



BEST PRACTICE GUIDELINES

For the Real Estate Profession



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About the REIQ Best Practice Guidelines

The Real Estate Institute of Queensland (REIQ) has developed these Best Practice Guidelines in consultation with industry leaders to promote education, compliance and best practice in the real estate profession in Queensland.

REIQ Members are encouraged to adopt these Guidelines in their everyday practice.

The main objective of these Guidelines is to enhance the accountability, professionalism and integrity of REIQ Members in carrying on the business of a property agent by:

- setting standards of behaviour and professional conduct for REIQ Members in their dealings with each other and with both clients and consumers; and
- encouraging REIQ Members to promote and exercise compliance through best practice within the industry.

DISCLAIMER

These Guidelines do not constitute legal advice and should not be used as such. The content of this document is provided for information and education purposes only. Formal and independent legal advice should be sought for specific matters.

Whilst the information contained in this document has been developed with due care, the REIQ does not accept any liability to any person or organisation for the information (and/or the use of such information) which is provided in this document.

Although the REIQ will endeavour to keep the information up to date, the REIQ cannot and does not warrant and nor does it represent in any way that the information contained herein will remain current beyond the time and date of publication. The information contained in this document is provided on the basis that all persons accessing it undertake responsibility for assessing the relevance and accuracy of its content.



YOUR INDUSTRY SECTORS

EACH INDUSTRY SECTOR OF THE REAL ESTATE PROFESSION



RESIDENTIAL SALES AGENTS

Residential Sales Agents sell residential houses and land. They are sometimes referred to as the listing agent and may be appointed on a sole, exclusive or open basis.

[Chapter 1](#) and [Chapter 2](#) of these Guidelines relate to Residential Sales Agents.



PROPERTY MANAGERS

Property Managers are appointed by private owners to manage properties that are rented to the general public. Property Managers are responsible to follow their client's instructions and ensure the property is managed compliantly under the relevant legislation.

[Chapter 1](#) and [Chapter 4](#) of these Guidelines relate to Property Managers.



AUCTIONEERS

Auctioneers are specialised real estate professionals who are licensed to conduct auctions in Queensland. Auctioneers are usually engaged by a listing agent on behalf of a seller to sell the property at auction.

[Chapter 1](#) and [Chapter 3](#) of these Guidelines relate to Auctioneers.



BUYER'S AGENTS

Buyer's Agents are licensed real estate professionals appointed to act for a person or entity to purchase a property by locating a property, providing advice and facilitating the transaction on behalf of the client.

[Chapter 1](#) and [Chapter 5](#) of these Guidelines relate to Buyer's Agents.



BUSINESS BROKERS

Business Brokers are licensed property agents that are appointed by a business owner to sell their business. Business Brokers are covered by the same legislation as real estate professionals in Queensland.

[Chapter 1](#) and [Chapter 6](#) of these Guidelines relate to Business Brokers.



COMMERCIAL & INDUSTRIAL AGENTS

Commercial & Industrial Agents are real estate professionals that are appointed to sell, lease and/or manage commercial properties. This can include offices, retail premises, industrial buildings, warehouses and mixed-use buildings.

[Chapters 1](#) and [Chapter 7](#) of these Guidelines relate to Commercial & Industrial Sales Agents and Property Managers.

Becoming a real estate professional

STUDY WITH THE REIQ FOR INDUSTRY LEADING EDUCATION & OPPORTUNITIES

As the Queensland peak body for real estate, the REIQ is committed to producing confident, knowledgeable and job-ready graduates. We're passionate about seeing you succeed in your studies and your career!

With over 100 years' experience and 60,000+ graduates, we know what we're doing and how to help you achieve your goals. Whether you're a high school graduate, career changer or a real estate professional looking to upgrade your career, our training will help you stay a step ahead in your real estate career.

All REIQ training and assessment is developed by industry trainers in consultation with experts in the subject area. All materials are regularly updated to ensure that REIQ's training is meeting the needs of an ever-changing real estate profession. From enrolment to graduation and beyond, we're here to guide you every step of the way.

When do you need a real estate registration or licence?

Authorised Activities	Registration	Full Licence
buy, sell, exchange or rent houses, businesses, land or any interest in these	✓	✓
negotiate on behalf of a buyer, seller, lessor or exchanging or renting of houses, businesses or land	✓	✓
show property, open up a property for inspection and inspect and assess property for sale or rent	✓	✓
advertise a property for rent or sale (includes setting up signs)	✓	✓
own or manage a real estate agency	only allowed to manage place of business (except the principal place of business), unless you are registered with conditions	✓
collect rent on behalf of a lessor	✗	✓
manage an apartment complex and sell any units independently, without having to work through an established agency	✗	✓
operate a trust account	✗	✓
conduct auctions	✗	✗

Find out more about the [REIQ Registration Course](#) and [REIQ Full Licence Course](#).

Become an REIQ Member



If you work in real estate, you're the reason we are here. Representing Queensland real estate professionals for more than 104 years, the REIQ provides more practical help to members than ever before.

An REIQ membership keeps you one step ahead through access to exclusive content, training opportunities and one-on-one professional support throughout your career journey. We offer several different categories of membership, each with different benefits packages and eligibility requirements. From large agencies to students just starting out, the REIQ has a membership option tailored to suit. [Terms and conditions apply.](#)

MEMBERSHIP BENEFIT	SUBSCRIBER	AFFILIATE	GRADUATE	INDIVIDUAL	ACCREDITED AGENCY
	REIQ e-newsletters Nil	Inv \$200 p.a Corp \$300 p.a	FREE I \$99	\$240 p.a	From \$990 p.a
INDUSTRY ADVOCACY Keep abreast of and join the REIQ's advocacy activities that support the industry.	✓	✓	✓	✓	✓
INDUSTRY NEWS, CONTENT & UPDATES Stay informed and connected with timely industry news, content and updates.	✓	✓	✓	✓	✓
FREE CPD COURSES Keep your real estate qualification and experience relevant by completing free continuing professional development.	-	✓	✓	✓	✓
50% DISCOUNT ON REIQ WEBINARS Remain engaged and educated on industry changes, compliance issues and opportunities to grow your business with discounts on REIQ webinars.	-	✓	✓	✓	✓
DISCOUNTS ON IN-PERSON EVENTS Save up to 20% on in-person networking events where you can earn CPD points and learn from experienced professionals and experts from the industry.	-	✓	✓	✓	✓
LISTING ON THE 'FIND AN AGENT' WEBSITE Promote yourself as an agent on the REIQ website and get noticed by over 442,000 website visitors annually.	-	-	✓	✓	✓
AGM VOTING RIGHTS AGMs are hosted annually with new board members voted in every two years. As a member, you can exercise your voting rights at an AGM.	-	-	-	✓	✓
CHAPTER, ZONE CHAIR OR BOARD ELIGIBILITY As a member, you are eligible to vote on Zone, Chapter Chair and Board positions or nominate for a position to represent your industry.	-	-	-	✓	✓
AGENCY ADVICE Access this free service to receive best practice advice from the REIQ on agency matters.	-	-	✓	✓	✓
PROPERTY MANAGEMENT SUPPORT SERVICE Access this free service to receive best practice advice on property management matters.	-	-	✓	✓	✓
AWARDS FOR EXCELLENCE Nominate you and your business for the REIQ Awards for Excellence and gain the exposure and recognition you need to grow your business. Accredited Agency Membership also allows Individual Members in your business to be eligible for nomination into the Awards for Excellence.	-	-	-	-	✓
'FIND AN AGENCY' SEARCH Promote your business and yourself on the REIQ website and get noticed by over 442,000 website visitors annually.	-	-	-	-	✓
DISCOUNTS ON TRAINING PROGRAMS Save from 10% on selected REIQ Training Programs.	-	-	-	-	✓
REIQ BRAND ENDORSEMENT Leverage trust and awareness of REIQ's 100-year-plus brand, with the use of the REIQ logo on your website, shop front, contracts and business cards.	-	-	-	-	✓
REALWORKS HR Save 20% off your Realworks HR subscription.	-	-	-	-	✓
REALWORKS Save over 50% off your Realworks subscription.	-	-	-	-	✓
LEGAL ADVICE Access free legal advice on agency practice issues (worth approx. \$322 per consultation)	-	-	-	-	✓
JOB ADVERTISING Promote agency job ads for FREE on the reiql.com Jobs Board.	-	-	-	-	✓

If you need assistance

The REIQ is the peak body for the real estate profession in Queensland. As a membership organisation, the REIQ is not the regulatory body and does not have authority to investigate complaints or reprimand real estate professionals. Please note the governing body in Queensland is the Office of Fair Trading (OFT).

IF YOU ARE A **TENANT** OR **LESSOR**:

you should contact the [Residential Tenancies Authority](#) for assistance in relation to:

- tenancy laws information
- bond management
- dispute resolution
- investigations and prosecutions
- education services

IF YOU HAVE A **COMPLAINT** AGAINST A REAL ESTATE PROFESSIONAL:

you should contact the [Office of Fair Trading](#) if you have:

- a question about real estate licensing or registration
- a question about trust accounting
- a complaint about a real estate professional

IF YOU NEED **LEGAL** ASSISTANCE:

you should contact a legal practitioner, a community legal service or the [Queensland Law Society](#).

IF YOU ARE A REAL ESTATE PROFESSIONAL AND NEED **ADVICE**:

If you are an REIQ Member and you have a question about best practice, you can contact the Agency Advisory Service or Property Management Support Service. If you are an Accredited Agency, you may be entitled to access the Legal Advisory Service for eligible matters.

Residential Tenancies Authority

Ph: 1300 366 311

[Online Enquiry](#)

Office of Fair Trading

Ph: 13 74 68

[Online Enquiry](#)

Queensland Law Society

Ph: 1300 367 757

[Find a Solicitor](#)

REIQ

Ph: 1300 697 347

Email: ask@reiq.com.au



Definitions & Icons

Definitions

In these Guidelines, the following definitions apply unless expressly stated otherwise:

- a) **Agent** means a property agent or resident letting agent as defined under the PO Act;
- b) **Agency Law** means *Property Occupations Act 2014* (Qld) and *Property Occupations Regulation 2014* (Qld);
- c) **Appointment** means a valid appointment of a Member to provide services in accordance with the PO Act and in the required form;
- d) **Auctioneer** means an auctioneer licensed in accordance with section 14 of the PO Act;
- e) **Client** means the person or body corporate that appoints a Member to represent their interests in a real estate or business transaction or manage real estate on their behalf;
- f) **Consumer** means a person or body corporate that transacts with a Member but does not retain their services;
- g) **Guidelines** means the Best Practice Guidelines published by the Institute;
- h) **Institute** means The Real Estate Institute of Queensland Ltd (ABN 49 009 661 287);
- i) **Legal Practitioner** means an Australian Legal Practitioner in accordance with the *Legal Profession Act 2007* (Qld);
- j) **Listed Agent** means the Agent holding an Appointment;
- k) **Member** (includes Members) means a business entity or person whose name is entered in the Register as a Member of the Institute;
- l) **PO Act** means the *Property Occupations Act 2014* (Qld);
- m) **PO Form 6** means the prescribed Property Occupations Act Form 6 Appointment form;
- n) **PO Form 6A** means the prescribed Property Occupations Act Form 6A Appointment form;
- o) **Realworks** means the real estate forms platform operated by the Institute;
- p) **Register** means the register of Members of the Institute which is maintained under the *Corporations Act 2001*;
- q) **REIQ By-laws** means the By-laws of the Institute registered under the *Corporations Act 2001*;
- r) **REIQ Constitution** means the Constitution of the Institute; and
- s) **Statute Law** means any law under Commonwealth legislation or Queensland legislation, including the *Property Occupations Act 2014* (Qld) and the *Property Occupations Regulation 2014* (Qld).

Frequently Used Icons



Realworks



Legislation



REIQ advice



Guides



Watch



Article



REIQ training



Advice from an authority



REIQ podcast



Legal or financial advice recommended



GENERAL AGENCY PRACTICE

CHAPTER ONE

1

1. PROFESSIONAL AND COMPETENT PRACTICE

Members must:

- (a) hold the required professional qualifications, insurances and indemnities necessary to practice and operate within Queensland;
- (b) act in the best interests of their Client and act in accordance with their instructions, except where to do so would be contrary to Statute Law¹;
- (c) act ethically, fairly and honestly when dealing with all parties so as to minimise controversy and to not prejudice the reputation of the Institute and/or the Members;
- (d) not use or disclose any confidential or sensitive information obtained whilst acting on behalf of the Client or dealing with a Consumer, except where a Member is required by Statute Law to disclose the information;
- (e) not act in a way which amounts to, or which may be perceived as amounting to, a conflict of interest;
- (f) act in a manner that is professional and courteous, with due care and skill, and that does not disadvantage existing negotiations; and

- (g) comply with the Constitution, the REIQ By-laws and these Guidelines.

2. ENGAGING IN LICENSED ACTIVITY

- (a) Members must only perform licensed activities for which they are lawfully authorised to perform².
- (b) Members must not commit an offence under the Agency Law with respect to doing any licensed activities which they are not authorised to perform.
- (c) Members must comply with any conditions imposed on their licence.

3. STATEMENTS ABOUT OTHER AGENTS AND MEMBERS

- (a) A Member must not make false, derogatory or unprofessional comments (in writing or verbally) about another Agent or Member in order to seek a commercial advantage of some kind and/or cause a Client to terminate or not renew another Appointment.
- (b) If a Member makes false, derogatory or unprofessional comments about another Agent or Member, the Member who made such comments are encouraged to, within 5 business days:
 - i. take all reasonable steps necessary to retract such false, derogatory or unprofessional comments; and
 - ii. provide the other Agent or Member with a written apology and undertaking to withdraw such comments.



Real Estate Professionals
are governed by the
Property Occupations Act
2014 in Queensland

¹ *Property Occupations Regulation 2014, s 22*

² *Property Occupations Act 2014, Part 2 – penalties may apply*

4. STATEMENTS WITH RESPECT TO THE MARKETING, SALE, PURCHASE, RENT OR LEASE OF PROPERTIES OR BUSINESSES

Members must not³:

- (a) make false or misleading representations or statements about properties or businesses, or engage in any conduct which is likely to mislead or deceive, including:
 - i. representations or statements about the values of properties or businesses, the features of properties or businesses; or
 - ii. any other matter that is material to the sale, purchase or lease of a property or business, to a Client or Consumer;
- (b) participate in any harsh or unconscionable conduct with respect to the marketing, sale, purchase, rent or lease of properties or businesses; or
- (c) engage in bait advertising.

5. STATEMENTS AMOUNTING TO LEGAL ADVICE

Members must not:

- (a) insert and/or alter a term of a contract or other relevant document, unless that term was prepared and/or altered by a Legal Practitioner; or
- (b) give legal advice in relation to any contract, property dealing or other relevant document.

6. CONFLICT OF INTEREST

Members must not accept an appointment to act, or continue to act, as an agent for a Client if doing so will place the Member's duty or interests in conflict with the Client's interests⁴.

7. FIDUCIARY DUTY

Members must not commit an act or omission which breaches their fiduciary duty to act in their Client's best interests at all times.

8. RISK MANAGEMENT ACTIVITIES

Member Agencies should engage in the following risk management activities on a regular basis:


- (a) ensuring all staff are adequately trained in the function of their role;
- (b) ensuring relevant staff hold the qualifications or registrations they require depending on their duties;
- (c) keeping all employees up-to-date with professional development, legislative compliance and best practice in the industry; and
- (d) maintaining a relationship with legal and financial advisors.

9. INSURANCE

Members who operate a real estate business must maintain professional indemnity insurance cover and any other insurances appropriate to their business activities or as required by the Office of Fair Trading as a condition of their licence.

10. APPOINTMENT TO ACT

Members must:

- (a) not provide any real estate services to a Client unless validly appointed in writing using the prescribed PO Form 6 or PO Form 6A⁵;
- (b) explain the terms of the PO Form 6 or PO Form 6A and any other relevant terms and conditions to the Client before signing;
- (c) encourage Clients to seek legal advice prior to signing the PO Form 6 or PO Form 6A; and 
- (d) give a copy of the fully signed PO Form 6 or PO Form 6A to the Client once all parties have signed⁶.

³ Property Occupations Act 2014, s 212

⁴ Property Occupations Regulation 2014, s 18

⁵ Property Occupations Act 2014, s 102, s 104 – penalties may apply

⁶ Property Occupations Act 2014, s 109 – penalties may apply

11. EXPRESSION OF COMMISSION

If a Member's commission is expressed in the PO Form 6 of PO Form 6A as a percentage, Members must state in writing that the commission is worked out only on⁷:

- (a) for the sale or purchase of property – the actual contract price;
- (b) for the letting of property – the actual rental for the property; or
- (c) for the collecting of rents – the actual amount of rent collected.

12. PRIOR APPOINTMENTS

- (a) Prior to accepting an Appointment to provide a service permitted under the Agency Law, a Member must take reasonable steps to find out whether the Client has⁸:
 - i. an active appointment with an Agent to perform the same service ("Active Appointment"); or
 - ii. previously had an appointment with an Agent to perform the same service ("Prior Appointment").
- (b) If the Client's response to the Member's enquiry confirms the existence of an Active Appointment or Prior Appointment, the Member must, prior to entering into the Appointment, provide the Client with a written warning statement advising that they may have to pay:
 - i. commission to more than one Agent; and/or
 - ii. damages for breach of contract.
- (c) The written warning statement must be provided to the Client before the Member is engaged to provide the service and the Client must be given an adequate opportunity to read and consider the warning statement.

 **Prior Appointment Statement Available in Realworks**

⁷ Property Occupations Act 2014, s 105

⁸ Property Occupations Regulation 2014, s 21

⁹ Property Occupations Act 2014, s 66(1) – penalties may apply

¹⁰ Property Occupations Act 2014, s 66(3) – penalties may apply

13. APPOINTMENT OF SUBSTITUTE LICENSEE

- (a) If a Member who is a principal licensee or is a person in charge of the principal licensee's business is to be absent from the place of business for a period of 30 days or less, they may appoint a substitute licensee during this period⁹.
- (b) The Member must ensure the Appointment and acceptance of the Appointment are:
 - i. in writing and state the period of Appointment;
 - ii. kept in the Member's registered office; and
 - iii. made available for immediate inspection by a regulatory inspector, if requested.
- (c) If a Member who is a principal licensee or is a person in charge of the principal licensee's business is to be absent from the place of business for a period of more than 30 days, they must apply to the Office of Fair Trading to appoint a substitute licensee during this period¹⁰.



- (d) Members must use the [PO Form 11](#) and the substitute licensee must give written and signed consent, with certified identification.

14. VERIFYING OWNERSHIP AND PROPERTY DESCRIPTION

- (a) Before providing real estate services to the Client, Members must take reasonable steps to verify the ownership of property, property description and/or business details¹¹.
- (b) Members should take reasonable steps to verify the identity of the person purporting to be the legal owner of the property or business, or acting on behalf of the legal owner of the property or business.
- (c) Members should conduct a title search of the property and take reasonable steps, including conducting visual inspections, sighting or obtaining evidence from the Client and conducting other searches from a reliable and credible source, to verify:
- the address of the property/business;
 - the legal description of the property, ensuring all lots which encompass the property are identified; and
 - that the Client has the legal authority to deal with the property/business.
- (d) Members should not accept an Appointment if they are not satisfied that the Client has the legal authority to deal with the property/business.

 **Verification of Identity Checklist**
Available in Realworks

15. FACILITATING A VALID TRANSACTION

Members must take reasonable steps to facilitate a valid, legally binding and enforceable contract for sale, purchase, lease or other agreement for their Client by:

- (a) using reasonable care to complete the particulars of a contract/lease (or any other associated and/or legally binding document),

ensuring details are recorded accurately and are sufficiently complete and directing your Client or other parties to obtain necessary advices prior to entering a contract/lease;

- (b) ensuring all other party's details are recorded correctly and verifying the identity of that party to ensure they have legal capacity to enter a contract/lease, by:
- if the party is an individual, sighting photo identification to satisfy the Member of that person's identity;
 - if the party is a company, verifying that the company is registered and that the person has authority on behalf of the company to enter into the document;
 - if the party is a trust, verifying that the person or company entering into the contract/lease has lawful authority to enter into the document as a trustee; and
 - if the party is an attorney or personal representative, verifying that the person has authority on behalf of the principal or estate to enter into the contract/lease.

- (C) using their best endeavours to ensure the critical dates of the contract/lease (including approval dates) are reasonable and achievable taking into consideration the current market standard and the party's reliance on the Members' expertise to provide reasonable direction on these matters.

16. ELECTRONIC COMMUNICATION

Members must obtain consent from all parties to receive information via electronic communication.

 **Consent to Receive Electronic Communication**
Available in Realworks

¹¹ *Property Occupations Regulation 2014, s 19*

17. TRUST ACCOUNTS

Members' trust accounts must be audited for each audit period during which the Member carried on business and operated a trust account.

Members must comply with their legal requirements and trust account obligations imposed by *Agents Financial Administration Act 2014* and *Agents Financial Administration Regulation 2014*, as amended from time to time.

18. DISPUTED TRUST MONIES

(a) If a Member becomes aware of a dispute with respect to monies held in their trust account, which may be between the parties to a property transaction or third party claiming an interest in the money, the Member should provide a notice to all parties that:

- i. the Member considers that a stated party is entitled to the disputed amount;
- ii. the Member is authorised under relevant legislation to pay the amount in dispute to the stated party on or after a stated date being at least 60 days from the date of the notice; and
- iii. the Member shall make such payment unless the parties consent, or the Member receives notice of proceedings in relation to the disputed monies.

