.

The author of any pre-emptive letter which does not fully explain the above will be deemed to be in a serious breach of the Faculty's Code of Conduct.

## **Advertising**

'Advertising' in this context shall include published, printed or digital media and editorial documentary article or material of any description.

Advertising shall be factual and relevant and must not contain untrue or misleading information.

Members shall ensure that the personal details of clients / appointing owners shall not be disclosed in any advertising without prior permission.

Companies' or firms' adverts, websites and stationery should clearly set out which personnel are members of the Faculty, and should not give the impression that the business itself is a member of the Faculty or that **all** the surveyors are members of the Faculty, if they are not.



Advertising should also not give the impression, expressly or implicitly, that the business concerned is endorsed by the Faculty, or that it is connected with the Faculty in any way other than by way of its personnel being members of the Faculty. Stating, implying, or giving the impression that personnel are members of the Faculty should be treated in the same way as the 'Use of the Faculty Logo' below.

### **Use of Member's Professional Logo or other Advertising in Awards**

Awards are legal documents that are prepared and signed by party wall surveyors in their personal capacity.

Members must not include in any award either their personal business logo, the logo of their employer, business, partnership or practice or any other form of advertising for themselves or their employer, business, partnership or practice.

### **Use of Faculty Logo**

Subject to the guidance entitled "Use of Faculty's Post Nominals" (above under CODE OF CONDUCT Rule 2), Corporate Members are entitled to use the Faculty's logo on their company's or firm's website(s) and/or stationery, but this is permitted solely on the basis that:

- (i) the same website expressly states which personnel are Corporate Members of the Faculty, and
- (ii) such a statement must be sufficiently prominent.

Non-Corporate Members are not entitled to use the Faculty's logo at all.

The guidance given in relation to advertising equally applies to use of the Faculty's logo. See above.

### **Confidentiality**

Members shall ensure that the personal details of clients / appointing owners remain private and confidential, subject only to the express consent of the subject and/or any duty to disclose which may arise as from legislation, the lawful exercise of a statutory investigatory power, or court order.

Members are expected to be fully compliant and up to date with all Data Protection legislation.

## **CODE OF CONDUCT Rule 4: Competence**

- (1) Members shall carry out their work with due skill, care, and diligence and with proper regard for the professional and technical standards expected of them as competent party wall surveyors.**
- (2) Members must only undertake professional work in respect of which they are competent.**

A party wall surveyor does not need to be a qualified or chartered construction professional to be appointed as a party wall surveyor. The Faculty does not require its Members to be chartered construction professionals, as there are a number of people who have vast experience in the construction industry without being chartered and who make excellent party wall surveyors.

Conversely, many chartered construction professionals do not have the requisite knowledge to make competent party wall surveyors.

What is required of Members is to be able to demonstrate relevant building construction knowledge and experience in conjunction with a good working knowledge of the Act's procedures. Knowledge or experience of one without the other is not considered to be sufficient.

Members must only accept an appointment or act as a party wall surveyor if they are appropriately skilled, qualified and/or experienced to act effectively in respect of the particular dispute and have sufficient time available to do so.

Members must not delegate any duty or obligation unless permitted to do so by the applicable law, and where they do so they should be transparent about having done so and their reasons for the same. Whilst the administrative functions of an appointed or selected party wall surveyor can be delegated (such as the taking of a schedule of condition) the decision-making functions of such surveyors cannot be so delegated.

When undertaking their functions under section 10 of the Act, Members shall assess and manage relevant risk responsibly.

Competence requires that knowledge is maintained and kept current. Members are expected to keep up to date with relevant developments and undertake continuing professional development (CPD) in accordance with Rule 8 of the Code of Conduct and the guidance thereon.

## **CODE OF CONDUCT Rule 5: Service Standards**

- (1) Members shall undertake their professional work fairly, with courtesy and respect, with proper regard for the standards of service expected of them, and in a timely manner.**
- (2) When undertaking their functions under the Act members shall work with other surveyors in a spirit of impartial collaboration to promote the purposes of the Act and the resolution of disputes under it.**
- (3) Members shall, where appropriate, promptly discharge any invoice from a creditor instructed by the member in relation to party wall work.**

Members are expected to appropriately manage their appointing owner's expectations and clearly explain the functions of the Act and those of the appointed and selected surveyors.

