

# The Real eState with Peter Bill

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From January 2018 agents will be forced to abide by tougher rules on conflicts of interest, being introduced by the RICS to prevent “double dipping.” But the ban on one agent acting for both buyer and seller can be circumvented by ‘mates’ doing each other favours.



Great effort has gone into the 12-page document produced by the RICS on 22 May entitled Conflicts of interest – UK commercial property market investment agency. But will it be effective? The 24-strong list of those thanked for suggesting measures to prevent agents from riding more than one horse include David Sleath, chief executive of Segro; Chris Ireland, UK boss of JLL; and Stephen Hubbard, UK chairman of CBRE.

From 1 January 2018 agents:

- Must not have a contractual relationship with both the seller and buyer under any circumstances: what’s called the “dual agency” ban.
- Must not act for buyers and sellers of property owned by parties holding an interest in the agent: the so-called “related firms” ban.
- Must warn potential clients if they are already acting for clients seeking similar stock: the “multiple introductions” caution.
- Must set up a barrier between dealmakers and those providing planning or valuation advice: the so called “incremental advice” rules.

All very sensible. Well done CBRE and JLL for backing the initiative. But, to repeat the question, will it be effective? The RICS would clearly like self-regulation to work. But there are some who feel the Institution should behave more like the fraud squad than the Green Cross Code man. The SRA is the police force for solicitors, the FSA for financial advisors. Why not an RICS with the power to conduct dawn swoops on surveyors?

Not going to happen. All firms which directly pay the fees of their staff to the RICS would abandon direct payments, that’s for sure. These days few clients would insist the dealmaker is a member of the RICS. In other words, the Institution that has gone as far as it dares to clean up the more egregious practices. By its very nature double dealing has generally benefited big firms at the expense of the small, who now fear circumvention.

Let’s hear the views of a principal of a smaller firm of agents of impeccable reputation: a practice which has suffered over many years from having instructions snatched from under its nose, knowing full well it would result in an increased likelihood of “double dipping” by their bigger rival. “You have to remember this is an industry full of lots of mates who have made their career looking after each other.

“The possibility must remain for a mate to act only as the selling agent on one deal by passing the potential client purchasing possibility on to his mate at another firm. The mate will then reciprocate on the next deal by passing the conflicting buy or sell situation onto his or her mate. I would not be surprised if some sort of unofficial barter system will be set up, where the level of swapped fee instructions can be recorded.” Can anything be done? No.

*Peter Bill*

*Peter Bill is the author of Planet Property and former editor of Estates Gazette.*

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