(b) If the Member is not certain as to which party is entitled to the disputed amount, the Member may give a notice to all parties that the Member will retain the disputed trust monies until such time that they receive a written authorisation signed by the parties directing how the Member should pay the money or the entitlement to the amount disputed is decided by a court of competent jurisdiction.

(c) Any consent given by the parties should be obtained in writing and kept on file by the Member.



Members are encouraged to read the Office of Fair Trading Trust Account Guide

19. BENEFICIAL INTEREST – PO FORM 7

- (a) A Member has a beneficial interest in a property transaction if a party to a transaction:
- i. is the Member;
 - ii. is an associate of the Member, such as a family member;
 - iii. is someone acting for either the Member or their associate;

- iv. is a member of a corporation of which the Member or their associate is also a member; and
- v. is a person carrying on a business for profit or gain, and the Member or their associate have a direct or indirect right to the income or profits of the buyer's business or the purchase of the property.

Note: **associate**, of a Member, means

- (a) an Agent who acts, for a sale of property, in conjunction with a property agent appointed for section 102 to sell the property;
- (b) a spouse, parent, brother, sister or child of the person; or
- (c) a child of the person's spouse.

- (b) If a Member has a beneficial interest in a property transaction (as defined in 19(a)) for which they have been appointed by one party (the Client), they must provide a completed PO Form 7 to the Client before entering any contract or other legally binding document¹².



Watch the Cyber risk in real estate: Protecting your agency Webinar.

20. DISCLOSURE TO A PROSPECTIVE BUYER – PO FORM 8

If a Member refers a prospective buyer to professional services associated with the sale of a property and that Member:

- (a) has any personal or commercial relationship with that person or entity they have referred to the buyer; and/or

- (b) will derive or expect to derive any consideration (monetary or otherwise) from that person for referring them to the prospective buyer; or
- (c) if there are any other benefits which a party will receive in connection with the sale of the property (ie. finance brokers, marketing agents, etc),

then the Member must provide a completed PO Form 8 to the prospective buyer disclosing the amount, value or nature of the benefit¹³.

 **PO Form 7 & 8**
Available in Realworks

21. CONJUNCTIONAL ARRANGEMENTS

- (a) If a Member requests to enter into a conjunctional arrangement with a Listed Agent, the Listed Agent should respond to the request in a professionally courteous manner and within a reasonable time period and in any event, no more than 3 business days after the request is made.
- (b) If a conjunctional arrangement has been entered into between two or more Members for the sale of a property:
 - i. that conjunctional arrangement:
 - A. must be in writing;
 - B. should state the rate of commission and/or the amount of commission which would be paid if the property were to be sold at the listed or reserve price; and
 - C. should state the percentage to be received by each of the Members to the conjunction arrangement; and
 - D. all dealings concerning the property shall be conducted through the Listed Agent only and not with the Client.

¹² Property Occupations Act 2014, s 154 – penalties may apply

¹³ Property Occupations Act 2014, s 158 – penalties may apply



RESIDENTIAL SALES PRACTICE

CHAPTER TWO

2



REIQ Residential Sales Chapter Committee 2024-2025

The REIQ Chapter Committee is comprised of licensed real estate professionals who are respected and experienced members of their sector. Committee members provide valuable insights to the REIQ about the industry including matters that affect agents on the ground.

Committee members are also involved in providing critical feedback to the REIQ in its education, training, events and advocacy services.

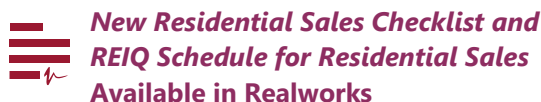
Nyree Ewings, LJ Hooker Cleveland
Le-Anne Allan, Richardson & Wrench Barga
Jason Rose, Harcourts Solutions
Christie Smith, LJ Hooker Property Complete

Glenn Bool, Place Gumdale & Place Manly
Matthew Diesel, McGrath Buderim
Darren Cole, Cole & Yarrow Real Estate
Nicholas Thornton, Ray White Chermside

THIS CHAPTER 2 APPLIES TO A MEMBER SALES AGENT AND SHOULD BE READ IN CONJUNCTION WITH CHAPTER 1 OF THESE GUIDELINES.

1. NEW APPOINTMENT

In conjunction with the PO Form 6 & Residential Sales Schedule and Terms, Member Sales Agents are encouraged to use the REIQ New Residential Sales Checklist.



2. AGENCY LAW COMPLIANCE

- (a) Member Sales Agents may be appointed under the PO Form 6 on the basis that the appointment is open, sole or exclusive. Member Sales Agents must discuss the type of appointment with their Client¹⁴.
- (b) Member Sales Agents or their Clients may terminate an appointment by giving 30 days' notice to the other party, but no less than 60 days after the Client has appointed the Member Sales Agent¹⁵.
- (c) A Member Sales Agent appointed under a sole or exclusive agency for the sale of residential property may be reappointed for one (1) or more terms of not more than 90 days, each time they are reappointed¹⁶.



**REIQ Members can contact
the Agency Advisory
Service on 1300 697 347
for best practice advice.**

3. FUNERAL NOTICES

Member Sales Agents should refrain from attempting to obtain an Appointment from information published in death or funeral notices.

4. IDENTIFY THE PROPERTY

Member Sales Agents should conduct a title search of the property:

- (a) when preparing the PO Form 6 to be signed by the Client; or
- (b) when a contract of sale is prepared.

5. APPRAISAL

- (a) If a Member Sales Agent provides an appraisal for a property, a comparative market analysis (CMA) or written explanation confirming how they have estimated the market value of that property should be provided to the Client¹⁷.
- (b) A CMA provided by a Member Sales Agent must compare:
 - i. at least three (3) properties of a similar standard or condition;
 - ii. sold within five (5) kilometres of the property; and
 - iii. sold within the last six (6) months.
- (c) Member Sales Agents may only provide a CMA or their written statement to a prospective buyer if they have received written consent from the Client.

¹⁴ Property Occupations Act 2014, s 103 – penalties may apply

¹⁵ Property Occupations Act 2014, s 114

¹⁶ Property Occupations Act 2014, s 110 – penalties may apply

¹⁷ Property Occupations Act 2014, s 215 – penalties may apply

- (d) Member Sales Agents must provide a statement to the Client that the CMA is an estimation of market value only and does not constitute a valuation, unless the Member Sales Agent is also a licensed valuer.
- (e) Regardless of whether a CMA has been provided, Member Sales Agents, should:
 - i. use their best endeavours to manage their Client's expectations of what sale price they are likely to receive for the property without underquoting of overquoting the Client;
 - ii. use their best endeavours to negotiate the best terms for their Client; and
 - iii. not provide future capital growth or market forecasts.



**Comparative Market Analysis
Available in Realworks**

6. COMMISSION

Member Sales Agents must clearly state in the PO Form 6 what commission is payable in compliance with Guideline 11 of Chapter 1, including when the commission is payable by the Client.

7. SELLING ADVICE

Member Sales Agents should refer their Client to seek legal advice and financial advice prior to Appointment to:



- (a) confirm the correct legal entity name and details for the seller and if any special conditions are needed if the seller is a trust, personal representative or attorney;
- (b) ensure the Client has sought the appropriate tax and financial planning advice they may require prior to selling their property;

- (c) ascertain what disclosure (if any) needs to be made about the property to any prospective buyer prior to entering the contract for sale; and
- (d) provide any special conditions the seller may need in a contract for sale for their specific circumstances.

8. ADVERTISING

- (a) Member Sales Agents should discuss the scope of the marketing and promotion activities that the Member Sales Agent will carry out during their Appointment. A schedule of fees for the proposed marketing and promotion activities should be provided to the Client. The maximum authorised amount must be inserted in Part 8 of the PO Form 6.
- (b) In addition to Guideline 4 of Chapter 1 of these Guidelines, Member Sales Agents must not engage in misleading or deceptive conduct in advertising a property for sale including making statements about a property that may influence a buyer's decision to purchase a property in reliance on the statement, such as statements about:
 - i. the income, profit or return of the property;
 - ii. the potential or future use of the property; and
 - iii. the future capital growth of the property or predication of future market value.
- (c) Member Sales Agents should use reasonable endeavours to advertise and market the property for sale in the public domain as well as using their own internal channels to reach prospective buyers.

- (d) An advertisement for the sale of a property must contain:
 - i. a sufficient description of the property;
 - ii. the location of the property; and
 - iii. the sale price.
- (e) Member Sales Agents should discuss with their Client the options available to them for advertising the property and the expression of the asking sale price. Member Sales Agents should make recommendations based on their expertise as to how an asking sale price should be expressed to secure the best sale price for their Client.
- (f) Member Sales Agents must seek their Client's approval for any advertising or marketing prior to publication.

Note:

- (a) Expressing a sale price as "offers over" may be considered bait advertising if substantially higher offers are received.**
- (b) Expressing a sale price within a range may be deceptive and misleading conduct if the Client is not willing to accept a price in the lower of the range advertised.**
- (c) If a Client changes their instructions with respect to the listing price and what they are willing to accept, the advertised listed price should be changed (see Guideline 9).**

9. CHANGE IN LISTING PRICE

Member Sales Agents should obtain written instructions prior to changing the listing price of a property. We recommend using the REIQ Seller's instruction to change listing price.

 **Instruction to Change Listing Price**
Available in Realworks

10. PHOTOGRAPHY

- (a) Member Sales Agents should only include recent photographs of a property in their advertisement and marketing of the property and refrain from breaching any copyright laws.
- (b) Member Sales Agents should not use photographs in their advertisement and marketing of the property if the photographs have been altered to the extent that they are misleading or depict the area, colour, condition or features in or around the property to be different than they are.
- (c) If the property is tenanted, the Member Sales Agent must not use a photograph containing a tenant's personal property unless the tenant has provided written consent to the Client or their Property Manager¹⁸.

11. IF THE PROPERTY HAS A TENANT

- (a) A Member Sales Agent must give the tenant a Notice of lessor's intention to sell property (RTA Form 10) to advise them of the intended sale of the property.
- (b) The Form 10 must be given to the tenant before, or when, an Entry Notice (RTA Form 9) is given to the tenant, to show prospective purchasers the property. A Member Sales Agent must also give a copy of this form to the Property Manager/owner before entry.
- (c) A Form 9 must be provided to the property manager and tenant prior to each entry.
- (d) A Member Sales Agent should use their best endeavours to accommodate the tenant with their preferred communication.

 **All RTA Forms**
Available in Realworks

¹⁸ Residential Tenancies and Rooming Accommodation Act 2008, s 203 – penalties may apply



Read about how you can utilise
Proptech to assist
with open homes

12. CONDUCTING OPEN HOMES AND PRIVATE INSPECTIONS

Member Sales Agents should:

- (a) conduct open homes for the property at a time, day and frequency approved by the Client;
- (b) request permission for a private inspection by giving the Client as much notice as practicable;
- (c) only allow prospective buyers to take photographs or videos of the property with the permission of the Client;
- (d) if there is a tenant residing in the property, the Member Sales Agent must obtain the tenant's written consent to do either of the following¹⁹:
 - i. conduct an open house or allow an open house to be conducted; and
 - ii. allow prospective buyers to take photographs or videos of the property and tenant's possessions.
- (e) Communicate the outcome of the open home or private inspection with the client as soon as practicable after completion.

13. AUCTIONS

If a property is to be sold by auction, it is best practice that the Member Sales Agent provide a copy of all relevant documentation to the Member Auctioneer prior to the auction date, including but not limited to:

- (a) a copy of the PO Form 6 (if not already provided);
- (b) contract for Sale and relevant disclosure;
- (b) title Search; and
- (c) list of registered bidders.

¹⁹ Residential Tenancies and Rooming Accommodation Act 2008, s204 – penalties may apply



14. DEALING WITH PROSPECTIVE BUYERS

- (a) Member Sales Agents should act professionally, in good faith and honestly when dealing with prospective buyers and discussing a property for sale.
- (b) Member Sales Agents should refrain from using excessive sales tactics or apply such pressure to a prospective buyer that the prospective buyer makes a decision under duress to either:
 - i. enter a contract for sale on the basis of a representation made by the Member Sales Agent that any matter concerning the prospective buyer may be resolved after the contract is entered; or
 - ii. waive the benefit of a condition under a contract.

15. EXPRESSION OF INTEREST

- (a) A genuine expression of interest should include the following information:
- the offered purchase price;
 - the deposit amount;
 - if the buyer requires the contract to be conditional on finance or a building and pest inspection;
 - if the buyer requires any special conditions to be included; and
 - the proposed settlement date.

Member Sales Agents may in their discretion choose not to provide an expression of interest to their Client, if it does not meet the criteria of a genuine expression of interest and does not constitute a breach of the Member Sales Agent's obligation to act in the best interests of the Client.

 **Notice of Offer to Purchase**
Available in Realworks


16. MULTIPLE OFFERS

- (a) To protect Member Sales Agents from any claim of unprofessional conduct or breach of their fiduciary duty to the Client and for transparency, if a Member Sales Agent receives multiple offers for a property for sale, the Member Sales Agent should:
- notify each prospective buyer that multiple offers are being made for the same property;
 - advise each prospective buyer that they should make their best offer for their Client's consideration by a specified time and date;
 - obtain a signed Multiple Offer notice from each prospective buyer; and
 - present all genuine offers to the Client for the Client's consideration at the stated time and date.

- (b) Member Sales Agents must not engage in conduct that is deceptive and misleading. For example, making representations to one prospective buyer that induces them to increase their offer on the basis of another offer that has been made by another prospective buyer (whether fictitious or not).

 **Multiple Offer Acknowledgement**
Available in Realworks

17. PREPARING A CONTRACT FOR SALE

- (a) If a Member Sales Agent is instructed to prepare a contract for sale by a Client, the Member Sales Agent should notify the Client that:
- the Member Sales Agent can facilitate a contract but will be unable to provide legal advice or services (ie. drafting special conditions) with respect to the contract; and
 - the Member Sales Agent has recommended the Client obtain  legal advice.
- (b) If a Member Sales Agent prepares a contract for sale of a property, the Member Sales Agent should ensure:
- they have completed the particulars of the contract correctly and with reasonable care;
 - they have inserted the correct legal description of the Client and buying entity;
 - they have expressed the price clearly as GST inclusive or exclusive and completed the GST schedule correctly;
 - they have completed the legal description of the property correctly;
 - they have completed the disclosure details correctly and without omission, including title encumbrances, tenancy details, body corporate disclosure; and

- vi. if a special condition is required by the Client, the Member Sales Agent should only insert a special condition if they are certain that condition has been prepared by a Legal Practitioner.

18. SELLER'S CONTRACTUAL DISCLOSURE

(a) Member Sales Agents should obtain instructions from their Client about matters which the Client is required to disclose to a prospective buyer either contractually or legally, including but not limited to, the following matters – refer to the REIQ Seller's Contract Preparation Checklist:


- i. if the present use of the property is lawful;
- ii. the Client's legal capacity to enter and complete the contract (they are not bankrupt or insolvent) and if the seller is a trustee, they have a power of sale under the instrument of trust;
- iii. if there is current, pending or threatened litigation by any third party claiming an interest in the property or which may affect the property or the Client's title to the property;
- iv. if there is an unsatisfied judgment, order or writ affecting the property or Client's ability to complete the contract;
- v. if there is an order or notice issued by a competent authority:
 - A. under the *Building Act* or *Planning Act* (show cause notice);
 - B. proposing to alter dimensions of transport infrastructure;
 - C. to resume any part of the land;
 - D. declaring the land as acquisition land;
 - E. under the *Foreign Acquisitions and Takeovers Act* being a charge on the land;

- F. requiring work to be done or money spent in relation to the property which must be complied with;


- vi. if there are any outstanding obligations imposed on the Client under the *Environmental Protection Act* or if the Client is aware of any other matter which may lead to the land being classified as contaminated;
- vii. if access or any services to the land pass unlawfully through other land;
- viii. if there is an outstanding notice of a development approval which may constitute a mistake in the seller's title to the land;
- ix. if the property is heritage listed;
- x. if the property is a lot in a community titles scheme, that:
 - A. there is no unregistered right which is required to be registered to give indefeasibility affecting the common property of body corporate assets;
 - B. there is no proposal to record a new community management statement; and
 - C. all body corporate consents to improvements made to common property which benefit the lot are in force; and
- xi. a copy of any general tenancy agreements and if there are any disputes or issues with a tenant.

(b) Member Sales Agent must also disclose any material facts in regard to the property which may affect a prospective buyer's decision to purchase the property, acting reasonably, such as:

- i. if there are any significant defects, uncertified structures, owner-builder works;
- ii. if there is stigma attached to the property, such as a death at the property; and
- iii. if there are any nuisance issues pertaining to the property or area surrounding that may reasonably interfere with a buyer's enjoyment of the property.

(c) If any of the above matters in (a) and (b) are applicable to the property, Member Sales Agents must direct their Client to obtain legal advice about their obligations of disclosure prior to entering into a contract with a prospective buyer. 

(d) If a Client instructs a Member Sales Agent not to disclose a matter under this guideline 18, it is recommended that the Member provide a written statement to the Client confirming:

- i. that the Member Sales Agent has directed the Client to obtain legal advice about the matter, the Client's disclosure obligations and the potential ramifications under the contract; and 

- ii. that in any event, the Client has instructed the Member Sales Agent not to disclose the matter.

Note: Refer to the Seller's Contract Preparation Checklist when considering any of the matters in this guideline 18.

 **Seller's Contract Preparation Checklist**
Available in Realworks

19. SECTION 206 DISCLOSURE STATEMENT


(a) This guideline 19 applies if the property being sold is a lot in a Community Titles Scheme.

(b) Member Sales Agents must provide a signed s206 disclosure statement to a prospective buyer of a property with the draft contract.

(c) A s206 disclosure statement must be signed either:

- i. by the Client; or
- ii. by the Member Sales Agent only if they hold a signed written authority from the Client.

(d) Member Sales Agents should obtain a completed statement from the body corporate of the community titles scheme. The Member Sales Agent must not provide advice to the Client about the information provided including whether it is substantially complete.

(e) Member Sales Agents should direct their Client to obtain legal advice about the information disclosed and what termination rights a buyer may have under the *Body Corporate and Community Management Act* should the information be incorrect or incomplete. 

 **Disclosure Statement**
Available in Realworks



Watch the [REIQ Contract Essentials](#) for Sales Agents training video series

20.COOLING-OFF PERIOD

- (a) Member Sales Agents should not provide the parties with any advice in relation to the cooling-off period.
- (b) If a buyer wishes to waive or shorten the cooling-off period, Member Sales Agents must obtain a signed Waiver/Shortening of Cooling-Off Period from them with the signed contract.
- (c) If a contract is terminated by the buyer under the cooling-off period, Member Sales Agents may withhold 50% of any penalty their Client is entitled to retain from the buyer's initial deposit, if applicable under the PO Form 6 REIQ Residential Sales Schedule and Essential Terms.

21.INITIAL / BALANCE DEPOSIT

- (a) Member Sales Agents should try to obtain a maximum total deposit of ten (10) percent of the purchase price for their Client.
- (b) If a buyer has:
 - i. paid a deposit by an electronic funds transfer;
 - ii. provided evidence of payment such as a payment confirmation showing the account details, amount and date of payment; and
 - iii. does not do anything that delays the payment;

then the Member Sales Agent may provide a Notice of Deposit Payment confirming the deposit has been paid on the day it was paid.

- (c) It is recommended that the Member Sales Agent use a third-party secure payment platform when requesting funds from parties. Refer to REIQ Cyber Toolkit.



***Waiver of Cooling Off Period and
Notice of Deposit Payment
Available in Realworks***

22.BUILDING AND PEST CONDITIONS

- (a) If a contract is subject to a building and pest inspection condition, the Member Sales Agent should facilitate an inspection of the property by:
 - i. seeking the Client's approval about the time and date the buyer seeks to have the inspection;
 - ii. if the property is tenanted, issuing an Entry notice (Form 9) to the tenant, within the requisite time frame for notice;
 - iii. encouraging the Client to ensure all parts of the property are accessible to the inspector; and
 - iv. advising the Client to remove hazards at the property prior to the inspection.
- (b) Member Sales Agents should not provide any advice to a prospective buyer about a building and pest inspection report including:
 - i. an assessment of the defects listed;
 - ii. providing an estimation of the cost of repair or replacement with respect to defects; and
 - iii. whether a prospective buyer has a right to terminate based on the type of defect listed or severity of defects accumulated.

23.FINANCE CONDITIONS

- (a) Member Sales Agents should act reasonably if recommending a time frame for a finance approval condition to a prospective buyer, giving consideration to the prospective buyer's reliance on the Member Sales Agents' knowledge and expertise.
- (b) Member Sales Agents should not provide any advice to a buyer with respect to their finance condition of the contract of sale, affirming, waiving or terminating the contract under the finance approval condition.

24. OTHER SPECIAL CONDITIONS

- (a) Member Sales Agents must not provide any advice to the Client or a prospective buyer about the parties' obligations and rights under special conditions.
- (b) Member Sales Agents should not hinder a prospective buyer from obtaining information about the property, Client or body corporate to the extent that the buyer is entitled to such information under the terms of the contract or as reasonably expected to be provided under a condition of the contract.

25. NEGOTIATIONS DURING CONTRACT

- (a) If either party tries to negotiate the terms of an signed contract, Member Sales Agents should refer the parties to their legal representatives to formalise any negotiations.
- (b) If Member Sales Agents engage in negotiations with the parties, they should provide a warning to parties that any agreements made between themselves via the Member Sales Agent may not be binding unless they are formalised by the parties' legal representatives.