### **Undertaking Work Fairly**

Members must not unlawfully discriminate against, victimise or harass any other person on the grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, gender re-assignment, sexual orientation, marital or civil partnership status, disability, age, religion or belief, or pregnancy or maternity.

This prohibition applies equally to whether or not an appointment is offered as well as to the manner in which any work pursuant to an appointment or selection is performed.

### **Professional Indemnity Insurance**

Practising Members are required to maintain appropriate Professional Indemnity Insurance for party wall work purposes that is commensurate with the level of party wall work that they undertake.

Members should not undertake any party wall work for which their Professional Indemnity Insurance does not provide adequate cover.

### **Courtesy and Respect**

Showing courtesy and respect is merely one aspect of dispute resolution. Surveyors should be mindful that their primary function is to resolve the statutory dispute that has arisen between the parties, and not to escalate it.

Members must avoid use of offensive language, disparaging remarks and abusive, discourteous, imperious, peremptory or otherwise disrespectful behaviour in oral or written correspondence.

Members should promote the interests of the Act and where necessary be assertive or steadfast in upholding the requirements and standards of the Act but should avoid being unnecessarily pedantic, adversarial or confrontational with other appointed or selected surveyors.

### **Impartial Collaboration**

Acting within the spirit of collaborative cooperation with a fellow surveyor and not being unnecessarily adversarial or confrontational is an essential part of dispute resolution.

Where members of the Faculty are each appointed or selected under the Act it is expected that they will co-operate with each other to the extent necessary to achieve their statutory function, by undertaking every reasonable endeavour to resolve the dispute and make an award.

Time spent 'intellectual jousting' or gaining 'one-upmanship' at the expense of appointing owners should be avoided.

### **Acting Expeditiously**

When executing their functions under the Act members shall:

- (i) Act expeditiously and seek to produce an award as soon as is reasonably practicable;
- (ii) Respond to correspondence from surveyors and/or owners promptly; and
- (iii) Carry out work diligently and where appropriate, within the timescales set out in the Act.

With respect to acting 'expeditiously', the following should also be noted:

- (i) The Act's processes are clearly intended to be implemented efficiently and in a timely manner. The various timescales within the Act are indicative of such. As a general guide, the majority of awards should be completed within a matter of a few weeks at most, particularly those involving relatively straightforward works within a residential setting. Larger, commercial developments or complex residential proposals may often require longer time scales due the complexity of the works and/or the number of adjoining owners.
- (ii) The Faculty commonly receives complaints with respect to surveyors who do not respond, or take a very long time to respond, to either their appointing owner's queries or correspondence from the other surveyor. This is also unacceptable. If a party will surveyor cannot act effectively, and attend promptly to matters, whatever the reason, then he/she should not accept a statutory appointment in such a matter. The Faculty recommends a guideline timescale of seven days maximum to deal with queries from

appointing owners, although it is hoped that most queries could be dealt with more quickly than that.

## **Accuracy**

Whilst many clauses in awards are 'standard' every award should be bespoke to the parties and the dispute.

Served awards should, so far as is reasonably possible, be free from error. Particular care should be taken to ensure that the award contains the correct names of parties and surveyors, genders, grammar and pluralities. There should be reference to third surveyors in two-surveyor awards only.

Care should also be taken to ensure that awards are enforceable and lawful.

Members are expected to thoroughly proof-read draft awards for such potential errors and should be alert to the fact that the text of an award not only demonstrates the competence of the surveyors who made it, but also represents the standing of the Faculty and the profession as a whole.

## **Complaints**

Corporate and Non-Corporate Members shall have in place an internal Complaints Handling Procedure ('CHP') for the purposes of any party wall work that they may engage in.

