

# RICS Expert Witness

## Practice Alert and Practice Statement Concordance

This document highlights the connection between the RICS Expert Witness Practice Alert and the RICS Professional Guidance upon which it is based: RICS Practice Statement and Guidance Note Surveyors Acting as Expert Witnesses, 4th edition, amended February 2023.\*

*\*Note: A new edition of this professional guidance is due for release later in 2024, but it does not impact on the central obligations highlighted in the Practice Alert.*

Practice Alert Question number	Practice Alert question	Practice statement (PS) and guidance note (GN)	Practice statement and guidance note text
<p>Section 1 of the Practice Alert sets out a list of questions with the following preamble:</p> <p><b>“To comply with RICS’ mandatory professional statement and guidance, you must be able to answer ‘yes’ to all questions with absolute certainty:”</b></p>			
<p><b>Question 1(a)</b></p>	<p>Is the subject matter on which you have been invited to give expert testimony entirely within the scope of your personal professional expertise?</p>	<p>PS Principal Message PS 3.10</p>	<p>Your expert witness report and evidence must fall within your expertise, experience, and knowledge.</p> <p>Expert witnesses must neither express an opinion outside the scope of their field of expertise, nor accept any instructions to do so.</p>



		GN 6.5	It is recommended that you give sufficient explanation of what you have done in ascertaining and checking facts to enable the tribunal to be satisfied that you have fully discharged your obligations.
<b>Question 1(d)</b>	Are you confident that you can give an honest and rational justification for all opinions expressed in your report?	Advice from senior counsel to expert witnesses preparing to give evidence, be cross-examined and answer questions from the tribunal	
<b>Question 1(e)</b>	If you were cross-examined, could you substantiate each statement in your report with supporting facts?	PS 5.4(h)	You must clearly state all material facts and make clear which of the facts stated are within your own knowledge, including those that might detract from the opinion as given, and <u>state all assumptions upon which your opinion and reasoning are based.</u>
<b>Question 1(f)</b>	Is your testimony prepared entirely to assist and inform the court/tribunal?	PS 5.3	The role of expert witnesses is to assist the tribunal by providing objective, unbiased opinions on matters within their expertise and make it clear when a question or issue falls outside of their expertise or if they are not able to reach a definite opinion; for example because they have insufficient information.
<b>Question 1(g)</b>	Could you say on oath that you have not been influenced by a personal desire, incentives or other pressures to present your instructing client's case to the court/tribunal in the most favourable light possible?	PS Principal message	Your expert witness report and evidence given must be impartial and uninfluenced by those instructing or paying you to give the evidence. It is imperative that you do not stray from the duties of an expert witness by acting in a partial, misleading or untruthful manner.
<b>Question 1(h)</b>	Are you satisfied that your report is scrupulously impartial?	PS 2.1	Your duty to the tribunal is to set out the facts fully and give truthful, impartial and independent opinions, covering all relevant matters, whether or not they favour your client. This applies irrespective of

		PS 3.2(a)	whether or not the evidence is given either under oath or affirmation.
		PS 5.2	You must only act as an expert witness and give expert evidence where you have the ability to act impartially in the assignment.  Expert evidence should maintain professional objectivity and impartiality at all times.
<b>Question 1(i)</b>	If you or your firm have ever represented the client in a personal or professional capacity, are you certain that your report reflects your honest opinion and is not biased towards or against the instructing client?	PS 2.2	Special care must be taken to ensure that expert evidence is not biased towards those who are responsible for instructing or paying you.
		PS 2.6	Where you are acting, or have previously acted, for a party on a matter (in the course of, for instance, negotiations) and the matter requires, or may in the future require, the giving of expert evidence, you must throughout consider, and then decide, whether you can fully satisfy the overriding duty to the tribunal to provide evidence that is truthful, independent, impartial, and complete as to coverage of relevant matters (please refer to the RICS guidance note <i>Conflicts of Interest</i> ).
		PS 2.1	Your duty to the tribunal is to set out the facts fully and give truthful, impartial and independent opinions, covering all relevant matters, whether or not they favour your client.
		5.4(c)	You must consider all matters material to the issue and dispute, upon which you are required to give an opinion, including matters adverse to your client's case.

<b>Question 1(j)</b>	Can you confirm that the basis of your remuneration (and that of your firm) is not related to the outcome of the court/tribunal proceedings?	PS 10.1	You should not undertake expert witness appointment on any form of conditional or other success-based arrangement.
<b>Question 1(k)</b>	Is the declaration at the foot of your report truthful in every respect?	PS 5.4(p)	Statement of Truth: I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.
<b>Question 1(l)</b>	If you have ever had your evidence rejected or criticised by a court/tribunal, did you discuss this with your client and their counsel before accepting the instruction to prepare your report? Are you able to provide a credible explanation to them and the present court/tribunal about why your current report should be considered reliable?	Advice from senior counsel to expert witnesses taking instructions to act as such, and preparing to give evidence, be cross-examined and answer questions from the tribunal.	
<b>Question 1(m)</b>	Have you complied with all the requirements set out in the RICS Practice	GN 1.4	The practice statement will apply whenever you express an opinion in your role as expert witness. The need for you to act as an expert

	Statement and Guidance Note for Surveyors Acting as Expert Witness?	PS 5.4(p)	<p>witness and follow all the requirements of the practice statement will be determined by the rules of the relevant tribunal, by prevailing custom and the nature of the dispute.</p> <p>Statement of Truth: I confirm that my report complies with the requirements of RICS – Royal Institution of Chartered Surveyors, as set down in the RICS practice statement Surveyors acting as expert witnesses.</p>
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