26. INSPECTIONS ALLOWED UNDER THE CONTRACT

Member Sales Agents must facilitate an inspection if the buyer is contractually entitled to such inspection, including issuing or requesting the Client's Property Manager to issue an Entry Notice to the tenant if required.

27. SETTLEMENT

Member Sales Agents should keep informed of the progress of settlement by making enquiries with the Client's and buyer's legal representatives. The Member Sales Agent should do anything reasonably necessary to assist with the facilitation of settlement, within the scope of their Appointment.


28. HANDOVER

Member Sales Agents must not:

- (a) handover the keys or devices for the property;
- (b) release the buyer's deposit; or
- (c) account for their commission;

until they have received a notice in writing from all parties' legal representatives confirming that settlement has been completed and the relevant authorities have been issued.

29. EARLY POSSESSION

- (a) If a Member Sales Agent receives a request for early possession from the buyer, the Member Sales Agent should direct the Client and buyer to seek legal advice from their  legal representatives. Any negotiations should be conducted by the legal representatives.
- (b) If a Member Sales Agent receives a notice in writing from both parties that they have agreed for the buyer to take early possession of the property, the Member Sales Agent may handover the keys and devices relating to that property as required in the notice.



- (c) Member Sales Agents must not release the buyer's deposit or account for their commission until they are advised by the parties' Legal Practitioners in writing that settlement has occurred.
- (d) If the contract is terminated while the buyer is in possession of the property, the Member Sales Agent may request the keys and devices be returned by the buyer.


30. DEALING WITH THE DEPOSIT AFTER SETTLEMENT


- (a) If the buyer's deposit held by the Member Sales Agent is sufficient to cover the Member Sales Agent's commission, then the Member Sales Agent may deduct its commission from the buyer's deposit when it releases the deposit to the Client, if authorised under the PO Form 6.
- (b) If the buyer's deposit does not sufficiently cover the Member Sales Agent's commission and a balance is due and payable at settlement, the Member Sales Agent may:
 - i. Account for the entire buyer's deposit after settlement as part payment toward the Member Sales Agent's commission, if authorised under the PO Form 6; and
 - ii. Issue an invoice for the balance amount payable due on the settlement date to be paid by the Client at settlement from the sale proceeds.

31. ENTITLEMENT TO COMMISSION

- (a) Member Sales Agents are entitled to their commission as stated in the PO Form 6 and REIQ Residential Sales Schedule if they are the effective cause of sale of the property.
- (b) If a Client disputes a Member Sales Agent's entitlement to their commission, the Member Sales Agent should send a notice to the Client within 5 business days, stating:
 - i. what amount of commission the Member Sales Agent is entitled to;

- ii. how the Member Sales Agent proposes to take the commission (if they hold a deposit or if an invoice shall be issued);
- iii. confirming the grounds under which the Member Sales Agent is entitled to the commission and authorised to take the commission (as set out in the PO Form 6 REIQ Sales Schedule); and
- iv. giving the Client reasonable time to provide their response before the Member Sales Agent will take further steps to take their commission.

- (c) If the Member Sales Agent does not receive a response from the Client by the stated time or if the Client does not provide a valid reason for their dispute in the Member's opinion acting reasonably, the Member Sales Agent should seek legal advice. 

- (d) If there is a dispute as to whether the Member Sales Agent was the effective cause of sale, the Member Sales Agent should contact the REIQ Agency Advisory Service for practice advice or obtain independent legal advice. 

32. BODY CORPORATE

After settlement, Member Sales Agents should ensure that a completed Information for Body Corporate Roll (BCCM Form 8) is provided to the relevant body corporate by the buyer's Legal Practitioner.

33. ATTORNMENT NOTICE

Once a property has settled, a Member Sales Agent should give the tenant, or cause the Client's Property Manager to give the tenant, an Attornment Notice advising them of the new property owner, the new owner's contact details and where to pay rent, on the settlement date. It is recommended that you request this is completed by the Property Manager immediately after settlement.

Best Practice Guidelines for Using Digital Offer Management Platforms

A **Digital Offer Management Platform (DOMP)** refers to a digital platform that Sales Agents, Auctioneers and/or sellers may use to facilitate the sale of a property online. DOMPs provide an open online platform for parties to:

- access information about listed properties for sale;
- interact with appointed Sales Agents or Auctioneers;
- conduct the online sale of the property by private treaty or by auction; and
- negotiate and manage the sale of property.

When using a DOMP to sell a property, it is important that Sales Agents and Auctioneers clearly identify how the sale is being conducted.

All requirements relating to the conduct of a sale by private treaty and by auction under the *Property Occupations Act 2014* (Qld) and *Regulation 2014* (Qld) will apply to sales using a DOMP.

Sales Agents and Auctioneers are encouraged to adopt the below best practice guidelines when using a DOMP to sell a property:

Characteristic	Sale by Private Treaty	Sale by Auction
Licensee	A Sales Agent may utilise a DOMP for private treaty sales.	Only an Auctioneer (who holds a current Queensland Auctioneer licence) may be permitted to carry out an auction using a DOMP. Sales Agents without an Auctioneer Licence must not use the platform to carry out an auction.
Marketing and Language	Sales Agents should use words that indicate the sale is by way of private treaty. For example, avoid using words such as "reserve price", "bids/bidder/bidding". Use words such as "buyer", "offer".	Auctioneers may use words that indicate the sale is by way of auction. For example, Parties are referred to as "bidders". A "reserve price" may be set. Using the word "auction". Offers may be referred to as "bids".
Conditional Nature	The sale may be conditional or unconditional depending on the Client's instructions.	The sale may be unconditional.
Transparency	Offer amounts may be disclosed to other offerors during the sale process (subject to the Client's instructions).	Bids must be transparent and disclosed to other bidders during the auction process.
Offer Acceptance	Sales Agents may include a notice on the platform to offerors that the seller may not accept the highest offer and may choose to negotiate terms with offerors prior to accepting an offer.	Auctioneers may indicate wording on the platform to notify bidders that the highest bid, should it exceed the reserve price, will be the successful bidder subject to the seller's final approval.

Timing	<p>Timing may be flexible. The Sales Agent may, if the platform allows, pause or extend a sale as the circumstances require.</p> <p>The Sales Agent must seek instructions from their Client in relation to the period the property will be available for sale using a DOMP.</p>	The timing of the auction may occur within a specified period on the specific auction date. The Auctioneer must have written instructions from the Client specifying these details.
Vendor Bids	Not Applicable.	Vendor bids may be permitted, subject to the Client's instructions.
Listing Price	A listing price may be included by the Sales Agent.	Not Applicable.
Reserve Price	Not Applicable.	The Auctioneer may set the reserve price, subject to the Client's written instructions. The Auctioneer must follow Client instructions with respect to the reserve price including announcing, or refraining from announcing, when the reserve price is met and the property becomes on the market.
Registration of Buyers/offerors	<p>Buyers/offerors' identities must be verified prior to entering into a Contract of Sale. To ensure the sale process is successful, Sales Agents may wish to conduct a verification of identity of any person who wishes to make an offer via a DOMP.</p> <p>It is recommended that Sales Agents use the REIQ Buyer Registration and VOI (Digital Offer Management Platform) form to record details of parties making offers via a DOMP.</p>	Not Applicable.
Registration of Bidders	Not Applicable.	All bidders must be registered in accordance with statutory requirements in order to bid at auction. Bidders should provide a signed REIQ Bidder Registration Form with identification supplied. The REIQ Conditions of Sale by Public Auction should be signed by each registered bidder and returned to the Sales Agent and/or Auctioneer prior to the auction.
Record Keeping	The Sales Agent may take records of the sale and retain a copy securely for a period of 7 years, to evidence their compliance should a future claim be made.	The Auctioneer may take records of the sale and retain a copy securely for a period of 7 years, to evidence their compliance should a future claim be made.
Client Instructions	The Sales Agent must obtain and comply with their Client's instructions in relation to the sale of the property. Sales Agents may use the REIQ Sale by Digital Offer Management Platform Annexure to the PO Form 6 to ensure they have	The Auctioneer must obtain and comply with the Client's instructions in relation to the sale of the property by auction.

	obtained necessary instructions to carry out a sale via a DOMP.	
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INFORMATION DISPLAYED ON THE PLATFORM

When electing which DOMP to utilise for the sale of the property, Sales Agents and Auctioneers should consider the capabilities of the platform and ensure the following details are available:

1. **Property and Sale Information.**

- sufficient details about the property being sold
- whether the sale is by private treaty or auction
- the dates and times that the property may be listed for sale on the DOMP, or time and date of the auction

2. **Contract & Supporting Documents.**

- the Contract of Sale for the property including any annexures, schedules, special conditions
- if the property is a lot in a community titles scheme, the disclosure statement signed by the seller should be included
- if the property is being sold by way of auction, the conditions of sale by public auction and the building and pest inspection report (if applicable) should be included

3. **User Information.**

How-to guides/manual and resources or videos to educate users on how to use the platform, how to make offers, how to understand the interface, where to find information on the sales process, and other important aspects of the sale.

4. **Contact Information.** The contact details of the Sales Agent and/or Auctioneer should be clearly displayed and easily accessible by the parties. IT support details should also be easily accessible to a user.

5. **Privacy Policy.** If any personal information is collected by the Agent and/or Auctioneer, a link to the privacy policy of the agency should be included.

RISK MANAGEMENT

The Sales Agent and Auctioneer should ensure risk management and consumer protection measures are taken when conducting the sale of property using a DOMP.

If the above guidelines are not reasonably adopted, then there may be a risk that:

- a party can make a claim of misleading representations or deceptive conduct against the Sales Agent or Auctioneer on the basis that a private treaty sale is represented as an auction or vice versa;
- a party potentially having grounds to rescind a contract;
- the client making a claim for negligence against the Sales Agent or Auctioneer, should a contract be rescinded;
- the Sales Agent or Auctioneer becoming liable for penalties for breaching relevant provisions of the *Property Occupations Act 2014* (Qld) or *Regulation 2014* (Qld); and
- the Sales Agent or Auctioneer becoming liable for penalties under Australian Consumer Law for misleading and deceptive conduct.

Sales Agents and Auctioneers should carefully consider the language used on a DOMP and how information is communicated to parties, to reduce the risk of potential claims against the Sales Agent or Auctioneer.

Sales Agents and Auctioneers should also enquire with their professional indemnity insurer to ensure that their policy covers the use of such platforms.

Agents and Auctioneers must keep in mind that selling property using a DOMP does not negate their statutory requirements to:

- disclose material facts to buyer/s that may impact their decision to buy the property;
- obtain written authorisations from buyer/s should another party be placing a bid or offer on their behalf; or
- act in the best interests of the Client at all times.

CHANGING THE SALE METHOD

If there is a change in the sale method/type during a campaign using a DOMP, the Sales Agent should consider whether a new PO Form 6 Appointment is required.

For example, critical information such as the auction date will be required for a valid appointment if the sale is changed from private treaty to auction during the campaign. All instructions must be taken in writing prior to modifying the platform and notifying interested parties.

If a sale is changing from private treaty to sale by auction and a listing price has been disclosed, the Sales Agent should retract this and include applicable statements in relation to the reserve price, as required under the *Property Occupations Regulation 2014* (Qld).

OVERCOMING TECHNOLOGY BARRIERS

Agents should be prepared to assist buyers/bidders who may face technological barriers or lack access to telecommunications and internet capability. This could include providing how-to guides or making offers on behalf of buyers/bidders. It may otherwise be appropriate not to proceed with the sale using a DOMP, if doing so will potentially discriminate against a buyer/bidder that does not have the ability to participate.

CONCLUSION

DOMPs are powerful tools that can enhance the property sales process. However, it's crucial that Sales Agents and Auctioneers adopt best practice procedures when using DOMPs to ensure fairness, transparency, and compliance with legislation. By doing so, they can provide a positive experience for all parties involved.



AUCTIONEER PRACTICE

CHAPTER THREE

3



REIQ Auctioneer Chapter Committee 2024 - 2025

The REIQ Chapter Committee is comprised of licensed auctioneers who are respected and experienced members of their sector. Committee members provide valuable insights to the REIQ about the industry including matters that affect agents on the ground.

Committee members are also involved in providing critical feedback to the REIQ in its education, training, events and advocacy services.

Yianni Mooney, Yianni Mooney Property
Rob Doorey, Apollo Auctions
David McMahon, Ray White Burleigh Group South

Peter Burgin, Place
Jack Barrett, Torres Property

THIS CHAPTER 3 APPLIES TO MEMBER AUCTIONEERS AND SHOULD BE READ IN CONJUNCTION WITH CHAPTER 1 OF THESE GUIDELINES.

1. NEW APPOINTMENT

In conjunction with the PO Form 6 & Residential Sales Schedule and Terms, Member Auctioneers are encouraged to use the REIQ Auction Checklist, Conditions of Sale for Public Auction, Bidders Guide, Bidder Registration Form and Notice of Reserve Price.



Auction Forms
Available in Realworks

2. REFERRAL FROM LISTING AGENT

- (a) Member Auctioneers may be appointed to provide auctioneering services to a Client at the referral of the Client's Sales Agent.
- (b) Member Auctioneers must ensure they are validly appointed to act as an Auctioneer under a PO Form 6 from the Client in relation to the sale of a property.
- (c) The PO Form 6 must state the day set for the auction²⁰.



The Office of Fair Trading website has general information about requirements for Auctions in Queensland

3. VERIFICATION OF PROPERTY

Member Auctioneers should take reasonable steps to verify the details of the property they have been appointed to sell at auction by obtaining a title search of the property and any other property research the Member Auctioneer may obtain to verify the details of the property²¹.

4. SETTING A TIME, PLACE AND DATE FOR AUCTION

Member Auctioneers should ensure the auction is:

- (a) scheduled at a suitable time on the stated date with consideration to the practical convenience of the general public (ie. during daylight hours, not on a public holiday such as Easter, Christmas and Anzac Day); and
- (b) held at a location that is accessible, safe, free from hazards or other deterrents.

5. CONSENT TO HOLD AN ONSITE AUCTION

If the property is rented at the time of the scheduled auction, the Member Auctioneer should confirm the Sales Agent or Property Manager has obtained a signed consent from the tenant to hold the onsite auction prior to entry²².

6. CLIENT'S INSTRUCTIONS – RESERVE

- (a) Member Auctioneers should obtain a signed Notice of Reserve Price from the Client prior to the auction, setting out the:

²⁰ *Property Occupations Act 2014*, s 107

²¹ *Property Occupations Regulation 2014*, s 19

²² *Residential Tenancies and Rooming Accommodation Act 2008*, s 204

- i. reserve price;
 - ii. instructed deposit amount; and
 - iii. instructed settlement time frame.
- (b) Member Auctioneers should discuss the reserve price with the Client, including:
- i. that the reserve price will be lowest acceptable sale price unless the Client approves a lower bid at auction;
 - ii. if the reserve price is reached or exceeded, the property will become on the market and the Member Auctioneer must accept the highest bid made at the auction and can no longer accept a bid from the Client (commonly known as 'vendor bid')²³;
 - iii. if the Member Auctioneer will or will not announce to the bidders once the reserve price is reached;
 - iv. if the reserve price is not reached, that the property may be passed in; and
 - v. that the Member Auctioneer may accept verbal instructions from the Client at auction with respect to the reserve price, deposit and settlement date and how the verbal instructions must be given.
- (c) Member Auctioneers may only recommend a reserve price to a Client (including to their Sales Agent) if they also provide either a comparative market analysis (CMA) or written explanation confirming how they have estimated the market value of property²⁴.
- (d) A CMA provided by a Member Auctioneer must compare:
- i. at least three (3) properties of a similar standard or condition;
 - ii. sold within five (5) kilometres of the property; and
 - iii. sold within the last six (6) months from the auction date.

- (e) Member Auctioneers must not disclose to any person (other than a person acting for the Client) prior to an auction²⁵:
 - i. the reserve price;
 - ii. an amount the Member Auctioneer considers is a price likely to result in a successful or acceptable bid; or
 - iii. a price guide.
- (f) Member Auctioneers may only provide a CMA or their written statement to a prospective buyer if they have received written consent from the Client.
- (g) Member Auctioneers must provide a statement to the Client that the CMA is an estimation of market value only and does not constitute a valuation, unless the Member is a licensed valuer.

7. NO RESERVE

Where the Client does not provide the Member Auctioneer with a written reserve price prior to the auction then the Member Auctioneer²⁶:

- (a) must caution the Client against selling the property without a reserve price and advise that the Member Auctioneer must accept the highest bid at auction; and
- (b) will not allow a bid to be made by or on behalf of the Client at the auction.

 **Reserve Notices and Forms**
Available in Realworks

8. VENDOR BIDS

- (a) The Member Auctioneer may bid on behalf of the Client at the auction provided always that the bid does not exceed the reserve price²⁷, and they have written instructions from the Client authorising them to make a vendor bid on their behalf.

²³ Property Occupations Regulation 2014, s 24

²⁴ Property Occupations Act 2014, s 213 – penalties may apply

²⁵ Property Occupations Act 2014, s 214 – penalties may apply

²⁶ Property Occupations Act 2014, s 213 – penalties may apply

²⁷ Property Occupations Regulation 2014, s 24

- (b) If the last bid at an auction is made by a Member Auctioneer on behalf of the Client and the auction is ended because the reserve price has not been reached, any future statements or representations made when marketing the property must not state the amount of the last bid without also stating that the bid was a bid made on behalf of the Client²⁸.

9. REGISTRATION OF BIDDERS

- (a) The Member Auctioneer must keep a register of all registered bidders for an auction²⁹.
- (b) In order to validly register for an auction, a prospective bidder must³⁰:
- provide a signed Bidder Registration Form and REIQ Conditions of Sale – Public Auction; and
 - provide their name, address, contact details and sufficient identification material to the Member Auctioneer.
- (c) Member Auctioneers must only accept bids from bidders that have formally registered for the auction³¹.
- (d) When a bidder is registered for an auction, the Member Auctioneer must provide a bidder registration number to the registered bidder which they must use in order to make a bid at the auction³².
- (e) Bidders should use their best endeavours to register for an auction prior to the commencement of the auction. If the Member Auctioneer wishes to accept a registration of a bidder during an auction, the Member Auctioneer must not accept a bid from that person until they have registered to bid in accordance with Agency Law and as set out in this Guideline 9.



Auctioneers are required to hold an Auctioneer Licence in addition to a real estate licence or registration

²⁸ Property Occupations Regulation 2014, s 24

²⁹ Property Occupations Regulation 2014, s 23(1)

³⁰ Property Occupations Act 2014, s 23(4)

³¹ Property Occupations Regulation 2014, s 23(2)

³² Property Occupations Regulation 2014, s 23(5)

10. AUTHORITY TO BID

- (a) If a person is bidding on behalf of another person, they must provide the Member Auctioneer an executed Letter of Authority on behalf of another person when they register to bid that contains:
 - i. details of the person who is the buyer;
 - ii. the person who is the registered bidder; and
 - iii. whether they are a buyer's agent.
- (b) If a person intends to bid at an auction by telephone, they must identify this in the Letter of Authority when they register to bid.

11. AUCTIONEER IDENTIFICATION

- (a) Member Auctioneers must identify themselves to the persons attending an auction by erecting a sign with the Member Auctioneer's name in a clear, legible manner and located in a conspicuous position either by the entrance of the property or at an obvious position at the location of the auction³³.
- (b) If it is not possible to do so acting reasonably, such as due to weather conditions, the Member Auctioneer may announce their name at the start of the auction.

12. DISPLAYING CONDITIONS OF SALE

Member Auctioneers must make the Conditions of Sale of the Property by Auction available to the prospective buyers for inspection prior to the auction.



13. AUCTIONEER STATEMENT

Prior to commencing an auction, Member Auctioneers should announce the following information:

- (a) a statement identifying the property being sold, by its physical address and legal description;
- (b) that the Member Auctioneer will only accept bids from registered bidders;
- (c) the unconditional nature of the auction;
- (d) that there is no cooling-off period for the contract of sale;
- (e) that the contract of sale will not be conditional on finance approval or a building and pest inspection;
- (f) if the contract contains special conditions, setting out what the special conditions are;
- (g) that the successful bidder must enter a contract of sale and will likely be required to pay the deposit immediately after the auction;
- (h) if GST is applicable to the price and whether the price stated is GST inclusive or exclusive;
- (i) the amount of deposit required and when it will be payable;
- (j) any material facts or disclosure that the Client is required to give a buyer prior to a contract of sale being entered; and
- (k) if there is any other information the Member Auctioneer reasonably considers it should provide to the registered bidders prior to the commencement of the auction in order to facilitate a successful auction.

³³ *Property Occupations Regulation 2014, s 9*

14. CONDUCT OF THE AUCTION

A Member Auctioneer should conduct the auction by:

- (a) announcing clearly when a bid is made by a registered bidder;
- (b) announcing clearly what sale price has been bid;
- (c) announcing clearly what increment a bid may be increased by;
- (d) clarifying with a registered bidder immediately if there is any doubt about whether they have bid and what amount they have bid; and
- (e) when the highest bid has been made (which exceeds the reserve price) without further bids, the Member Auctioneer should clearly announce that the property is going to be sold to that registered bidder, by making no less than three (3) final announcements, clearly distinguishing between each of those announcements, prior to announcing the sale of the property to that registered bidder.