The aforementioned CHP should:

- (i) Contain 3 stages comprising:

**Stage 1:**

Complaint referred to the member (if a sole practitioner) or a nominated person within the member's practice (for members who operate through firms, partnerships or companies).

**Stage 2:**

Complaint referred to another party wall surveyor, preferably a more senior member of the business than the person who made the Stage 1 determination.

**Stage 3:**

Complaint referred to an External Independent Alternative Dispute Resolution Service.

- (ii) Be written in plain English;
- (iii) Explain how a complaint can be made (and should enable complaints to be made by any reasonable means);

- (iv) State what types of complaint are covered by the CHP (and must include service complaints, for example complaints relating to:
  - (a) Excessive costs;
  - (b) Deficient costs information;
  - (c) Data protection/breach of confidentiality;
  - (d) Partiality;
  - (e) Delay/failure to progress;
  - (f) Discrimination;
  - (g) Failure to advise;
  - (h) Failure to keep informed; and
  - (i) Failure to investigate a complaint);
- (v) State who is entitled to make a complaint under the CHP (and those entitled should include any person concerned in a party wall dispute being handled by the surveyor e.g. building owner, adjoining owner, any another professional such as a surveyor, architect etc. and not be limited to the appointing owner);
- (vi) State who will deal with the complaint (giving their name and/or position);
- (vii) Clearly and transparently set out the manner in which the complaint will be handled (including the proposed timeframes for acknowledgment of the complaint and provision of a substantive response);
- (viii) Not require the complainant to pay any fee or charge to make a complaint at the first or second stages;
- (ix) Include an independent individual, body, organisation, alternative dispute resolution service, or arbitrator as the final appellate body for complaints made under the CHP;
- (x) Include the contact details for any relevant regulatory body (e.g. the Faculty, RICS, any relevant Ombudsman or other professional organisation with which the member is affiliated).

The Faculty offers a template CHP and explanatory flowchart which it encourages its members to use and is available to member to download here: <https://fpws.org.uk/complaints-handling-procedure/>

Members who do not have another person, or no other surveyor within their practice to whom a Stage 2 complaint can be referred are encouraged and expected to co-operate with each other and set up reciprocal arrangements with other sole practitioners in order to meet the Faculty's Stage 2 requirements.

A member MUST NOT name another Member or individual external to their business in their CHP unless they have discussed their intention to do so with that individual and that individual has AGREED to accept Stage 2 referrals and be named as the individual to whom Stage 2 referrals should be made.

Any Member who has difficulty in finding an individual to act as their Stage 2 complaint determinator should contact the Faculty for advice.

The CHP SHOULD NOT name the Faculty as an appellate body.

A copy of the Member's CHP should be provided to any person making, or indicating that they wish to make, a complaint as a matter of course whether or not a specific request for the same has been made.

Corporate and Non-Corporate Members shall deal at first instance with **any** complaints regarding their conduct via their own internal CHP, if requested to do so.

For the avoidance of doubt, the internal CHP should be used in the first instance whether the complaint originates from an appointing owner, from any other owner or occupier reasonably concerned with the party wall project upon which they are engaged, from anyone purporting to act on behalf of an owner or occupier in respect of a party wall project upon which they are engaged, from any other surveyor connected with the party wall project upon which they are engaged, from the Faculty itself, or from a member of the public (if the member of the public is seeking to make a complaint in relation to the offering and/or the provision of party wall services).

## **CODE OF CONDUCT Rule 6: Notification**

**Members shall, within 28 days of a final determination, notify the Faculty:**

- (i) if convicted of a relevant criminal offence;**
- (ii) of any complaint or disciplinary action relating to their professional activities;**
- (iii) if they become bankrupt;**
- (iv) if they or their company enter into insolvency proceedings;**
- (v) if they are disqualified as a company director or charity trustee; or**
- (vi) if they become the subject of any court or tribunal judgment against them, either individually or against any company of which they are a director.**

The requirement to notify the Faculty of any of the above matters applies throughout the duration of the Member's membership of the Faculty, whether the Member is undertaking party wall work or not and whether the matter which the Member is required by this Rule to notify the Faculty about relates to their work as a party wall surveyor or not.