15. REFUSING TO TAKE A BID

Member Auctioneers have the discretion to refuse a bid from any bidder (such as from a bidder that has not registered). If a Member Auctioneer refuses a bid, they should announce the refusal to all other bidders during the auction.

16. DISPUTES

If there is a dispute in relation to a bid or the result, Member Auctioneers can resubmit the property for auction, or with the Client's bid in the event the dispute arises before the reserve price was reached.

17. CONTRACT OF SALE

- (a) Member Auctioneers should ensure they have a draft contract of sale on hand at the auction for the successful bidder to enter into after the auction.

(b) The draft contract of sale should:

- i. be prepared by the Sales Agent or the Client's Legal Practitioner; and
- ii. include the relevant particulars in the contract schedule to form a binding contract once signed by both parties.

(c) If a Member Auctioneer is authorised to sign any document or contract on behalf of a Client or buyer, the Member Auctioneer must hold such authority in writing.

18. COMPLIANCE

Member Auctioneers must comply with the REIQ Conditions of Sale – Public Auction.

19. MEMBER AUCTIONEER ACTING FOR SELLER AND POTENTIAL BUYER

Where a contractor, employee or agent of a Member Auctioneer has been requested to bid at an auction for a prospective buyer and where the Member Auctioneer is also the appointed agent of the seller, the Member Auctioneer must, regardless of whether the buyer is present or absent from the auction, announce that fact and identify the contractor, employee or agent of the Member Auctioneer who will be bidding.

20. PROPERTY PASSED IN

If a property is passed in at auction, the Member Auctioneer may be reappointed by the Client to conduct another auction.

21. DUMMY BIDDING

Member Auctioneers must not arrange for or knowingly allow dummy bidding to occur at an auction. If a Member Auctioneer reasonably suspects a dummy bid is made at auction, the Member Auctioneer should reject the bid.



PROPERTY MANAGEMENT PRACTICE

CHAPTER FOUR

4



REIQ Property Management Chapter Committee 2024 - 2025

The REIQ chapter committee is comprised of licensed property managers who are respected and experienced members of their sector. Committee members provide valuable insights to the REIQ about the industry including matters that affect agents on the ground.

Committee members are also involved in providing critical feedback to the REIQ in its education, training, events and advocacy services.

Clint Dowdell-Smith, Dowdell Property
Caroline Duxfield, Solutions Property Management
Tammy Vitale, Vitale & Co
Talisha Buttsworth, Island Sands Asset Management


Bronwyn Evans, McAdam & Turnbull Realty
Rebecca Fogarty, Blackbird and Finch
Sara-Jayne Hutchinson, Aria Living Pty Ltd
Brooke Willis, Brooke Willis Property Pty Ltd

THIS CHAPTER 4 APPLIES TO MEMBER PROPERTY MANAGERS AND SHOULD BE READ IN CONJUNCTION WITH CHAPTER 1 OF THESE GUIDELINES.

1. NEW APPOINTMENT


In conjunction with the PO Form 6 & Residential Property Management Schedule & Terms, Member Property Managers are encouraged to use the New Residential Property Management Checklist.

2. LEGISLATIVE COMPLIANCE

- (a) Member Property Managers should keep informed of their and their Client's statutory obligations and requirements under the *Residential Tenancies and Rooming Accommodation Act 2008* (the **RTRA Act**) and PO Act and regulations, which may be amended from time to time.
- (b) Member Property Managers should advise their clients:
 - i. that the letting of residential property is subject to this legislation;
 - ii. of any amendments to the legislation which may impact their Client's rights and obligations with respect to their property; and
 - iii. direct them to seek independent legal advice if they have any  queries about their statutory obligations which must be complied with as a lessor.
- (c) Member Property Managers must not include a term in a Form 18a General Tenancy Agreement (Form 18a) or Form R18 Rooming Accommodation Agreement (Form R18) which seeks to exclude, change or restrict the application of the RTRA Act.
- (d) Member Property Managers must ensure they are providing the correct forms and notices to the parties as prescribed under the RTRA Act.
- (e) Member Property Managers must ensure notices are given in accordance with the terms of the Form 18a and RTRA Act.

- (f) When using prescribed RTA forms, Member Property Manager's must ensure they complete the forms fully and accurately, to ensure the RTA is provided with the correct information.

3. MEMBER APPOINTMENT AND AUTHORITY

- (a) Member Property Managers that are appointed under a PO Form 6 are authorised to do any act or thing that their Client is required to do as the lessor of a property under the Form 18a or the RTRA Act³⁴.
- (b) Member Property Managers must not do any act or thing on behalf of their Client which they are not authorised to do under the Form 18a or RTRA Act, or as otherwise authorised by their Client in writing.
- (c) To the extent of any inconsistency, a Member Property Manager must obey their Client's instructions. If a Member Property Manager is instructed:
 - i. to do any act or thing on behalf of the Client that contravenes their Client's contractual or statutory obligations; or
 - ii. not to do any act or thing on behalf of their Client, that their Client may be contractually or legally obligated to do;then the Member Property Manager should refrain from complying with their Client's instructions until their Client has obtained legal advice about their obligations with  respect to such act, thing or omission.
- (d) Member Property Managers must not sign the PO Form 6 appointment on behalf of the Client.



**PO Form 6 with REIQ Property
Management Schedule & Essential Terms
Available in Realworks**

³⁴ *Residential Tenancies and Rooming Accommodation Act 2008, s24*

4. SCOPE OF SERVICES

- (a) Member Property Managers should identify the scope of the services they may provide to the Client and their fees in connection with the services, this includes:
 - i. Letting the property;
 - ii. Paying outgoing/disbursements of the property on behalf of the Client;
 - iii. Collecting rent and outgoing;
 - iv. Conducting inspections;
 - v. Attending to matters on behalf of the Client in compliance with the Form 18a General Tenancy Agreement and RTRA Act including QCAT;
 - vi. Issuing notices to the tenant; and
 - vii. Administration and other office duties.
- (b) Member Property Managers' fees must be particularised in the PO Form 6³⁵.
- (c) If a Member Property Manager is authorised to pay any amount on behalf of a Client in relation to the property, the maximum authorised amount must be set out in the PO Form 6³⁶.
- (d) If a Member Property Manager is required to make a payment greater than the maximum authorised amount, the Member Property Manager must obtain instructions in writing from the Client authorising the amount to be paid by the Member Property Manager.
- (e) The Member Property Manager must obtain any documents, notices or invoices it reasonably requires to carry out its services in relation to the property. If the Client does not provide the Member Property Manager with such information it requires, the Member Property Manager should give the Client a warning advising of what services the Member Property Manager will not be able to carry out as a result (for example, if a Member Property Manager is instructed to make payment of an outgoing but is not provided the notice or invoice with payment details).



**Read about how to
change management fees
listed in your Form 6 by
completing a valid Variation.**

5. TRANSFER OF MANAGEMENT

- (a) If a Member Property Manager is appointed to manage a property with an existing tenant, the Member Property Manager should:
 - i. obtain all documents and information required from the Client or the former property manager (if applicable) to manage the property and carry out their services; and
 - ii. provide the requisite Notices to the tenant advising that they have been appointed and any other information the tenant may require.

Note: documents may include, but are not limited to, a copy of the Form18a General Tenancy Agreement, Form1a Entry Condition Report, copy of any notices previously issued to the tenant, copy of any correspondence between the tenant and former property manager concerning the condition of the property or rights of the tenant, statement of account, copies of invoices, bills and notices issued for the property such as utilities (if applicable).

- (b) The outgoing Member Property Manager should use their best endeavours to provide the newly appointed Member Property Manager with all documents required by the incoming Member Property Manager.
- (c) The Member Property Manager must promptly provide an RTA Form 5 Change of property manager/owner to the RTA.

³⁵ Property Occupations Act 2014, ss 104, 105

³⁶ Property Occupations Act 2014, s104(1)(c)

6. PRIVACY NOTICE

The Member Property Manager should provide a Privacy Notice and Consent:

- (a) To the Client when entering the PO Form 6; and
- (b) To a prospective applicant when their application is made.

7. SUPPLY OF GOODS AND SERVICES

Member Property Managers must not require a prospective tenant to purchase goods or services from the Member Property Manager or their Client as a condition to enter the Form 18a³⁷.

8. NEW RENTAL PROPERTY

If a new Client is letting a property for the first time, Member Property Managers should advise their Client of what items they should attend to prior to letting the property. This includes (but are not limited to):

- (a) setting up utility accounts;
- (b) entering any arrangements they require for landscaping and yard maintenance.

9. ADVERTISING

- (a) Member Property Managers must not advertise a property without a fixed amount stated for rent, other than by erecting a sign that says "For Rent" at or near the property³⁸.
- (b) Member Property Managers should discuss the scope of the marketing and promotion activities that the Member Property Manager will carry out during their appointment.
- (c) The Member Property Manager must provide a schedule of fees for the proposed marketing and promotion activities and insert a maximum authorised amount in Part 8 of the PO Form 6.
- (d) In addition to Guideline 4 of Chapter 1 of these Guidelines, Member Property Managers must

not engage in misleading or deceptive conduct in advertising a property for rent including making statements about a property that may influence a prospective tenant's decision to rent the property in reliance on the statement.

- (e) Member Property Managers should use best endeavours to advertise and market the property for rent in the public domain as well as using their own internal channels to reach prospective tenants.
- (f) An advertisement for letting of a property should contain:
 - i. a sufficient description of the property;
 - ii. the location of the property;
 - iii. the rent amount; and
 - iv. any relevant conditions or requirements of the Client for the prospective tenant.
- (g) Member Property Managers must seek their Client's approval for any advertising or marketing prior to publication.



REIQ Members can access the
How to Avoid Producing
Misleading Advertising Webinar
presented in collaboration with
Carter Newell Lawyers

10. PHOTOGRAPHY

- (a) Member Property Managers should only include recent photographs of a property in their advertisement and marketing of the property and refrain from breaching any copyright laws.

³⁷ Residential Tenancies and Rooming Accommodation Act 2008, s171

³⁸ Residential Tenancies and Rooming Accommodation Act 2008, s57

- (b) Member Property Managers must not use photographs in their advertisement and marketing of the property if the photographs have been altered to the extent that they are misleading or depict the area, colour, condition or features in or around the property to be different than they are.
- (c) Unless the tenant has given written Consent, Member Property Managers must not use photographs of the property for advertisement that shows items belonging to the tenant³⁹.

11. OPEN HOME INSPECTIONS / PRIVATE INSPECTIONS

Member Property Managers must:

- (a) conduct open inspections for the property at a time, day and frequency approved by the Client and subject to the written consent of any existing tenant;
- (b) request permission for a private inspection by giving the Client as much notice as practicable;
- (c) if there is an existing tenant, give an Entry Notice no less than 24 hours prior to the proposed inspection; and
- (d) only allow prospective tenants to take photographs or videos of the property with the permission of the Client, and if applicable, the existing tenant.

12. APPLICATION FOR TENANCY

- (a) Member Property Managers should obtain a signed Application for Residential Tenancy from each prospective tenant for consideration.
- (b) The Application should contain the information reasonably required to fulfil the Member Property Manager's obligations under Guideline 13 and 14.



Tenancy Application
Available in Realworks

13. PROSPECTIVE TENANTS

- (a) Member Property Managers should prepare a criteria for a suitable tenant based on their Client's instructions and relevant legislative requirements which they may use to assess the suitability of prospective tenants.
- (b) Member Property Managers should obtain sufficient information about a prospective tenant for the Client's consideration. Member Property Managers should verify and confirm:
 - i. the prospective tenant's identity (such as 100pts of certified photo identification, proof of citizenship or residency status);
 - ii. the prospective tenant's rental history (such as references from former lessors, property managers);
 - iii. the prospective tenant's employment status (such as payslips, employer reference, Centrelink statement);
 - iv. the prospective tenant's financial circumstances (such as bank statements, credit history check);
 - v. the prospective tenant's suitability (such as police check, personal references);
 - vi. if the prospective tenant has a pet, any information required to verify that pet is suitable for the property; and
 - vii. that a prospective tenant has capacity to enter into a Form 18a or Form R18, noting a minor has capacity under the Act.

Check the REIQ Cyber Toolkit for what information needs to be stored and what should be deleted after verification

³⁹ Residential Tenancies and Rooming Accommodation Act 2008, s203

14. ASSESSING SUITABILITY OF A PROSPECTIVE TENANT

Member Property Managers should assess the suitability of a prospective tenant and be satisfied that:

- (a) the prospective tenant has sufficient financial means to meet their obligations under the Form 18a without placing themselves into financial hardship;
- (b) the prospective tenant is a suitable person with a good rental history and credit history check; and
- (c) there are no apparent circumstances as to why the prospective tenant is not a suitable tenant for the property (for example - are there more persons than bedrooms, are there accessibility issues).

15. DISCRIMINATION

The Member Property Manager must not discriminate against a prospective tenant on the basis of their race, ethnicity, gender, sexual orientation, family make-up or religion or any other basis in accordance with anti-discrimination laws. If a Member Property Manager suspects their Client to be in breach of anti-discrimination laws, they should seek legal advice about what steps they should take, or if they are an REIQ Member, contact the REIQ Agency Advisory Service for more information.

16. CLIENT INSTRUCTIONS

- (a) Member Property Managers must comply with the Client's instructions about the level of involvement the Client wishes to have in selecting a tenant. Member Property Managers must provide the Client with any information requested about a prospective tenant.
- (b) Notwithstanding Guideline 16(a), Member Property Managers must obtain written confirmation from their Client to approve a prospective tenant.



Read about how anti-discrimination laws in Queensland apply to residential tenancies.

17. RENT APPRAISAL

- (a) Where applicable, Member Property Managers should provide a Comparative Market Analysis (CMA) or written statement to the Client as a rental appraisal for the property.
- (b) A CMA provided by a Member Property Manager must compare:
 - i. at least three (3) properties of a similar standard or condition;
 - ii. let within five (5) kilometres of the property; and
 - iii. let within the last six (6) months.
- (c) Member Property Managers must provide a statement to the Client that the CMA is an estimation of market value only and does not constitute a valuation, unless the Member Property Manager is a licensed valuer.

- (d) Regardless of whether a CMA has been provided, Member Property Managers:
- i. should use their best endeavours to manage their Client's expectations of what rent they are likely to receive for the property;
 - ii. must use their best endeavours to negotiate the best terms for their Client; and
 - iii. must not provide advice about future rental growth or market forecasts.

18. PAYING OUTGOINGS

The Client is responsible to pay all charges, levies, premiums, rates or taxes payable for the property. Member Property Managers may attend to this on behalf of the Client if:

- (a) the Client has instructed the Member Property Manager to do so to a maximum amount authorised in the PO Form 6 REIQ Schedule;
- (b) the Client has provided the Member Property Manager with, or otherwise caused the redirection of, all accounts, notices or invoices needed to make payment of the outgoings; and
- (c) the Member Property Manager holds sufficient funds to make payment of outgoings from the amounts collected from the tenant.

19. GENERAL SERVICE CHARGES

If the property is not individually metered for the service or facility, Member Property Managers must ensure the Form 18a includes a provision requiring the tenant to pay an amount for the outgoings by specifying the service payable, how the apportionment will be worked out and how outgoings may be recovered by the Client⁴⁰.

Note: a 'general service charge' has the same meaning under the RTRA Act, meaning a service charge that is not a water service charge

20. WATER SERVICE CHARGES

- (a) If the property is individually metered for supply of water, Member Property Managers must ensure the Form 18a states that an amount for water consumption charges for the property is payable by the tenant⁴¹.
- (b) Member Property Managers can charge a tenant all water consumption charges if the property is water efficient and the Member Property Manager has obtained evidence from the Client such as a plumber's compliance certification or other relevant documentation.
- (c) If the property is not water efficient, the tenant may only be charged an amount for the water consumption charges payable that are for a reasonable quantity of water supplied to the property.
- (d) The Member Property Manager must not:
 - i. charge a tenant an amount for water consumption charges which is more than the amount charged by the water supplier; and
 - ii. charge the tenant an amount of the water service charges payable for the property for a fixed charge for the water service to the property.

21. SERVICE CHARGES - ROOMING ACCOMMODATION

If the tenancy is rooming accommodation, Member Property Managers cannot require a tenant to pay a utility service charge (including electricity, water, gas) for their room unless there is a separate meter for the service and the amount charged is not more than the amount payable by the Client⁴².

⁴⁰ Residential Tenancies and Rooming Accommodation Act, s 165

⁴¹ Residential Tenancies and Rooming Accommodation Act 2008, s166

⁴² Residential Tenancies and Rooming Accommodation Act 2008, s170

22. RECEIVING RENTS AND OUTGOINGS

Member Property Managers:

- (a) are authorised under the PO Form 6 to collect rents and outgoing on behalf of the Client. Member Property Managers must direct the tenant how, where and when to pay rent.
- (b) can deduct their fees and expenses incurred from monies received, to a maximum amount permitted under the PO Form 6.
- (c) must provide to the Client in writing an account of all monies received, paid or appropriated in accordance with the Form 18a General Tenancy Agreement.

23. RENT INCREASES

- (a) Member Property Managers must not increase the rent of a property unless they have received their Client's instructions to do so and either⁴³:
 - i. a fixed term Form 18a contains a provision allowing for the rent increase and stating the amount of increase and method of calculation; or
 - ii. the Form 18a is periodic.
- (b) Member Property Managers must follow the relevant procedure prescribed by the Form 18a and RTRA Act to increase rent during the term of an agreement.

- (c) A notice must be given to the tenant at least 2 months' prior to the date of increase specifying the amount of increase and what date the increase will take effect. In the case of rooming accommodation, the time limit is 4 weeks' notice.
- (d) Notwithstanding the above, for a fixed term Form 18a, rent cannot be increased by a Member Property Manager less than 12 months since the current rent became payable.

See the [REIQ FAQ – Tenancy Laws 1 July 2023](#) for information and examples of how the new rent increase provisions apply from 1 July 2023.

24. PAYING RENT IN ADVANCE

- (a) Member Property Managers must not require a tenant to pay rent in advance more than the amounts prescribed under the RTRA Act, being⁴⁴:
 - i. for periodic leases or rooming accommodation, 2 weeks rent; and
 - ii. for fixed leases, 4 weeks rent.
- (b) Member Property Managers may accept rent paid in advance by a tenant in any amount if the tenant elects to pay such amount to secure the property, provided there is no obligation to pay same in advance under the Form 18a.
- (c) If a tenant has paid rent in a period in advance, Member Property Managers must not request rent to be paid in that period.

25. TAKING A SECURITY BOND

- (a) Member Property Managers should take a security bond from a tenant to the maximum amount permitted under the RTRA Act, being 4 weeks rent for properties that are not moveable dwellings⁴⁵.



The RTA has many helpful Factsheets that explain how tenancy laws operate in Queensland.

⁴³ Residential Tenancies and Rooming Accommodation Act 2008, s91

⁴⁴ Residential Tenancies and Rooming Accommodation Act 2008, s87

⁴⁵ Residential Tenancies and Rooming Accommodation Act 2008, s112

- (b) Member Property Managers must ensure the security bond is lodged with the Residential Tenancies Authority (**RTA**) within 10 days of receiving it, with a fully completed Bond Lodgement Form⁴⁶ including the contact details of the tenant.

Note: see guideline 64 for refund of security bond and making a claim.

26. INCREASE IN SECURITY


Member Property Managers may only increase the amount of security bond taken from the tenant if⁴⁷:

- (a) the rent is increased under the relevant Form 18a or Form R18; and
- (b) the prescribed notice is given to the tenant by the Member Property Manager:
 - i. at least 11 months after the Form 18a or Form R18 commenced; or
 - ii. the rental bond has been increased previously, and identifying the payment date as being a date at least 1 month after the date of the notice.
- (c) Member Property Managers must ensure additional security bond is lodged with the RTA using a fully completed Bond Lodgement Form.

27. DEALING WITH TENANTS

When dealing with tenants, Member Property Managers should:

- (a) provide a response to tenants within a reasonable time of receiving communication, a notice or correspondence;
- (b) act courteously and professionally in all communications;
- (c) keep detailed, accurate and complete records of all communications with the tenant including emails, letters, notices and file notes of phone calls;

- (d) keep in communication with the tenants; and
- (e) not provide tenants with legal or financial advice and refer the tenant to  the RTA or such other authority or relevant advisors to assist the tenant with any query in relation to tenancy laws.

28. FORM 18A GENERAL TENANCY AGREEMENT

- (a) Member Property Managers must prepare the Form 18a by completing the particulars of the agreement correctly and with reasonable care. This includes:
 - i. inserting the correct legal description of the Client and tenant/s;
 - ii. inserting the correct legal description of property; and
 - iii. if a special condition is required, the Member Property Manager only inserting a special condition if they are certain that condition has been prepared by a Legal Practitioner.
- (b) An Information Statement must be provided to a tenant with the Form 18a containing information about the duties and entitlements of the parties, the procedures for resolving disputes and entities to which issues about the agreement may be referred⁴⁸.
- (c) Member Property Managers may sign the Form 18a on behalf of the Client, if authorised in writing by their Client.
- (d) A fully signed copy of the Form 18a must be provided to the tenant within 14 days⁴⁹.



**All RTA Forms
Available in Realworks**

**The REIQ has developed a
Schedule of compliant
Special Terms for the Form 18a**

⁴⁶ Residential Tenancies and Rooming Accommodation Act 2008, s116

⁴⁷ Residential Tenancies and Rooming Accommodation Act 2008, s154

⁴⁸ Residential Tenancies and Rooming Accommodation Act 2008, s67

⁴⁹ Residential Tenancies and Rooming Accommodation Act 2008, s62

29. ENTRY CONDITION REPORT

- (a) Member Property Managers must prepare, sign and provide an entry condition report for the property on or before the day the tenant first occupies the property. The report must detail the condition, cleanliness and state of repair of all aspects of the property including all fixtures, interior and exterior of the property⁵⁰.
- (b) Member Property Managers must ensure the entry condition report is accurate, substantially complete and is supported with clear photographs evidencing the condition of the property.
- (c) The tenant must mark the copy of the report to show any parts the tenant disagrees with and sign and return the copy not later than 7 days after the date the tenant occupies the property.
- (d) Member Property Managers must keep a copy of the entry condition report for at least 12 months after the Form 18a ends.

30. APPROVED OCCUPANTS

- (a) The number of occupants permitted in the property should be stated in the Form 18a.
- (b) Member Property Managers should use reasonable endeavours to ensure the correct quantity of persons occupy the property. For example, taking note of suspicious number of bedding and other possessions during inspections of the property.
- (c) If a Member Property Manager suspects more than the permitted number of persons are occupying the property, they must seek confirmation from the tenant and notify the Client.

31. TENANTS BOUND JOINTLY/ SEVERALLY

If there is more than one tenant at a property, Member Property Managers may apply and enforce the terms of a Form 18a against each tenant jointly and severally.

32. HANDOVER

Member Property Managers must handover possession of the property to the tenant on the start date of the Form 18a, unless another date for handover is agreed with the tenant after the start date of the agreement.

33. CRITICAL DATES

Member Property Managers should:

- (a) diarise all critical dates relevant to their Client's Form 18a. This includes timeframes imposed by the RTRA Act;
- (b) provide their Client with a reminder of the critical dates within a reasonable time of that date; and
- (c) ensure they comply with, as reasonably practicable, all critical dates.

Note: Member Property Managers should particularly note the different time frames and notice periods applying to fixed term agreements and periodic term agreements.

34. COMPLETE SET OF KEYS

- (a) Member Property Managers should ensure they possess and maintain the locks that are necessary to secure the property⁵¹.

⁵⁰ Residential Tenancies and Rooming Accommodation Act 2008, s65

⁵¹ Residential Tenancies and Rooming Accommodation Act 2008, s210



- (b) Member Property Managers must obtain a complete set of keys for each lock in the property together with prescribed keys required for entry from the Client.
- (c) Member Property Managers should request approval from their Client to duplicate keys if there are multiple tenants and for an additional copy to be kept by the Member Property Manager.

35. INSURANCE

Member Property Managers

- (a) should keep a record of the Client's relevant insurance policies with respect to the property;
- (b) must not make representations to a prospective tenant about insurance policies held by the lessor that are not true and correct; and
- (c) should strongly recommend their Clients obtain advice about adequate levels and appropriate types of insurance.



**Property Managers and Lessors
should consider the benefits
of lessor insurance**

36. BODY CORPORATE

- (a) If the property is within a community titles scheme and has a body corporate, a copy of the body corporate by-laws must be provided to the tenant with the Form 18a⁵².
- (b) Member Property Managers must complete the Information for Body Corporate Roll (BCCM Form 8), immediately after entering into a tenancy agreement with a term of six (6) months or more.


37. TENANT'S USE OF THE PROPERTY

- (a) Member Property Managers must:
 - i. give the tenant vacant possession of the property at the commencement of the tenancy; and
 - ii. not interfere with the tenant's reasonable peace, comfort or privacy.
- (b) Member Property Managers must not, as reasonably practicable, permit a tenant to:
 - i. use the property for an illegal purpose;
 - ii. use the property for business purposes (unless otherwise approved);
 - iii. cause nuisance by the tenant's use of property; or
 - iv. interfere with the reasonable peace, comfort or privacy of a neighbour of the tenant.

⁵² Residential Tenancies and Rooming Accommodation Act 2008, s69

38. STANDARD OF THE PROPERTY

- (a) Member Property Managers should ensure their Client is aware of their obligations under the RTRA Act with respect to the standard they must keep the property, such as⁵³:
- i. at the start of the tenancy:
 - A. that the property and inclusions are clean;
 - B. that the property are fit for the tenant to live in;
 - C. the property and inclusions are in good repair; and
 - D. the Client is not in breach of a law dealing with issues about the health and safety of persons using the property.
 - ii. during the term of the tenancy:
 - A. that the property are fit for the tenant to live in;
 - B. the property and inclusions are in good repair; and
 - C. the Client is not in breach of a law dealing with issues about the health and safety of persons using the property.
- (b) If the Member Property Manager reasonably believes the property does not meet the minimum standards, the Member Property Manager must advise their Client of the issues the Member Property Manager suspects do not meet the standards and their suggested action (such as obtaining a quote to have a faulty light fitting replaced).
- (c) If the Client does not authorise the Member Property Manager to arrange such repairs and will not do so themselves, the Member Property Manager should give a written statement to the Client confirming that the Member Property Manager:
- i. has advised the Client of such issue and suggested an action to remedy;

- ii. will not take steps to remedy the issue without express instructions from the Client;
- iii. recommends the Client obtain legal advice in relation to their obligations under the Form 18a and RTRA Act and risks associated with not meeting minimum standards; and 
- iv. may consider terminating their appointment subject to the Client's advice.

See Guideline 68 in relation to the Minimum Housing Standards

 **Minimum Housing Standards forms Available in Realworks**

39. SMOKE ALARMS

- (a) Member Property Managers should ensure the Client has complied with its obligations under the *Fire and Emergency Service Act*⁵⁴ and regulations including to install compliant smoke alarms in the property.
- (b) If the Client refuses to comply with its legal obligations to install compliant smoke alarms, the Member Property Manager may terminate the PO Form 6.



See the Queensland Fire and Emergency Services Information Sheet about Smoke Alarm Legislation in Queensland.

⁵³ *Residential Tenancies and Rooming Accommodation Act 2008, s185*

⁵⁴ *Fire and Emergency Services Act 1990 (Qld).*

40. POOL COMPLIANCE

If there is a regulated pool at the property, the Member Property Manager should obtain from the Client evidence that the pool, pool fencing, gate and locks are compliant with the *Building Act 1975*. The property must not be let without first obtaining a pool compliance certificate.

41. PETS

Member Property Managers must:


- (a) seek their Client's instructions when a tenant requests a pet at the property and ensure a response is given to the tenant within 14 days of receiving the request.
- (b) notify their client that:
 - i. a failure to respond to a pet request within 14 days from the date of the request will be deemed approval;
 - ii. the Client can only refuse a pet request on prescribed grounds, and they must give reasons to the tenant for why they believe those grounds apply; and
 - iii. the Client may impose conditions on a pet approval in line with the prescribed requirements.

The REIQ Tenancy Laws Toolkit sets out the requirements in relation to pet requests, approvals, and refusals.

42. PEST MANAGEMENT

If a Member Property Manager is required to arrange a pest management activity at the property, the Member Property Manager must only engage a licensed pest management business to conduct the activity. Member Property Manager's should seek evidence that the pest management business is licensed.

43. SMOKING

- (a) It is recommended that Member Property Managers direct their Client to seek legal advice if the Client instructs the  Member Property Manager to insert a Special Condition in the Form 18a prohibiting a tenant to smoke in the property.
- (b) If the Client upon receiving legal advice proceeds with prohibiting the tenant from smoking within the property, Member Property Managers should insert a special condition prepared by the legal representative in the Form 18a.

44. FIXTURES AND STRUCTURAL CHATTELS

- (a) Member Property Managers must not permit a tenant to attach a fixture or make a structural change to the property without the Client's written agreement.
- (b) If the Client agrees to the tenant's request, the Member Property Manager should ensure the agreement is communicated in writing to the tenant, specifying the exact conditions of the Client's consent in clear, defined wording and describing the nature of the change.

45. CHANGING LOCKS

- (a) A tenant or Member Property Manager (at their Client's instruction) may change locks of the property for a reason permitted under the RTRA Act⁵⁵, including:
 - i. the parties agree to the change;
 - ii. the party requiring the change has a reasonable excuse;
 - iii. the party believes the change is necessary because of an emergency;

⁵⁵ *Residential Tenancies and Rooming Accommodation Act 2008*, s211

- iv. the lock is changed in compliance with an order of QCAT; or
- v. the tenant believes the change is necessary to protect themselves or another occupant from domestic violence and engages a locksmith or other qualified tradesperson to change the lock.

- (b) If the tenant changes a lock at the property, the Member Property Manager must obtain a copy of the new key as soon as practicable after receiving notice that the tenant has changed the lock.
- (c) If the Member Property Manager changes the lock at the property, they must provide a copy of the new key to the tenant immediately.

46. LESSOR'S RIGHT OF ENTRY

- (a) Member Property Managers may only enter the property in the following circumstances⁵⁶:
 - i. for an inspection;
 - ii. for routine repairs or maintenance;
 - iii. smoke alarm inspection or works under *Fire and Emergency Services Act 1990*;
 - iv. safety switch inspection or works under *Electrical Safety Act 2002*;
 - v. to show the property to a prospective buyer or tenant;
 - vi. to allow a valuation of the property to be carried out;
 - vii. if the Client or Member Property Manager believe on reasonable grounds, the property have been abandoned;

- viii. if the Client or Member Property Manager has given the tenant a notice to remedy a breach of the Form 18a General Tenancy Agreement that is a significant breach—within 14 days after the end of the allowed remedy period, to inspect to ascertain whether the tenant has remedied the breach;

- ix. if the tenant agrees;
- x. in an emergency; or
- xi. if the Client or Member Property Manager believes on reasonable grounds that the entry is necessary to protect the property inclusions from imminent or further damage.

- (b) If the Member Property Manager has grounds to enter the property, they must provide an Entry Notice to the tenant with the requisite notice period required under the RTRA Act in advance (unless for emergency), identifying a reasonable time, entry period and day for the entry and details of any third party that may also enter for the purpose of the entry (ie. tradesperson).
- (c) Member Property Managers must not unlawfully enter a property.



⁵⁶ *Residential Tenancies and Rooming Accommodation Act 2008*, s192

47. INSPECTIONS

- (a) Member Property Managers should conduct inspections:
 - i. only at such time and frequency as entitled to under the RTRA Act and as authorised under the PO Form 6⁵⁷;
 - ii. by inspecting every room in the interior of the property and all parts of the exterior of the property thoroughly; and
 - iii. by only moving items belonging to the tenant if it is reasonably necessary to inspect a part of the property which the Member Property Manager must inspect to satisfy their obligations.
- (b) Member Property Managers should issue a letter to the tenant with the Entry Notice for an inspection stating that the tenant must ensure the property is clean and free of obstructions for the schedule time and date of the inspection.
- (c) The Member Property Manager should advise the tenant that if there is personal property of the tenant obstructing the Member from completing their inspection, the Member Property Manager may move the item acting reasonably and if it is safe and practical to do so.
- (d) The Member Property Manager must provide an Inspection Report to the lessor which should include:
 - i. what items were satisfactory on visual inspection;
 - ii. what items were not satisfactory on visual inspection and details;
 - iii. details of any emergency maintenance works required to be completed;

- iv. details of any other maintenance works required to be completed; and
- v. a statement whereby the client acknowledges the Member Property Manager has conducted a visual inspection only and is not a licensed engineer, pest inspector, architect, builder, pool safety inspector or any other type of professional tradesperson.

48. NOMINATED REPAIRERS

- (a) The Client and the Member Property Manager must nominate their preferred repairers in the Form 18a General Tenancy Agreement⁵⁸ for the repair and maintenance of the property (including emergency repairs) such as for an electrician, plumber, pest management, professional cleaning, professional removalists, smoke alarm technicians, pool technicians, carpentry.
- (b) The Member Property Manager should only suggest third party service providers to the Client that are reputable, qualified and that hold all licences and approvals required under relevant legislation.
- (c) If the Member Property Manager receives any rebate, discount or other benefit from a third-party service provider that is engaged due to the referral of the Member Property Manager, this must be disclosed in the PO Form 6 in section 8.4.

See the [REIQ Tenancy Laws Toolkit](#)


49. EMERGENCY REPAIRS

- (a) Member Property Managers should advise the Client of the procedure for emergency repairs as prescribed under the Form 18a and RTRA Act⁵⁹ and have followed the prescribed procedure.

⁵⁷ Residential Tenancies and Rooming Accommodation Act 2008, s258

⁵⁸ Residential Tenancies and Rooming Accommodation Act 2008, s216

⁵⁹ Residential Tenancies and Rooming Accommodation Act 2008, s218


- (b) If the Member Property Manager is notified by the tenant of an emergency repair, the Member Property Manager should use reasonable endeavours to action or deal with the request or notification as soon as practicable.
- (c) Member Property Managers should advise their Client if an emergency repair has been done or must be done at the property. If the Client instructs the Member Property Manager not to attend to the repair or reimburse the tenant's costs, the Member Property Manager should direct their Client to seek legal advice about their obligations under the  RTRA Act.
- (d) An emergency repair includes⁶⁰:
 - i. a burst water service or a serious water service leak;
 - ii. a blocked or broken lavatory system;
 - iii. a serious roof leak;
 - iv. a gas leak;
 - v. a dangerous electrical fault;
 - vi. flooding or serious flood damage;
 - vii. serious storm, fire or impact damage;
 - viii. a failure or breakdown of the gas, electricity or water supply to property;
 - ix. a failure or breakdown of an essential service or appliance on property for hot water, cooking or heating;
 - x. a fault or damage that makes property unsafe or insecure;



REIQ Suite of Property Management Forms available in Realworks

- xi. a fault or damage likely to injure a person, damage property or unduly inconvenience a tenant of property; and
- xii. a serious fault in a staircase, lift or other common area of property that unduly inconveniences a tenant in gaining access to, or using, the property.

50. ROUTINE REPAIRS

- (a) Member Property Managers should obtain their Client's consent to arrange routine repairs and maintenance at the property.
- (b) If a Client does not authorise a routine repair for which the Member Property Manager knows to be a legal requirement, the Member Property Manager should direct the Client to obtain legal advice about the request for routine repair. The Member Property Manager should also seek legal advice and consider termination of their appointment. 
- (c) Routine repairs are all other repairs which are not defined as emergency repairs under the RTRA Act⁶¹.

51. REPAIRS AND MAINTENANCE – SPEND LIMIT

- (a) Member Property Managers should seek to obtain an authorisation from the Client for the maximum authorised spend limit under Part 8.2 of the PO Form 6, to be the maximum amount permitted under the RTRA Act, being currently 4 weeks' rent⁶².
- (b) Member Property Managers should explain the benefit of including a sufficient authorised spend limit so that the Member Property Manager will not be hindered if a request for emergency repairs or a valid re-imbursement to the tenant, is received.

⁶⁰ Residential Tenancies and Rooming Accommodation Act 2008, s214

⁶¹ Residential Tenancies and Rooming Accommodation Act 2008, s215

⁶² Residential Tenancies and Rooming Accommodation Act 2008, s219

- (c) If the Client does not wish to authorise the Member Property Manager for the maximum permitted amount for both emergency and routine repairs, Member Property Managers should request the maximum authorisation for emergency repairs and another amount for routine repairs and maintenance.

52. DAMAGE CAUSED BY TENANT

- (a) Member Property Managers must advise their Client of any report or notice of damage caused to the property by the tenant.
- (b) Member Property Managers should recommend to their Client that a Notice to Remedy Breach is issued to the tenant as soon as practicable. Once instructions are received, the Member Property Manager should issue the Notice requiring the tenant to repair the damage within a reasonable period (for example, 14 days).
- (c) Member Property Managers should conduct an inspection of the tenant's repair works after the allowed period and provide a report to their Client of the state of repair.

53. RENT ABATEMENT

- (a) Member Property Managers should seek their Client's instructions with respect to decreasing rent payable if one of the following circumstances occur⁶³:
 - i. the property is destroyed, made completely or partly unfit to live in;
 - ii. no longer may be used lawfully as a residence;
 - iii. are appropriated compulsorily by an authority;
 - iv. services, facilities or good to be provided to the tenant are no longer available for a reason other than the tenant's failure to meet an obligation; or
 - v. the amenity or standard of the property decreases substantially other than because of damage caused by the tenant.

- (b) If the above circumstances apply, Member Property Managers should consider rent decreases to the extent that such circumstances effect the tenant's quiet enjoyment and use of the property.

54. TENANT'S DEFAULT

- (a) If a tenant breaches the Form 18a by failing to make a payment when due or failing to comply with any obligation, the Member Property Manager should advise the Client promptly after becoming aware of the default.
- (b) Member Property Managers may make enquiries with the tenant about the default and seek to negotiate an arrangement to remedy the breach within a reasonable time frame.
- (c) Member Property Managers may issue a Notice to Remedy Breach⁶⁴ to the tenant requiring the tenant to remedy the breach within a reasonable time frame and notifying the tenant of what action the Member Property Manager may take if the breach is not remedied.

55. FORM 12 NOTICE TO LEAVE

- (a) If the Client instructs them to do so, Member Property Managers may issue a Form 12 Notice to Leave (Form 12) for circumstances prescribed by the RTRA Act⁶⁵.
- (b) Member Property Managers should provide their Clients with the Ending Tenancies Factsheet prior to issuing the Form 12.
- (c) If a Member Property Manager is instructed to issue a Notice to Leave under grounds they know to be false or misleading, the Member Property Manager should direct the Client to seek advice about offence provisions prior to issuing the Notice to Leave.



For best practice tips to complete a Form 12 – see the REIQ Checklist for Form 12 in Realworks

⁶³ Residential Tenancies and Rooming Accommodation Act 2008, s94

⁶⁴ Residential Tenancies and Rooming Accommodation Act 2008, s280

⁶⁵ Residential Tenancies and Rooming Accommodation Act 2008, s281 - 291

56. NOTICES REQUIRED FOR SALE OF PROPERTY

If the Client intends to sell the property, the Member Property Managers must issue the following notices as appropriate:

- (a) Form 10 – Notice of Intention to Sell Property;
- (b) Consent to conduct an open house on the property;
- (c) Consent to hold an onsite auction; and
- (d) Consent to use photos or images for advertising.

57. LEASE RENEWALS

- (a) Member Property Managers should obtain instructions from the Client in relation to a tenancy coming to an end at least three (3) months from the end date of the Form 18a.
- (b) If a Client instructs a Member Property Manager to offer a new fixed term agreement to the tenant, the Member Property Manager should issue a Letter to the tenant enclosing the new Form 18a with the Form 12 (if no Form 12 is already in place), stating that the tenant is required to respond within a reasonable time or otherwise, the Form 12 will take effect.
- (c) After a new Form 18a has been entered and signed by the parties, Member Property Managers should seek instructions from their client and confirm if the client wishes to have a Form 12 issued shortly thereafter, on the grounds of the end of the fixed term agreement, to:
 - i. ensure the end date of the agreement is the tenant's vacating date (if the tenant is not later offered a new tenancy); and
 - ii. minimise the risk of missing notice due dates closer to the end of the tenancy.

58. HOW A PROPERTY IS LEFT & BOND RETURNS

- (a) Member Property Managers must not require a tenant to leave a property in a better condition than it was in at the commencement of the Form 18a General Tenancy Agreement.

- (b) Member Property Managers cannot require a tenant to undertake specific treatment to the property that is not specified in the Form 18a if such treatment is not necessary for a tenant to comply with its obligations under a Form 18a or RTRA Act.
- (c) Member Property Managers should act reasonably when assessing if a property is left sufficiently clean having regard to the age of the property, fair wear and tear and any lapsing of time between the return of the tenant's keys and the date of the Member's final inspection of the property which should occur within 3 business days of the tenant vacating the property.
- (d) Member Property Managers should endeavour to return the bond to the tenant as soon as possible and not cause any unnecessary/unreasonable delays in returning the bond to the tenant.
- (e) Member Property Managers should endeavour to reach agreement on bond refund amounts prior to submitting a Bond Refund Form to the RTA. When submitting a Bond Refund Form, it must contain accurate information, including reasons and amounts for any claims on the bond.

59. GOODS LEFT AT A PROPERTY

If a vacating tenant leaves personal goods at the property, which are not personal documents or money, then the Member Property Manager may sell the goods or dispose of the goods if they believe on reasonable grounds that⁶⁶:



Watch the [REIQ New Tenancy Laws](#) training for a comprehensive overview of the recent tenancy law reform

⁶⁶ Residential Tenancies and Rooming Accommodation Act 2008, s363

- (a) the market value is less than \$1,500.00;
- (b) storage of the goods would be unhealthy, unsafe or cause market value to be depreciated; or
- (c) the cost of removing, storing and selling the good would be more than the proceeds of sale of the goods.


60. ABANDONEMENT

- (a) Member Property Managers may give the tenant an Abandonment Termination Notice if they believe on reasonable grounds that the tenant has abandoned the property, reasonable grounds include⁶⁷:
 - i. the tenant has failed to pay rent under the agreement;
 - ii. the presence of uncollected mail, newspapers or other material at the property;
 - iii. reports from neighbours of the tenant or from other persons indicating the tenant has abandoned the property;
 - iv. the absence of household goods at the property;
 - v. the disconnection of services (including gas, electricity and telephone) to the property; and
 - vi. a failure of the tenant to respond to an entry notice.
- (b) Member Property Managers should retake possession of the property as soon as the notice period of 7 days lapses.