Members must notify the Faculty in writing within 28 days of a final determination.

A “final determination” in this context is considered to be the date of any conviction, determination, judgment or order which not the subject of an appeal or the date of determination of any appeal against that conviction, determination, judgment or order. It includes any interim determination that is not the subject of an outstanding appeal. For example:

- (1) An interim measure which suspends the Members’ membership of a regulatory body (e.g. RICS) or otherwise restricts or places conditions on the member’s professional activities pending the outcome of disciplinary investigation or action.
- (2) A Court or Tribunal judgment on liability with damages to be assessed at a later date.

“Relevant criminal offences” will include, but are not limited to, any offence against the person or property and any offence with an element of dishonesty or deception of any kind. It excludes driving offences and any offence for which an absolute or conditional discharge is imposed.

“insolvency proceedings” in this rule includes both voluntary and involuntary arrangements.

“disciplinary action or complaint” in this rule includes any action taken against a member which results in a rebuke, reprimand, warning, caution, penalty, fine, imposition of restrictions or conditions on practice or membership, suspension of membership for any period and/or expulsion from membership. It does not include any complaint or disciplinary action which is not proved and/or in respect of which no sanction or costs are imposed.

“Individually” in Rule 6(vi) includes Members in their personal capacity or as a partner of a firm.

## **CODE OF CONDUCT Rule 7: Co-operation**

**Members shall, in a timely fashion:**

- (i) fully co-operate with any servant, agent or employee of the Faculty;**
- (ii) respond to any reasonable enquiry made by or on behalf of the Faculty;**
- (iii) provide any information or documentation reasonably requested in the manner and form requested; and**
- (iv) pay annual subscriptions and any other sums due to the Faculty promptly upon demand.**



The requirements of this Rule apply throughout the duration of the Member's membership of the Faculty, whether the Member is undertaking party wall work or not.

### **Contact Details**

Members must ensure that the contact information held by the Faculty for them is current and any changes in contact details are notified to the Faculty promptly, usually within 48 hours.

### **Co-operation and Enquiries**

Members should co-operate with the Faculty, its staff, servants or agents in relation to any reasonable enquiry relating to matters pertaining to membership or compliance with the Faculty's Bye-laws, or any of the Rules of the Code of Conduct.

In particular, from time to time members may be asked to provide information or documentation relating to:

- (i) Actual or potential disciplinary proceedings;
- (ii) Their compliance with the Faculty's continuing professional development requirements;
- (iii) Their professional indemnity insurance;
- (iv) Their use of post nominals or the Faculty logo;
- (v) Advertising;
- (vi) Complaints made against them and/or their complaints handling procedure;
- (vii) Their solvency;
- (viii) Their membership of other professional organisations and disciplinary record within those organisations, and
- (ix) The measures they have put in place for compliance with data protection legislation;

and they are expected to provide the information/documentation requested in a timely fashion.

It should be noted that the impartial role of the Faculty's Disciplinary Panel is equally to protect Members from spurious, vexatious or ill-founded complaints as well as to rightly discipline Members who fall below the required standards. As a body whose core principles are underpinned by education and the dissemination of good practice, the process of disciplining members is not primarily for punitive purposes but rather to assist them with raising their competence through broadening their experience or raising their qualifications.

### **Payments**

Annual Subscription Fees shall be paid by the annual renewal date. Any other sums due to the Faculty within twenty-eight days of the date of the invoice.

Please see Bye-Law 4.6 “Entry Fees and Subscriptions”. A failure to pay the annual membership subscription by the due date (currently 1<sup>st</sup> July) will result in automatic suspension of the membership and the imposition of an administration surcharge. Failure to pay the annual membership subscription and the administration surcharge within a month of the due date (i.e. currently by 1<sup>st</sup> August will result in that membership automatically expiring unless the member can provide adequate evidence of extenuating circumstances. Once this occurs, it should be noted that the process to become a member will begin afresh.