61. DOMESTIC AND FAMILY VIOLENCE

- (a) If a Member Property Manager receives a Notice ending tenancy interest by a tenant under the grounds of domestic violence experienced by that tenant, the Member Property Manager must respond in accordance with the requirements under the RTRA Act.
- (b) When inspecting the property after the tenant vacates, if an inspection is possible under the circumstances, Member Property Managers should note the condition of the property and what repairs, damage or maintenance are required due to:

- i. possible domestic and family violence experienced by the tenant; or
- ii. a failure of the tenant to fulfil their obligations under the tenancy which are unlikely due to domestic and family violence experienced by the tenant (for example, if the tenant has failed to keep the yards maintained for an extended period of time).

- (c) Member Property managers should exercise caution when assessing whether repairs, damage or maintenance needed has been the result of domestic and family violence experienced by the tenant. If required, legal advice should be sought. 

REIQ Tenancy Laws Toolkit sets out the process & requirements in relation to the DFV provisions

62. BREAK LEASE

If a tenant gives notice to a Member Property Manager to leave a property without grounds permitted under the RTRA Act, the Member Property Manager may recover from the tenant their reasonable reletting costs⁶⁸.



⁶⁷ Residential Tenancies and Rooming Accommodation Act 2008, s355

⁶⁸ Residential Tenancies and Rooming Accommodation Act 2008, s357A

63. SUBLETTING / TRANSFER

- (a) If a request is received from a tenant to transfer their tenancy to another party or sublet the tenancy, the Member Property Manager should seek their Client's instructions to the request.
- (b) Member Property Managers should obtain information and supporting evidence of the proposed assignee or sublessee as required for the original tenant under guideline 13 of this Chapter 4. Member Property Managers should advise their Client's of their statutory obligation not to unreasonably reject the tenant's request.
- (c) Member Property Managers should provide a copy of the Entry Condition Report to any incoming tenant prior to that tenant moving into the property.
- (d) Member Property Managers must obtain a signed Form 18a, payment of a replacement security bond and rent in advance (if required) from the new tenant prior to handing over the property.
- (e) Member Property Managers should encourage a Change of Bond Contributors Form (RTA Form 6) to be submitted to the RTA if a tenant transfers some or all of their bond to another party.

64. EXIT CONDITION REPORT

- (a) Prior to the ending of a Form 18a, the Member Property Manager should provide the tenant with the Exit Condition Report and request the tenant to complete and sign the report before or on the date the agreement ends⁶⁹.
- (b) Within 3 business days of receiving the report from the tenant, the Member Property Manager must conduct an inspection of the property and mark the parts of the report which it does and does not agree with. The Member Property Manager must sign the report and provide a copy to the tenant.

- (c) Member Property Managers may, but are not obligated to, and if circumstances allow, provide the tenant with an opportunity to enter the property to correct items in the condition report which are not to the standard required by the Form 18a General Tenancy Agreement.
- (d) Member Property Managers must keep a copy of the fully signed exit condition report for at least 12 months.

65. REFUND OF SECURITY BOND

- (a) Member Property Managers should expediently facilitate the release of security bond at the end of the tenancy.
- (b) If there is no dispute or claim to be made on the security bond, the Member Property Manager should arrange for a Refund of Rental Bond form to be completed, signed and returned to the RTA as soon as practicable. Member Property Manager's should include the tenant's email address to allow for digital signing so that the process may be fast-tracked by the RTA.
- (c) If in the opinion of the Member Property Manager, the Client is entitled to recover any amount from the tenant's security bond (whether such time is during or after the term of the Form 18a General Tenancy Agreement) the Member Property Manager must make a claim on the security bond with the RTA as soon as practicable.
- (d) If the Member Property Manager makes a claim on a security bond, the Member Property Manager must:
 - i. have a valid basis for making the claim under the Form 18a General Tenancy Agreement or RTRA Act, for example that the tenant has failed to meet an obligation and there is an express provision for the tenant to compensate any amount incurred to the Client or Member Property Manager;


⁶⁹ Residential Tenancies and Rooming Accommodation Act 2008, s66


- ii. have evidence verifying the amount claimed by the Member Property Manager, such as invoices or quotes;
- iii. not claim an amount in excess of what their Client is reasonably entitled to;
- iv. release any portion of the undisputed bond amount; and
- v. ensure the Bond Refund Form is completed correctly including reasons and amounts for any claims.


(e) If the tenant disputes the Member Property Manager's claim on the security bond, the matter will progress to the RTA's confidential conciliation service. If this occurs, the Member Property Manager should:

- i. make all attempts to self-resolve the matter prior to conciliation;
- ii. provide the tenant with all supporting evidence for the claim;
- iii. seek instruction from the party who will be the final decision maker prior to attending the conciliation process; and
- iv. use their best endeavours to discuss the matter with the aim of reaching a mutual agreement.

66. QCAT APPLICATIONS AND PROCEEDINGS

- (a) Member Property Managers are encouraged to either contact the REIQ Property Management Support Service or seek legal advice if they are made a party to QCAT  proceedings or they are considering making an application in QCAT.

- (b) Member Property Managers should not act on behalf of their Client in QCAT proceedings without first obtaining written authority to act and legal advice  about their liability and possible consequences.

- (c) Member Property Managers should not provide advice to the Client, and act for the Client, in relation to the enforcement of QCAT decisions or money orders. If the Client obtains a money order against a tenant in QCAT, the Member Property Manager should recommend their client obtain legal advice to enforce the order. 

67. ENTITLEMENT TO FEES

- (a) Member Property Managers are entitled to payment of their commission/fees as stated in the PO Form 6 when they become due.

- (b) If a Client disputes a Member Property Manager's entitlement to their commission or fees, the Member Property Manager should send a notice to the Client within 5 business days, stating:

- i. what amount of fees the Member is entitled to;
- ii. how the Member proposes to take the fees (if they hold a monies or if an invoice shall be issued);
- iii. confirming the grounds under which the Member Property Manager is entitled to their fees and authorised to take their fees (as set out in the PO Form 6); and
- iv. giving the Client reasonable time to provide their response before the Member Property Manager will take further steps to take their fees.

- (c) If the Member Property Manager does not receive a response from the Client by the stated time or if the Client does not provide a valid reason for their dispute in the Member Property Manager's opinion acting reasonably, the Member Property Manager may take their fees from any monies held or take further steps to recover their fees including terminating the PO Form 6.

68. MINIMUM HOUSING STANDARDS

- (a) Member Property Managers should reasonably try to ensure the properties they manage comply with the minimum housing standards.
- (b) If a Member Property Manager:
 - i. suspects a property or its inclusions, may not comply with the minimum housing standards; or
 - ii. becomes aware of a non-compliance issue with a property or inclusion;

then the Member Property Manager should notify their client and seek instructions to obtain quotes and/or a professional tradesperson assessment.

- (c) Member Property Managers must ensure they have their client's approval prior to taking any steps such as arranging for works on behalf of the client.
- (d) If the works needed are significant, Member Property Managers should advise their client to engage a builder or project manager to arrange the works on their behalf.
- (e) Member Property Manager's should advise their clients:
 - i. to seek legal advice about their responsibilities under the RTRA Act if the client fails to take steps needed to make their property compliant with the minimum housing standards; and
 - ii. to contact their insurer about any proposed works to make the property compliant.

See the [Tenancy Laws Toolkit](#) for information about the Minimum Housing Standards



**PROPERTY MANAGER
JOB READY PROGRAM**

Build new skills and propel your career





BUYER'S AGENT PRACTICE

CHAPTER FIVE

5



REIQ Buyer's Agent Chapter Committee 2024 - 2025

The REIQ Chapter Committee is comprised of licensed buyer's agents who are respected and experienced members of their sector. Committee members provide valuable insights to the REIQ about the industry including matters that affect agents on the ground.

Committee members are also involved in providing critical feedback to the REIQ in its education, training, events and advocacy services.

Joanna Boyd (Chair), Joanna Boyd Buyers Advocate
Bryan Loughnan, Propertyology
Matt Srama, The Srama Group Pty Ltd
Melinda Granzien, Precision Property Buyers Agency

Jayne Robbins, The Informed Buyer
Nathan Wunsch, Property Pursuit
Jason Baron, The Property Baron
Aanand Iyer, Guru Property

THIS CHAPTER 5 APPLIES TO MEMBER BUYER'S AGENTS AND SHOULD BE READ IN CONJUNCTION WITH CHAPTER 1 OF THESE GUIDELINES.

1. NEW APPOINTMENT

In conjunction with the PO Form 6 & REIQ Purchases Schedule & Terms, Member Buyer's Agents are encouraged to use:

- (a) Buyer Authority and Instructions; and
- (b) Letter of Authority – Auction.



2. CLIENT INSTRUCTIONS

Member Buyer's Agents should obtain sufficient written instructions from their Client setting out the parameters of their desired purchase, including:

- (a) the Client's price range for a property;
- (b) their desired location of a property;
- (c) the purpose of their purchase (eg. investment, residence);
- (d) the type of property (eg. unit, house, commercial, land);
- (e) their preference for features and specifications of a property (eg. how many bedrooms, bathrooms, car parking, if there is a pool, shed, solar, commercial/industrial facilities);
- (f) what local facilities are important to their Client such as schools, shopping precincts, recreational areas or access to public transport;
- (g) if the Client has an intention to renovate a property, change the use of the property or develop existing land; and
- (h) if an offer made by the Client would be subject to any standard conditions (finance, building and pest) or special conditions.

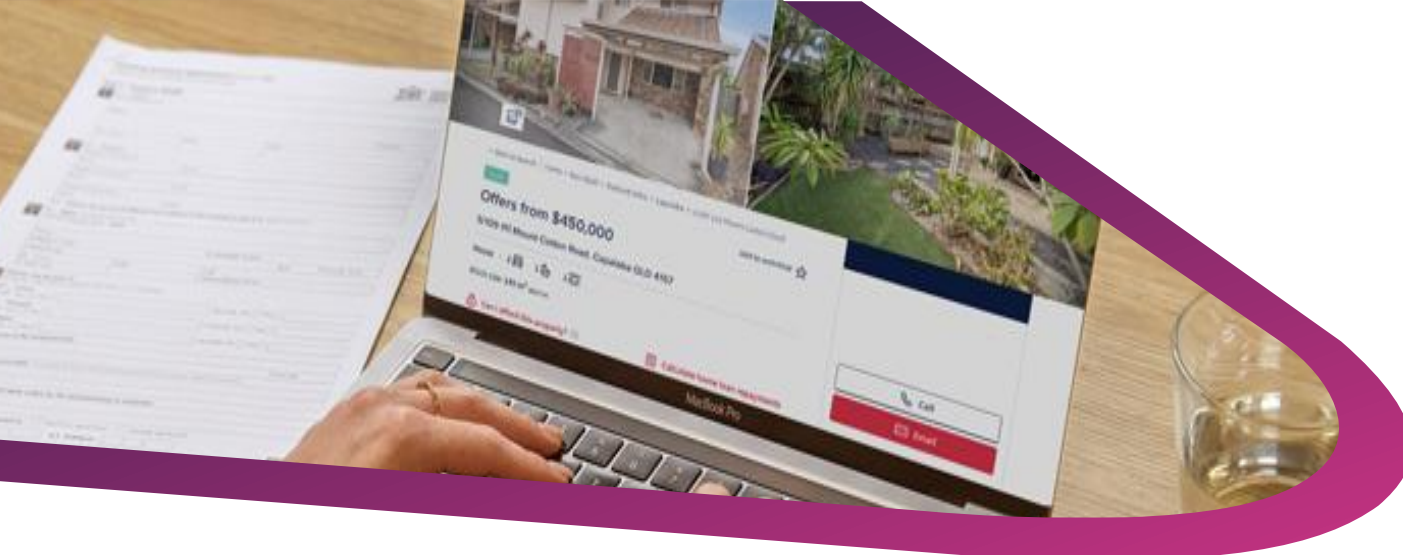
3. SCOPE OF SERVICES

Member Buyer's Agents should discuss the scope of their services with the Client including:

- (a) how a property will be located;
- (b) what property searches the Member Buyer's Agent will conduct for the Client:

For example:

- i. what type of searches will be conducted by the Member Buyer's Agent (such as title search, local neighbourhood searches, council searches, planning and development searches);
- ii. what additional searches the Member Buyer's Agent may conduct for the Client;
- iii. what search fees may be incurred as set out in Part 8 and Item D of the PO Form 6;
- iv. what other research the Member Buyer's Agent will undertake in relation to the property; and
- v. if the Member Buyer's Agent will provide a Comparative Market Analysis for each property (refer to guideline 12 below).



(c) viewing a property on behalf of the Client;

(d) preparing an offer or expression of interest:

For example:

- i. if the Member Buyer's Agent will prepare an offer or expression of interest on behalf of the Client; and
- ii. if the Member Buyer's Agent will provide advice about conditions the Client may wish to include in their offer or expression of interest (without drafting conditions or providing legal or financial advice).

(e) matters relating to negotiations on behalf of the Client:

For example:

- i. if the Member Buyer's Agent will engage in negotiations on behalf of the Client;
- ii. how and when the Member Buyer's Agent will obtain instructions for negotiating on behalf of the Client; and
- iii. if the Member Buyer's Agent has authority to make certain decisions without approval from the Client.

(f) entering a contract to purchase a property:

For example:

- i. if the Member Buyer's Agent will review the particulars of the contract on behalf of the Client (provided they are not providing legal or financial advice);
- ii. how the Member Buyer's Agent will facilitate the signing of the contract; and
- iii. if the Member Buyer's Agent will attend any inspections the Client is entitled to once a contract has been entered.

4. AUTHORITY

Member Buyer's Agent should obtain a signed and completed Buyer Authority and Instructions from the Client if they are authorised to do anything on behalf of a Client as specified above.

5. COMMISSION

Member Buyer's Agents must clearly state in the PO Form 6:

- (a) the commission payable in compliance with guideline 11; and
- (b) when the commission is payable by the Client.

6. LOCATING A PROPERTY

Member Buyer's Agents should use reasonable endeavours to present a property to their Client, if that property reasonably matches their Client's instructions or they otherwise believe, using their knowledge and expertise, that the property is suitable to meet their Client's purpose.

7. RESEARCH

- (a) Member Buyer's Agent should conduct research about a property to ascertain all facts and matters which may be material to their Client's purchase of that property.
- (b) Member Buyer's Agents should use credible and reliable sources to conduct their research of a property or neighbourhood. For example, by using government and authority search databases and sources.

8. APPROACHING PROPERTY OWNERS AND SALES AGENTS

- (a) Member Buyer's Agents may contact a property owner about a property if:
 - i. the Member Buyer's Agent has a genuine belief that the property meets or reasonably meets their Client's instructions;
 - ii. the property owner has not listed the property for sale with a Sales Agent; and
 - iii. the property owner has not subsequently asked the Member Buyer's Agent to refrain from contacting that property owner.
- (b) Member Buyer's Agents should communicate with property owners in a professional courteous manner and should not harass property owners.
- (c) Subject to Client instructions, Member Buyer's Agents should not disclose the name and contact details of their Client to a property owner, unless it is for the purpose of entering a contract of sale.
- (d) Member Buyer's Agents should not disclose the name and contact details of a property owner to their Client, unless it is for the purpose of entering a contract of sale.

- (e) If a property is listed with a Sales Agent employed by the same agency as the Member Buyer's Agents and the Client wishes to purchase that property, the Member Buyer's Agents must:

- i. disclose to the Client that the Sales Agent is employed by the same agency as the Member Buyer's Agents by using a Form 8 Disclosure to Potential Buyer; and
- ii. request the Sales Agent to provide the same disclosure to their Client.

Note: Member Buyer's Agents have a fiduciary duty to act in the best interests of their Client at all times.

9. REPRESENTATIONS AND WARRANTIES

Member Buyer's Agents must not make any representations which are considered:


- (a) false or misleading;
- (b) legal advice or financial advice; or
- (c) outside of the knowledge and expertise of the Member's Buyer's Agent; or
- (d) give any warranties, as to matters relating to a property or the property market, for example:
 - i. forecasting what a property may be worth in the future, what the capital growth may be and what future rental income a Client can expect (excluding advice about the current market value of rent for the property);
 - ii. the financial viability of the Client's purchase or planned use of the property;

- iii. the structural integrity of the property or whether any latent or patent defects exist at the property;
- iv. if the property is suitable for the Client's purpose, if the property has all required approvals or if there are any outstanding notices or limitations on planning schemes;
- v. the history of the property, if the property is stigmatised;
- vi. any matters with respect to a Body Corporate or community titles scheme;
- vii. the likelihood of events which may effect the property such as flooding, bushfires, environmental events; and
- viii. what utilities are connected at the property.



Read about the role of a Buyer's Agent compared to a Buyer's Liaison or Manager

10. ADVICES

Member Buyer's Agents should recommend that their Client to seek legal advice and financial advice prior to entering into a contract of sale, to: 

- (a) identify the correct legal entity name and details for the buying entity of the property;
- (b) ensure the Client has sought the appropriate tax and financial planning advice they may require;
- (c) provide any special conditions a buyer may require in a contract for Sale for their specific circumstances; and
- (d) provide advice about any other legal issues and matters arising under the contract.

11. INSPECTIONS

Subject to Client instructions, Member Buyer's Agents:

- (a) should attend open homes or private inspections of a property on behalf of their Client;
- (b) should make reasonable enquiries at an initial inspection about the property including the age and conditions of the property, fixtures and fittings and identifying features of the property such as car parking, air-conditioning, location and number of bathroom facilities, what chattels are included, if there is a solar system, pool, security features;

- (c) should attend other inspections on behalf of (or with) the Client that they are authorised to attend, once a contract of sale has been entered into, including:
- i. inspection for a valuer if the buyer is obtaining finance;
 - ii. inspection with the building and pest inspector;
 - iii. inspection with a smoke alarm technician; and
 - iv. pre-settlement inspection.

12.COMPARATIVE MARKET ANALYSIS

- (a) Member Buyer's Agents may provide advice about market price to a Client if they also provide either a Comparative Market Analysis (CMA) or written explanation confirming how they have estimated the market value of property.
- (b) A CMA provided by a Member Buyer's Agents must compare:
 - i. at least three (3) properties of a similar standard or condition;
 - ii. sold within five (5) kilometres of the property; and
 - iii. sold within the last six (6) months from the date.
- (c) Member Buyer's Agents must provide a statement to the Client that the CMA is an estimation of market value only and does not constitute a valuation, unless the Member Buyer's Agent is a licensed valuer.


13.MAKING AN OFFER

- (a) Member Buyer's Agents must obtain approval from a Client in writing prior to making an offer or submitting an expression of interest for a property. It is recommended to use the Buyer Instruction Form.
- (b) An offer or expression of interest prepared by a Member Buyer's Agent for a Client's consideration should contain:
 - i. the buying entity's legal name and details;
 - ii. the Client's offered purchase price;
 - iii. what deposit the Client would like to pay;
 - iv. if the Client requires the finance approval or building and pest inspection conditions and due dates;
 - v. if the Client requires any other special condition and due dates; and
 - vi. the proposed settlement date.
- (c) If a Member Buyer's Agent is instructed to make an offer on behalf of a Client, the Member Buyer's Agent must make the offer approved by the Client (without amendment) and as soon as practicable from receiving the Client's instructions.
- (d) When submitting the offer or expression of interest, the Member should state that they act on behalf of the Client.



**The REIQ posts weekly
articles with market insights
 and best practice advice
 from industry leaders**

14. NEGOTIATIONS

- (a) Member Buyer's Agents should only engage in negotiations to the extent that they are authorised by the Client.
- (b) If a Member Buyer's Agent engages in negotiations on behalf of a Client, they should:
 - i. communicate the negotiations with the Client to the extent the Client has instructed them;
 - ii. act promptly to take instructions from the Client and provide responses to the Sales Agent or property owner; and
 - iii. not make any statement or representation that is inconsistent with the Client's instructions.
- (c) If a Client instructs a Member Buyer's Agent to engage in negotiations after a contract has been entered into, the Member Buyer's Agent should direct the Client to seek legal advice about the implications of such negotiations and formalising any amendment to the Contract so that it is valid and legally binding. 

15. CONTRACT FOR SALE

- (a) Any information about a Client provided by a Member Buyer's Agent for the preparation of a contract for sale must be true and accurate.




Listen to the REIQ Property Brief: Buyer's Agents -how they can help sales agents podcast!

Note: A person may reasonably rely on information provided by a Member Buyer's Agent.

- (b) If a Sales Agent or property owner's Legal Practitioner provides a draft contract of sale to a Member Buyer's Agent to review prior to the Client's execution, the Member Buyer's Agent should:
 - i. use reasonable care to check the particulars of the contract have been entered correctly; and
 - ii. provide a copy to the Client's Legal Practitioner if the Client requires legal advice prior to signing the contract for Sale.

16. BODY CORPORATE DISCLOSURE

- (a) If the property is a lot in a Community Titles Scheme, the Member Buyer's Agent should ensure a s206 disclosure statement signed by the seller, or their agent, has been provided with the draft contract for sale from the Sales Agent.
- (b) Members Buyer's Agents should direct their Client to obtain legal advice about the disclosure statement including whether it is substantially complete and what financial or legal implications may be incurred on the Client if they proceed with the contract for sale. 

17. AUCTIONS

- (a) Members Buyer's Agents may be authorised by the Client to attend an auction for the sale of a property and register as a bidder on behalf of the Client.
- (b) Members Buyer's Agents must obtain a Letter of Authority from the Client prior to registering as a bidder to authorise the Member Buyer's Agent to bid on behalf of the Client at the auction.

(c) Prior to the auction, Members Buyer's Agents should:

- i. provide general information to the Client about what an auction is and how it will be conducted;
- ii. obtain a signed copy of the Conditions of Sale of the Property by Auction from the Auctioneer and provide a copy to the Client; and
- iii. obtain a signed Buyer Instruction Form with specific instructions about the property that is going to auction and authorisation to sign any document or contract on behalf of the Client.


(d) An authority given by a Client should include an acknowledgement from the Client:

- i. of the unconditional nature of the auction;
- ii. that if they are the successful bidder, they must enter a contract of sale and will likely be required to pay the deposit immediately after the auction;
- iii. if GST is applicable to the price and whether the price stated is GST inclusive or exclusive;
- iv. that there is no cooling-off period for the contract of sale; and
- v. that the contract of sale will not be conditional on finance approval or a building and pest inspection.

18. CONFLICT OF INTEREST

- (a) If a Member Buyer's Agent has more than one Client with instructions that compete for a particular property, the Member Buyer's Agent must not breach their fiduciary obligation or prejudice the rights of one Client in favour of the other Client.

19. ENTITLEMENT TO COMMISSION

- (a) Member Buyer's Agents are entitled to their commission and fees as stated in the PO Form 6, if their services are provided under the appointment.
- (b) If a Client disputes a Member Buyer's Agents entitlement to their commission, the Member Buyer's Agent should send a demand notice to the Client stating what amount of commission the Member Buyer's Agent is entitled to and confirming the grounds under which the Member Buyer's Agent is entitled to the commission (as set out in the PO Form 6). Member Buyer's Agents should give the Client reasonable time to provide their response.
- (c) If the Member Buyer's Agent does not receive a response from the Client by a stated time or if the Client does not provide a valid reason for their dispute in the Member Buyer's Agents opinion acting reasonably, the Member Buyer's Agent may take further steps to recover their commission.
- (d) If there is a dispute as to whether the Member Buyer's Agent is entitled to their commission or fee, the Member Buyer's Agent should contact the REIQ for practice advice or obtain independent legal advice. 



BUSINESS BROKER PRACTICE

CHAPTER SIX

6



REIQ Business Brokers Chapter Committee 2024 - 2025

The REIQ Chapter Committee is comprised of licensed business brokers who are respected and experienced members of their sector. Committee members provide valuable insights to the REIQ about the industry including matters that affect agents on the ground.

Committee members are also involved in providing critical feedback to the REIQ in its education, training, events and advocacy services.

Cate Boleyn, Qld Rent Roll Brokers
John Kasapi, Benchmark Business Sales
Vince Konig, Link Business Brisbane
Roland West, Link Business Brokers

Heather Jopson, Finn Business Sales
Arnold Pierce Kelsey, ABS Business Sales
Lily Small, Lux Business Sales & Advisory

THIS CHAPTER 6 APPLIES TO MEMBER BUSINESS BROKERS AND SHOULD BE READ IN CONJUNCTION WITH CHAPTER 1 OF THESE GUIDELINES.

1. NEW APPOINTMENT

In conjunction with the PO Form 6A & Business Brokers Schedule and Terms, Member Business Brokers are encouraged to use the:

- (a) Prospective Buyer Agreement;
- (b) Business Information Statement;
- (c) Request for an Appraisal of Selling Price of a Business; and
- (d) Marketing and Advertising Plan.


2. IDENTIFYING THE CLIENT

- (a) Member Business Brokers must take reasonable steps to verify the identity of the owner of the business by conducting the appropriate searches of the business name and identifying the legal entity that owns the business.


- (b) If the business is owned by:

- i. a company: then Member Business Brokers should conduct an ASIC company search to confirm the directors of the company;
- ii. a partnership: then Member Business Brokers should identify the partners individually by sighting copies of their driver's licence, passport or other photo identification, confirmation of their registered ABN and written authority as to who the Member Business Broker can take instructions from and if decisions must be made jointly or severally;
- iii. an individual sole trader: then Member Business Brokers should identify the person by sighting copies of their driver's licence, passport or other photo identification, confirmation of their registered ABN; and

- iv. a trust structure: then Member Business Brokers should obtain a copy of the Trust Deed, identify the trustee and verify the identity and authority of the trustee depending on whether it is a company or individual as set out in this guideline.

- (c) If a Member Business Broker has any doubt about the legal identity to be named in the PO Form 6A, then they should seek legal advice to ensure the correct entity is recorded in the PO Form 6A and contract of sale. 

3. CLIENT TO OBTAIN NECESSARY ADVICES

- (a) Member Business Brokers should confirm if their Client has obtained necessary advices from an accountant and Legal Practitioner prior to selling their business.
- (b) If the Client has not obtained advice, Member Business Brokers should refer the Client to an accountant and Legal Practitioner to obtain financial advice, tax advice and legal advice prior to selling their business. 
- (c) In addition to guideline 5 of Chapter 1 of these Guidelines, Member Business Brokers must not:
 - i. provide financial or tax advice to Client's with respect to their business;
 - ii. prepare financial statements or documents for the Client including trading statements, balance sheets, profit and loss statements, asset and liabilities statements, forecasts, BAS reports or tax returns;

- iii. provide financial statements or documents to a prospective buyer which have not been prepared by an accountant unless a written statement is given to the prospective buyer notifying them that the information provided has not been prepared by an accountant; or
- iv. give an assessment of the truth or accuracy of any disclosure or financial information provided by an accountant or other qualified advisor appointed by the Client.

4. BUSINESS INFORMATION


- (a) Member Business Brokers should obtain a completed and signed Business Information Statement from the Client to identify important information about the business they are appointed to sell.
- (b) The Business Information Statement should be substantially completed, accurate and include:
 - i. substantial information about the business;
 - ii. details of the employees including the number of employees, names, position, wages, leave entitlements accrued, years' employed;
 - iii. details of the existing lease including term, rent, options, rent reviews, outgoings, lessor/agent contact details;
 - iv. trading hours;
 - v. list of plant equipment, fixtures and fittings, their market value and what items are owned by the business or leased;
 - vi. if there will be a buyer trial period;
 - vii. copies of any lease documents;

- viii. breakdown of the price including work in progress and stock;
- ix. financial information about sales income, expenses, net profit/loss; and
- x. annexure of financial documents prepared by an accountant (minimum of 3 years if applicable).

(c) The Business Information Statement should include a warranty given by the Client that the statement is true and correct, and that the Client has made full and comprehensive disclosure to the Member Business Broker of all relevant facts, information and documentation that the Member Business Broker may rely on and provide to third parties including prospective buyers.

(d) If a Member Business Broker reasonably believes they have not received sufficient disclosure from the Client to:

- i. complete their appraisal of the business;
- ii. market the business for sale; or
- iii. meet the Client's disclosure obligations under the contract of sale;

then the Member Business Broker should request the information it considers necessary to complete the disclosure and advise the Client to seek legal advice about what disclosure is required. 

 **Business Information Statement**
Available in Realworks



**Read about how sellers can
 get business sale-ready**

5. REQUESTING AN APPRAISAL OF A BUSINESS

- (a) Member Business Brokers may give an appraisal of the business if requested by the Client.
- (b) Prior to giving an appraisal, the Member Business Broker should obtain a signed Request for an Appraisal of Selling Price of a Business from the Client or otherwise provide a statement to the Client to notify them that the Member Business Broker's appraisal is their estimation of the value of the business only and is calculated in reliance on the information provided by the Client.
- (c) Member Business Brokers must not represent that their appraisal is a valuation of the business unless they are a licensed valuer.

- iv. if available, a valuation of the business provided by an accountant; and
- v. current market value based on recent sales of comparable businesses.

- (b) When the Member Business Broker provides their appraisal to the Client, they must also provide their analysis of how they reached their estimated sale price.
- (c) If during the appointment of the Member Business Broker, there is a change in circumstances for the business or the Client provides updated information to the Member Business Broker which may reasonably impact the accuracy of the Member Business Broker's appraisal, the Member Business Broker should provide an updated appraisal to the Client as soon as possible.

6. PROVIDING AN APPRAISAL OF THE BUSINESS

- (a) An appraisal should be calculated by the Member Business Broker using an industry accepted method of appraisal and taking into consideration the following factors:
 - i. value of the business assets, plant and equipment, stock in trade, work in progress, goodwill, intellectual property, inventory;
 - ii. income and expenses of the business;

 **Appraisal Forms**
Available in Realworks

7. SALE PRICE

Member Business Brokers must express the sale price of a business put to market by clearly identifying:

- (a) what is included or excluded in the price, for example if value of stock, work in progress, business assets, goodwill, intellectual property, plant and equipment is included or to be valued and added to the listing price advertised; and
- (b) if GST is applicable to the sale of the business, if the price is inclusive or exclusive of GST.

8. ADVERTISING A BUSINESS FOR SALE

- (a) Member Business Brokers should provide the Client with a Marketing and Advertising Plan along with associated costs by completing the relevant sections of the PO Form 6A.



**Learn about becoming a
Registered Business
Valuer with AIBB**

- (b) In addition to guideline 4 of Chapter 1 of these Guidelines, Member Business Brokers must not engage in misleading or deceptive conduct in advertising a business for sale including making statements about a business that may induce a buyer to purchase the business in reliance on the statement, such as statements about:
- the income, profit or return of the business;
 - the type of business and scope of services provided by the business; and
 - the future prosperity or potential of the business.
- (c) An advertisement for the sale of a business must contain:
- a sufficient description of the business;
 - the general location of the business; and
 - the sale price in accordance with guideline 6 of this Chapter 6.

9. BUYER QUALIFICATION

- (a) Member Business Brokers may seek information about a prospective buyer's qualification and experience for their client to consider with an offer to purchase the business and enter into the contract for sale of the business.
- (b) Member Business Brokers may verify a prospective buyer's qualification by obtaining a resume from the prospective buyer, contacting independent references and conducting online searches of the prospective buyer.
- (c) Subject to the terms of appointment, Member Business Brokers may in their discretion, acting reasonably, decide not to present an expression of interest to a Client from a prospective buyer if they are not satisfied with the information they have obtained.


- (d) Member Business Brokers should provide all written offers received from prospective buyers to the Client.

10. BUYER REGISTRATION AND CONFIDENTIALITY

Member Business Brokers should provide a Buyer Agreement to genuine prospective buyers prior to disclosing any information about the sale of the business to that prospective buyer.

 **Buyer Registration Agreement**
Available in Realworks

11. BUYER DUE DILIGENCE AND DISCLOSURE OBLIGATIONS

- (a) Member Business Brokers may disclose information about the business that is desirable to the Client to disclose, in order for the prospective buyer to make an offer for the business.
- (b) If a Client instructs a Member Business Broker not to disclose a matter under this guideline 11, the Member Business Broker should provide a written statement to the Client confirming:
- that the Member Business Broker has directed the Client to obtain  legal advice about the matter, the Client's disclosure obligations and the potential ramifications under the contract; and
 - that in any event, the Client has instructed the Member Business Broker not to disclose the matter.

Read about the
REIQ Business Sale Contract
4th edition update

12. CONTRACT OF SALE

- (a) If the contract of sale is not prepared by the Client's appointed Legal Practitioner and a Member Business Broker shall prepare the contract, the Member Business Broker must comply with guideline 15 of Chapter 1 of these Guidelines.
- (b) In addition, Member Business Brokers must complete the schedule of the contract with sufficient particulars about the business being sold, including:
 - i. the registered business name/s;
 - ii. any trading name/s;
 - iii. the address of the business; and
 - iv. the contact details of the business to be transferred with the business such as domain, phone numbers, email addresses, social media accounts, fax numbers.

13. GUARANTOR

- (a) Member Business Brokers should ask their Client if a guarantor is required to also enter the contract of sale in order to guarantee the obligations of the prospective buyer, such as a director's personal guarantee on behalf of a company buyer.
- (b) If a Client requires a guarantee to be given, the Member Business Broker should take reasonable steps to verify the guarantors identity in the same manner as the prospective buyer under guideline 16 of Chapter 1 of these Guidelines.
- (c) A Member Business Broker may request information about a guarantor to verify their qualification in accordance with guideline 9 of Chapter 6 of these Guidelines.

14. BUSINESS APPROVALS, CERTIFICATES AND LICENCES

Member Business Brokers should direct their Client to obtain appropriate legal advice about how to transfer



any relevant licence, approval or certificate in connection with the operation of the business, and whether special conditions should be included prior to entering a contract for sale.

15. ASBESTOS IDENTIFICATION, REGISTER AND MANAGEMENT PLAN

- (a) Member Business Brokers must make reasonable enquiries with the Client to ascertain:
 - i. if a competent person has been engaged to identify all asbestos or asbestos contaminating material at the property;
 - ii. if an asbestos register compliant with the *Work Health and Safety Regulation 2011* (Qld) has been prepared and is kept on the property; and
 - iii. if an asbestos management plan compliant with *Work Health and Safety Regulation 2011* (Qld) has been prepared and is kept on the property.
- (b) If the Client has not complied with their legal obligations or the Member Business Broker has reasonable doubt that the Client has complied with their legal obligations under the *Work Health and Safety Regulation 2011* (Qld), then the Member Business Brokers should direct the Client to seek legal advice about their obligations and disclosure requirements which must be made under a contract and relevant legislation.




Learn more about the legal requirements for business owners in relation to the identification and management of asbestos

16. INSURANCE

Member Business Brokers should ensure the Client holds the relevant insurance policies necessary to conduct inspections at the place of business (if applicable for the type of business).

17. ASSIGNMENT OF LEASES

- (a) If the place of business is a leased premises, Member Business Brokers must ask if a prospective buyer intends to enter a new lease with the lessor or assign the existing lease.
- (b) Whether a new lease is entered or an existing lease is assigned:
 - i. the contract schedule must reflect the buyer's requirement for an assignment of the existing lease or the new lease terms;
 - ii. Member Business Brokers should direct their Client to contact the lessor as soon as practicable after the contract is entered into or becomes unconditional (if appropriate), to obtain its consent to an assignment or new lease; and
 - iii. if the property is a retail shop, as defined by the *Retail Shop Leases Act 1994* (Qld), the prospective buyer must be provided with the relevant disclosure documents and certificates required under legislation.
- (c) If requested by the Client or their Legal Practitioner, the Member Business Broker must seek information from the prospective buyer required by the lessor or their Legal Practitioner to provide the lessor's consent.
- (d) If the business is subject to a franchise agreement, the Member Business Broker should direct the Client to obtain any relevant consents from the franchisor. If the Client is not aware of what consents they require, the Member Business Broker should direct the Client to seek legal advice. 

18. EMPLOYEES OF THE BUSINESS

- (a) Member Business Brokers must obtain details about the business' employees from the Client to annex to the contract, including the names, date of commencement, wage and position.
- (b) Subject to Client instructions, Member Business Brokers should not discuss the sale of a business directly with employees of that business or make any representations as to whether the prospective buyer intends to offer them employment after the sale has been completed.



Fair Work sets out
requirements for employees
 when a business is sold





19. STOCKTAKES

- (a) Member Business Brokers may arrange a stock take of a business on behalf of the Client, if instructed by the Client.
- (b) Member Business Brokers must ensure they have disclosed any rebates, discounts or other benefits they receive from referring the Client to such services in Part 8 of the PO Form 6A.

20. ENTITLEMENT TO COMMISSION

- (a) Member Business Brokers are entitled to their commission as stated in the PO Form 6A if they have used the REIQ Schedule Essential Terms and are the effective cause of sale of the Business, and:
 - i. a contract for sale is completed; or
 - ii. if the Client defaults under the contract for sale and it is terminated by reason of that default; or
 - iii. if the contract of sale is not completed and the whole or part of the deposit is forfeited; or
 - iv. the contract of sale is terminated by mutual agreement between the Client and buyer.
- (b) If a Client disputes a Member Business Broker's entitlement to their commission, the Member Business Broker should send a notice to the Client within 5 business days, stating:

- i. what amount of commission the Member Business Broker is entitled to;
- ii. how the Member Business Broker proposes to take the commission (if they hold a deposit or if an invoice shall be issued);
- iii. confirming the grounds under which the Member Business Broker is entitled to the commission and authorised to take the commission (as set out in the PO Form 6A); and
- iv. giving the Client reasonable time to provide their response before the Member Business Broker will take further steps to take their commission.

- (c) If the Member Business Broker does not receive a response from the Client by the stated time or if the Client does not provide a valid reason for their dispute in the Member Business Broker's opinion, the Member Business Broker should seek legal advice about what further action they can take. 
- (d) If there is a dispute as to whether the Member Business Broker was the effective cause of sale, the Member Business Broker should contact the REIQ for practice advice or obtain independent legal advice. 



COMMERCIAL & INDUSTRIAL PRACTICE

CHAPTER SEVEN

7



REIQ Commercial & Industrial Chapter Committee 2024 – 2025

The REIQ chapter committee is comprised of licensed commercial agents who are respected and experienced members of their sector. Committee members provide valuable insights to the REIQ about the industry including matters that affect agents on the ground.

Committee members are also involved in providing critical feedback to the REIQ in its education, training, events and advocacy services.

Andy Chan, Crew Commercial
Sam Christensen, Trident Property Advisory Pty Ltd
Jason Luckhardt, NAI Harcourts
Julie Ryan, Ray White Commercial CSR

Rauhena Chase, Rauhena Chase Commercial Real Estate
Paul Dugan, Dugan & Co Property
Nathan O'Neill, NAI Harcourts
Melanie Scott-Power, Your Commercial

THIS CHAPTER 7 APPLIES TO MEMBER COMMERCIAL & INDUSTRIAL AGENTS (MEMBER C&I AGENTS) FOR SALES (PART A) AND PROPERTY MANAGEMENT (PART B) AND SHOULD BE READ IN CONJUNCTION WITH CHAPTER 1 OF THESE GUIDELINES.

PART A – COMMERCIAL & INDUSTRIAL SALES AGENTS

1. NEW APPOINTMENT

In conjunction with the PO Form 6A & Commercial and Industrial Sales & Lease Schedule & Terms, Member C&I Agents are encouraged to use REIQ Commercial Sales Checklist.

2. LEGISLATIVE COMPLIANCE

- (a) Member C&I Agents must comply with the sections of the PO Act (and Regulations) which apply to commercial property sales and keep up to date with amendments from time to time.
- (b) Member C&I Agents may be appointed under the PO Form 6A on the basis that the appointment is open or exclusive subject to the terms and conditions of the REIQ Commercial and Industrial Sales & Lease Schedule & Terms.
- (c) Member C&I Agents or their Clients may terminate an appointment subject to any relevant contractual provisions and statutory minimum period.

3. PRIVACY NOTICE AND CONSENT

Member C&I Agents must provide a Privacy Notice and Consent:

- (a) To the Client when entering the PO Form 6A; and
- (b) To a prospective buyer when their application is made.

4. TITLE SEARCH

Member C&I Agents should conduct a title search of the property:

- (a) when preparing the PO Form 6A to be signed by the Client; and
- (b) when a contract of sale is prepared.

5. APPRAISAL

- (a) If a Member C&I Agent provides an appraisal for a property, they should provide either a comparative market analysis (CMA) or written explanation confirming how they have estimated the market value of that property.
- (b) A CMA provided by a Member C&I Agent must compare:
 - i. at least three (3) properties of a similar standard or condition;
 - ii. sold within five (5) kilometres of the property; and
 - iii. sold within the last six (6) months.
- (c) Member C&I Agents may only provide a CMA or their written statement to a prospective buyer if they have received written consent from the Client.
- (d) Member C&I Agents must provide a statement to the Client that the CMA is an estimation of market value only and does not constitute a valuation, unless the Member C&I Agent is a licensed valuer.



Commercial Agents should note the difference between an appraisal and valuation.

6. COMMISSION

Member C&I Agents must clearly state in the PO Form 6A what commission is payable in compliance with guideline 11 of Chapter 1 and when their commission is payable by the Client.

7. ADVERTISING

- (a) Member C&I Agents should discuss the scope of the marketing and promotion activities that the Member C&I Agent will carry out during their appointment. The Member C&I Agent must provide a schedule of fees for the proposed marketing and promotion activities and insert a maximum authorised amount in Part 8 of the PO Form 6A.
- (b) In addition to Guideline 4 of Chapter 1 of these Guidelines, Member C&I Agents must not engage in misleading or deceptive conduct in advertising a property for sale including making statements about a property that may influence a buyer's decision to purchase a property in reliance on the statement, such as statements about:
 - i. the income, profit or return of the property;
 - ii. the potential or future use of the property; and
 - iii. the future capital growth of the property or predication of future market value.
- (c) Member C&I Agents must use reasonable endeavours to advertise and market the property for sale in the public domain as well as using their own internal channels to reach prospective buyers.
- (d) An advertisement for the sale of a property should contain:
 - i. a sufficient description of the property;
 - ii. the location of the property;
 - iii. if the premises is leased; and
 - iv. the sale price (unless going to be sold by Auction).
- (e) Member C&I Agents should provide advice to the Client about how a sale price (and other descriptive matters) should be expressed in the advertisement and marketing for the property

to secure the best sale price in the circumstances of the property.

- (f) Member C&I Agents should seek their Client's approval for any advertising or marketing prior to publication.

8. CHANGE IN LISTING PRICE

Member C&I Agents must obtain written instructions prior to changing the listing price of a property.

9. PHOTOGRAPHY

- (a) Member C&I Agents should only include recent photographs of a property in their advertisement and marketing of the property and refrain from breaching any copyright laws.
- (b) Member C&I Agents must not use photographs in their advertisement and marketing of the property if the photographs have been altered to the extent that they are misleading or depict the area, colour, condition or features in or around the property to be different than they are.
- (c) If the property is leased, the Member C&I Agents must not use a photograph containing the lessee's property unless a written consent is provided.