The existence of provisions in the Bye-laws in respect of a Member’s failure to make payment of annual subs does not prevent disciplinary action being taken for breach of the Code of Conduct in respect of any member who fails to make payment as required.

## **CODE OF CONDUCT Rule 8: Continuing Professional Development**

**All Members (excepting Honorary Members) shall ensure that they keep their knowledge of party wall law, procedure and best practice up to date and shall undertake continuing professional development (“CPD”) in accordance with the Faculty’s requirements.**

The purpose of CPD is to ensure that members’ competence and knowledge is maintained and kept up to date, that they are kept fully cognisant with best practice and up to date with any recent case law, so that the public is best served.

The Faculty requires CPD compliance amongst its Members.

Members shall undertake a minimum of ten hours relevant activities per membership year for CPD purposes. At least five of these hours must be hours accredited by the Faculty.

Failure to keep up to date with such compliance is a breach of the Code of Conduct and may result in disciplinary action being taken.

Members should maintain a record of the CPD activities that they have completed in any particular membership year (currently 1<sup>st</sup> July to 30<sup>th</sup> June) (“a CPD record”). The CPD record should include details as to:

- (i) The date on which the activity was undertaken;
- (ii) The nature of the activity;
- (iii) The name of the activity (where applicable e.g. the name of a seminar, lecture or course attended);

- iv) The name of the provider (where applicable); and
- v) The number of hours engaged in the activity.

Members must provide a copy of their CPD record to the Faculty on request. The Faculty reserves the right to make enquiries of members to ensure compliance with CPD.

“Relevant” CPD means that the activity must be directly relevant to party wall work and not merely to the wider construction or surveying industry.

Members can obtain relevant CPD in a number of ways, including, but not limited to:

- (i) Attending the Faculty’s regional forums, seminars or conferences;
- (ii) Attending Party Wall related CPD events/workshops from other providers, including the Pyramus & Thisbe club or legal providers;
- (iii) Writing and delivering Faculty and other party wall related seminars;
- (iv) Writing articles for the Faculty’s newsletter;
- (v) Online/Distance Learning e.g. construction courses;
- (vi) Teaching/Training delivered to others;
- (vii) Webinars;
- (viii) On the job training by an Internal Expert;
- (ix) Private party wall study, for example, reading:
  - Case Reports, Judgments or transcripts- in particular of recent case law;
  - Chapters from Party wall related books;
  - Articles in the Faculty Newsletter;
  - FPWS CPD Study Course Book;
  - Other relevant articles.
- (x) Other forms of any other technical training/mentoring.

Attendance at any regional forum, seminar, conference or any other event provided or organised by the Faculty, whether as a speaker or a paying attendee, will provide CPD hours that the Faculty regard as “accredited”, as will articles written for the Faculty newsletter.

Attendance at party wall related CPD events by other providers and participation in online or distance learning from a recognised educational institution is likely to be considered to be “accredited” but may depend on the nature of the provider and the event.

On the job training, private study and other forms of technical training or mentoring will generally not be considered to be “accredited”.

If a Member is in doubt as to whether any particular matter could constitute relevant CPD hours, or would be considered to be “accredited”, Members are encouraged to contact the Faculty’s Professional Standards department for further clarification.

If a Member is experiencing any practical difficulty in undertaking relevant CPD for any reason they are encouraged to contact the Faculty's Professional Standards department for further advice and assistance.

The Professional Standards department can be contacted by telephone on 01424 883300 or by email at [professionalstandards@fpws.org.uk](mailto:professionalstandards@fpws.org.uk)

The Faculty will conduct spot checks on its Members' CPD compliance and may do so at any time. A Members' CPD record will also be routinely requested if a complaint is made to the Faculty about the Member and the Member is made subject to a disciplinary investigation or proceedings. The Faculty will maintain a register of CPD checks & compliance.

For the avoidance of doubt 'Members' in this section does not include Honorary Fellows or Honorary Members. Additionally, members who do not practise in any way whatsoever as party wall surveyors (i.e. Affiliates, lawyers, academics) do not have to comply with these CPD requirements.