10. INSPECTIONS

Member C&I Agents should:

- (a) conduct open inspections for the property at a time, day and frequency approved by the Client (and lessee if applicable);
- (b) request permission for a private inspection by giving the Client (and lessee) as much notice as practicable; and
- (c) only allow prospective buyers to take photographs or videos of the property with the permission of the Client (and lessee).

11. DEALING WITH PROSPECTIVE BUYERS

- (a) Member C&I Agents must act professionally, in good faith and honestly when dealing with prospective buyers and discussing a property for sale.
- (b) Member C&I Agents should not use excessive sales tactics or apply such pressure to a prospective buyer that the prospective buyer makes a decision under duress to either:
 - i. enter a contract for sale on the basis of a representation made by the Member C & I Agent that any matter concerning the prospective buyer may be resolved after the contract is entered; or
 - ii. waive the benefit of a condition under a contract.

12. EXPRESSION OF INTERESTS

- (a) A genuine expression of interest should include the following information:
 - i. the offered purchase price;
 - ii. the deposit amount;
 - iii. if the buyer requires the contract to be conditional on finance or a building and pest inspection;

- iv. if the buyer requires any special conditions to be included; and
- v. the proposed settlement date.

- (b) Member C&I Agents may in their discretion choose not to provide an expression of interest to their Client if it does not meet the criteria of a genuine expression of interest. It is recommended that the Member C&I Agent document the reasons supporting their decision and that a copy be provided to the Client, if requested.

13. ACKNOWLEDGEMENT OF MULTIPLE OFFERS

- (a) To protect Member C&I Agents from any claim of unprofessional conduct or breach of their fiduciary duty to the Client, if a Member C&I Agent receives multiple offers for a property for sale, the Member C&I Agent should:
 - i. notify each prospective buyer that multiple offers are being made for the same property;
 - ii. advise each prospective buyer that they have until a stated time and date to make their best offer for their Client's consideration;
 - iii. obtain a signed Multiple Offer notice from each prospective buyer;
 - iv. present all genuine offers to the Client for the Client's consideration at the stated time and date.
- (b) Member C&I Agents must not engage in conduct that is deceptive and misleading such as making representations to one prospective buyer that induces them to increase their offer on the basis of another offer that has been made.



Commercial & Industrial Forms
Available in Realworks

14. ADVICES

Member C&I Agents should refer their Client to seek legal advice and financial advice prior to a contract of sale being prepared to:



- (a) ascertain the correct legal entity name and details for the seller and if any special conditions are needed if the seller is a trust, personal representative or attorney;
- (b) ensure the Client has sought the appropriate tax and financial planning advice they may require prior to selling their property;
- (c) ascertain what disclosure (if any) needs to be made about the property to any prospective buyer prior to entering the contract; and
- (d) provide any special conditions the seller may need in a contract for sale for their specific circumstances, including but not limited to:
 - i. to deal with GST and land tax;
 - ii. with respect to commercial or retail tenancies in compliance with relevant legislation; and
 - iii. to deal with matters specific to the type of commercial property being sold including varying any standard conditions which may be desirable to the Client.




Watch the
REIQ Commercial
Contract Update
training webinar

15. PREPARING A CONTRACT

- (a) If a Member C&I Agent is instructed to prepare a contract for sale by a Client, the Member C&I Agent should provide a warning to the Client that:
 - i. the Member C&I Agent can facilitate a contract but cannot provide legal advice or services (ie. drafting special conditions) with respect to the contract;
 - ii. that the Client may incur significant financial or legal consequences if they do not receive specific legal and financial advice; and
 - iii. that the Member C&I Agent has recommended the Client obtain legal advice in relation to the contract of sale.
- (b) If a Member C&I Agent prepares a contract for sale, the Member C&I Agent must ensure:
 - i. they have completed the particulars of the contract correctly and with reasonable care;
 - ii. they have inserted the correct legal description of the Client and buying entity;
 - iii. they have expressed the price clearly as GST inclusive or exclusive and completed the GST schedule correctly;
 - iv. they have completed the legal description of the property correctly;
 - v. they have completed the disclosure details correctly and without omission, including title encumbrances, improvements and chattels, lease schedule, service contract schedule, body corporate disclosure; and
 - vi. if a special condition is required to deal with anything, the Member must only insert a special condition if they are certain that condition has been prepared by a Legal Practitioner.

16. SECTION 206 DISCLOSURE STATEMENT


- (a) This guideline 16 applies if the property is a commercial lot in a Community Titles Scheme.
- (b) Member C&I Agents must provide a signed s206 disclosure statement to a prospective buyer of a property with the draft contract.
- (c) A s206 disclosure statement must be signed either:
 - i. By the Client; or
 - ii. By the Member C&I Agent if they hold a signed written authority from the Client.
- (d) Member C&I Agents may:
 - i. prepare the statement by using information received from the Client or body corporate; or
 - ii. obtain a completed statement from either the Client's Legal Practitioner or the body corporate of the community titles scheme.
- (e) Regardless of which party prepares a statement, Member C&I Agents should direct their Clients to obtain legal advice about the information disclosed and what  termination rights a buyer may have under the *Body Corporate and Community Management Act* should the information be incorrect or incomplete.




**REIQ Members can see
completed example contracts
in the Best Practice Toolkit
in Member Resources**

17. SELLER'S CONTRACTUAL DISCLOSURE

- (a) Member C&I Agents should obtain instructions from their Client about matters which the Client is required to disclose to a prospective buyer either contractually or legally including, but not limited to, the following matters:
 - i. the certificate of classification for the property, if the present use of the property is lawful;
 - ii. the Client's legal capacity to enter and complete the contract (they are not bankrupt or insolvent) and if the seller is a trustee, they have a power of sale under the instrument of trust;
 - iii. if there is current, pending or threatened litigation by any third party claiming an interest in the property or which may effect the property or the Client's title to the property;

- iv. if there is an unsatisfied judgment, order or writ affecting the property or Client's ability to complete the contract;
 - v. if there is an order or notice issued by a competent authority:
 - A. under Part 11 of the *Property Law Act* operating as a charge on the land;
 - B. under the *Building Act* or *Planning Act* (show cause notice);
 - C. proposing to alter dimensions of transport infrastructure;
 - D. to resume any part of the land;
 - E. declaring the land as acquisition land;
 - F. under the *Foreign Acquisitions and Takeovers Act* being a charge on the land;
 - G. requiring work to be done or money spent in relation to the property which must be complied with;
 - vi. if there are any outstanding obligations imposed on the Client under the *Environmental Protection Act* or if the Client is aware of any other matter which may lead to the land being classified as contaminated;
 - vii. if access or any services to the land pass unlawfully through other land;
 - viii. if there is an outstanding notice of a development approval which may constitute a mistake in the seller's title to the land;
 - ix. if the property is heritage listed;
 - x. if the property is a lot in a community titles scheme, that:
 - A. there is no unregistered right which is required to be registered to give indefeasibility affecting the common property of body corporate assets;
 - B. there is no proposal to record a new community management statement; and
 - C. all body corporate consents to improvements made to common property which benefit the lot are in force;
 - xi. a copy of any leases and if there are any disputes or issues with a commercial lessee; and
 - xii. if there are any other material facts which may reasonably influence a prospective buyer's decision to purchase the property and which failure to disclosure would materially prejudice the prospective buyer.
- (b) If any of the above matters are applicable to the property, Member C&I Agents should direct their Client to obtain legal advice about their obligations of disclosure  prior to entering into a contract with a prospective buyer.
- (c) If a Client instructs a Member C&I Agent not to disclose a matter under this guideline 17, the Member C&I Agent should provide a written statement to the Client confirming:
- i. that the Member C&I Agent has directed the Client to obtain legal advice about the matter, the Client's disclosure obligations and the potential ramifications under the contract; and
 - ii. that in any event, the Client has instructed the Member C&I Agent not to disclose the matter.

18. ASBESTOS IDENTIFICATION, REGISTER AND MANAGEMENT PLAN

- (a) Member C&I Agents must make reasonable enquiries with the Client to ascertain:
 - i. if a competent person has been engaged to identify all asbestos or asbestos contaminating material at the property;
 - ii. if an asbestos register compliant with the *Work Health and Safety Regulation 2011* (Qld) has been prepared and is kept on the property; and
 - iii. if an asbestos management plan compliant with *Work Health and Safety Regulation 2011* (Qld) has been prepared and is kept on the property.
- (b) If the Client has not complied with their legal obligations or the Member C&I Agent has reasonable doubt that the Client has complied with their legal obligations under the *Work Health and Safety Regulation 2011* (Qld), then the Member C&I Agent should direct the Client to seek legal advice about  their obligations and disclosure requirements which must be made under a contract and legislation.

19. DEPOSIT PAYMENT

- (a) If a buyer has:
 - i. paid a deposit by an electronic funds transfer;
 - ii. provided evidence of payment such as a payment confirming showing the account details, amount and date of payment; and
 - iii. does not do a thing that delays the payment;
 - iv. then the Member C&I Agent may provide a Notice of Deposit Payment confirming the deposit has been paid on the day it was paid.

- (b) If the Member C&I Agent is instructed to invest the buyer's deposit, the Member C&I Agent must comply with the relevant clause of the contract, including obtaining the buyer's tax file number.

20. BUILDING AND PEST CONDITIONS

- (a) If a contract is subject to a building and pest inspection condition, the Member C&I Agent must facilitate an inspection of the property by:
 - i. seeking the Client's approval about the time and date the buyer seeks to have the inspection;
 - ii. if applicable, giving the appropriate notice to the lessee depending on the terms of their commercial lease; and
 - iii. encouraging the Client or lessee to ensure all parts of the property are accessible to the inspector.
- (b) Member C&I Agents should not provide any advice to a prospective buyer about a building and pest inspection report including:
 - i. an assessment of the defects listed;
 - ii. providing an estimation of the cost of repair or replacement with respect to defects; and
 - iii. whether a prospective buyer has a right to terminate based on the type of defect listed or severity of defects accumulated.

21. FINANCE CONDITIONS

- (a) Member C&I Agents should act reasonably if recommending a due date for finance approval conditions to a prospective buyer, giving consideration to the prospective buyer's reliance on the Member C&I Agent's knowledge and expertise.
- (b) Member C&I Agents must not provide any advice to a buyer with respect to their finance approval, affirming, waiving or terminating the contract under the finance approval condition.

22. OTHER SPECIAL CONDITIONS

- (a) Member C&I Agents must not provide any advice to the Client or a prospective buyer about the parties' obligations and rights under the special conditions the contract.
- (b) Member C&I Agents should not hinder a prospective buyer from obtaining information about the property, Client or body corporate to the extent that the buyer is entitled to such information under the terms of the contract or as reasonably expected to be provided under a special condition.

23. NEGOTIATIONS DURING CONTRACT

- (a) If either party tries to negotiate the terms of an existing contract, Member C&I Agents should refer the parties to their legal representatives to formalise any negotiations.
- (b) Member C&I Agents should not engage in negotiations with the parties and must provide a warning to parties that any agreements made between themselves or via the Member C&I Agent will not be binding unless they are formalised by the parties in writing (refer to Chapter 1, section 5).

24. INSPECTIONS

Member C&I Agents should facilitate an inspection if the buyer is contractually entitled to such inspection, including issuing or requesting the Property



Commercial agents acting for 'sophisticated owners' may be exempt from the *Property Occupations Act 2014*.

Manager to issue any notice to a lessee of the property as required under the terms of their commercial lease.

25. CONTRACT BECOMING UNCONDITIONAL

Once a contract becomes unconditional Member C&I Agents should:

- (a) provide a written notice to both parties;
- (b) advise their Client to contact their bank to advise of the unconditional contract and arrange a discharge of mortgage for settlement (if applicable); and
- (c) issue or request the Property Manager to issue any notice to a lessee of the property as required under the terms of their commercial lease.

26. SETTLEMENT

Member C&I Agents should keep informed of the progress of settlement by making enquiries with the Client and buyer's Legal Practitioners. If there is a matter which the Member C&I Agent may assist to progress settlement or resolve an issue which may delay settlement, the Member C&I Agent should provide such assistance to the party's Legal Practitioners.

27. HANDOVER

Member C&I Agents must not:

- (a) handover the keys or devices for the property in its possession (if applicable);
 - (b) release the buyer's deposit; or
 - (c) account for their commission;
- until they have received a notice in writing from all parties' Legal Practitioner confirming that settlement has been completed.

28. BODY CORPORATE

Member C&I Agents must ensure that a completed Information for Body Corporate Roll (BCCM Form 8) is provided to the relevant body corporate by the buyer's Legal Practitioner.


29. DEALING WITH THE DEPOSIT AFTER SETTLEMENT


- (a) If the deposit held by the Member C&I Agent is sufficient to cover the Member C&I Agent's commission, then the Member C&I Agent may deduct its commission from the deposit when it releases the deposit to the Client (after the Member C&I Agent has received notice in accordance with Chapter 7A, section 26).
- (b) If the buyer's deposit does not sufficiently cover the Member C&I Agent's commission and a balance is due and payable at settlement, the Member C&I Agent should:
 - i. account for the entire buyer's deposit after settlement as part payment toward the Member C&I Agent's commission; and
 - ii. issue an invoice for the balance amount payable due on the settlement date to be paid by the Client at settlement from the sale proceeds.

30. ENTITLEMENT TO COMMISSION

- (a) Member C&I Agents are entitled to their commission as stated in the PO Form 6A REIQ Essential Terms if they are the effective cause of sale of the property, and:
 - i. a contract for sale is completed; or
 - ii. if the Client defaults under the contract for sale and it is terminated by reason of that default; or
 - iii. if the contract of sale is not completed and the whole or part of the deposit is forfeited; or
 - iv. the contract of sale is terminated by mutual agreement between the Client and buyer.
- (b) If a Client disputes a Member C&I Agent's entitlement to their commission, the Member C&I Agents should send a notice to the Client within 5 business days, stating:

- i. what amount of commission the Member C&I Agent is entitled to;
- ii. how the Member C&I Agent proposes to take the commission (if they hold a deposit or if an invoice shall be issued);
- iii. confirming the grounds under which the Member C&I Agent is entitled to the commission and authorised to take the commission (as set out in the PO Form 6A); and
- iv. giving the Client reasonable time to provide their response before the Member C&I Agent will take further steps to take their commission.

- (c) If the Member C&I Agent does not receive a response from the Client by the stated time or if the Client does not provide a valid reason for their dispute, the Member should seek legal advice. 

- (d) If there is a dispute as to whether the Member C&I Agent was the effective cause of sale, the Member C&I Agent should contact the REIQ for practice advice or obtain independent legal advice. 

31. AUCTIONS

If a property is being sold by auction, Member C&I Agents must provide a copy of all relevant documentation (including the contract for sale and title search) to a Member Auctioneer prior to the auction date.



Read more about the effective cause of sale

PART B – COMMERCIAL & INDUSTRIAL PROPERTY MANAGEMENT

32. NEW APPOINTMENT

In conjunction with the PO Form 6A & Commercial Property Management Schedule & Terms Member C&I Agents are encouraged to use REIQ Commercial Property Management Checklist.

33. LEGISLATIVE COMPLIANCE

- (a) Member C&I Agents must comply with the sections of the *Property Law Act* and PO Act (and Regulations) which apply to commercial property management and should keep up to date with amendments, from time to time.
- (b) Member C&I Agents or their Clients may terminate an appointment subject to any relevant contractual provisions.

34. PROPERTY MANAGEMENT SERVICES

- (a) Member C&I Agents must identify the scope of the services they may provide to the Client and their fees in connection with the services, such as:
 - i. advertising a property for lease and locating a suitable lessee;
 - ii. negotiating terms of a commercial lease;
 - iii. paying outgoings/disbursements of the property on behalf of the Client;
 - iv. issuing invoices to the lessee for rent and outgoings;
 - v. calculating outgoings in accordance with the terms of the commercial lease;
 - vi. conducting rent reviews in accordance with the terms of the commercial lease;
 - vii. conducting inspections;

- viii. attending to matters on behalf of the Client in compliance with the commercial lease;
- ix. issuing notices to the lessee; and
- x. administration and ad hoc duties.

- (b) Member C&I Agents' fees must be particularised in Part 8 of the PO Form 6A or an annexure.
- (c) If a Member C&I Agent is authorised to pay any amount on behalf of a Client in relation to the property, the maximum authorised amount must be set out in the PO Form 6A. If a Member C&I Agent is required to make a payment greater than the maximum authorised amount, the Member C&I Agent must obtain instructions in writing from the Client authorising the amount to be paid by the Member.

- (d) The Member C&I Agent should obtain any documents, notices or invoices it reasonably requires to carry out its services in relation to the property. If the Client does not provide the Member C&I Agent with such information it requires, the Member C&I Agent should give the Client a warning advising of what services the Client will not be able to carry out as a result (for example, if a Member C&I Agent is instructed to make payment of an outgoing but is not provided the notice or invoice with payment details).


35. TRANSFER OF PROPERTY MANAGER

If the Member C&I Agent is appointed to manage a property with an existing lessee, the Member C&I Agent should:

- (a) obtain all documents and information required from the Client or the former property manager (if applicable) to manage the property and carry out their services; and
- (b) provide a notice to the lessee advising of that they have been appointed and any other information the lessee may require.

36. AUTHORITY TO ACT ON BEHALF OF CLIENT

- (a) Member C&I Agents are authorised under the PO Form 6A to do any act or thing that their Client is required to do as the lessor of a property under the lease, unless they receive instructions from their Client limiting the scope of the Member C&I Agent's authority.
- (b) Member C&I Agents must not do any act or thing on behalf of their Client which they are not authorised to do under the lease, PO Form 6A or as authorised by their Client in writing.
- (c) To the extent of any inconsistency, a Member C&I Agent must obey their Client's instructions. If a Member C&I Agent is instructed:
 - i. to do any act or thing on behalf of the Client that contravenes their Client's contractual or statutory obligations; or
 - ii. not to do any act or thing on behalf of the Client, that the Client may be contractually or legally obligated to do;

then the Member C&I Agent should refrain from complying with their Client's instructions until their Client has obtained legal advice about their obligations with  respect to such act or thing.

- (d) Member C&I Agents must not sign the PO Form 6A appointment on behalf of the Client.

37. COMMISSION

Member C&I Agents must clearly state in the PO Form 6A what commission is payable in compliance with guideline 11 of Chapter 1 and when their commission is payable by the Client.

38. PRIVACY NOTICE AND CONSENT

The Member C&I Agent must provide a Privacy Notice and Consent:

- (a) to the Client when entering the PO Form 6A; and
- (b) to a prospective lessee when their application is made.



**REIQ Commercial Property
Management Checklist
Available in Realworks**

39. RENTAL APPRAISAL

- (a) Where applicable, Member C&I Agents should provide a Comparative Market Analysis (CMA) or written statement to the Client as a rental appraisal for the property.
- (b) A CMA provided by a Member C&I Agent should compare:
 - i. at least three (3) properties of a similar standard or condition;
 - ii. let within five (5) kilometres of the property; and
 - iii. let within the last six (6) months.
- (c) Member C&I Agents must provide a statement to the Client that the CMA is an estimation of market rental value only and does not constitute a valuation, unless the Member C&I Agent is a licensed valuer.
- (d) Regardless of whether a CMA has been provided, Member C&I Agents:

- i. should use their best endeavours to manage their Client's expectations of what rental price they are likely to receive for the property without underquoting the Client;
- ii. must use their best endeavours to negotiate the best terms for their Client; and
- iii. must not provide financial advice about future rental return or market forecasts.

40. ADVERTISING

- (a) Member C&I Agents should discuss the scope of the marketing and promotion activities that the Member C&I Agent will carry out during their appointment. The Member C&I Agent must provide a schedule of fees for the proposed marketing and promotion activities and insert a maximum authorised amount in Part 8 of the PO Form 6A.
- (b) In addition to Guideline 4 of Chapter 1 of these Guidelines, Member C&I Agents must not engage in misleading or deceptive conduct in advertising a commercial property for lease including making statements about a property that may influence a lessee's decision to rent a property in reliance on the statement, such as statements about:
 - i. the permitted use of the property or zoning of the property;
 - ii. the potential or future use of the property; and
 - iii. the future market rental value of the property or prediction of the commercial rental market.
- (c) Member C&I Agents must use reasonable endeavours to advertise and market the property for lease in the public domain as well as using their own internal channels to reach prospective lessees.

- (d) An advertisement for the lease of a property must contain:
 - i. a sufficient description of the property;
 - ii. the location of the property; and
 - iii. the proposed amount of rent and whether outgoings are included or additional.
- (e) Member C&I Agents should provide advice to the Client about how a rental price (and other descriptive matters) should be expressed in the advertisement and marketing for the property to secure the best amount in the circumstances of the property.
- (f) Member C&I Agents must seek their Client's approval for any advertising or marketing prior to publication.

41. PHOTOGRAPHY

- (a) Member C&I Agents should only include recent photographs of a property in their advertisement and marketing of the property and refrain from breaching any copyright laws.
- (b) Member C&I Agents must not use photographs in their advertisement and marketing of the property if the photographs have been altered to the extent that they are misleading or depict the area, colour, condition or features in or around the property to be different than they are.

42. INSURANCE

Member C&I Agents should ensure the Client (or lessee):

- (a) holds the relevant insurance policies necessary to conduct open inspections at the property; and
- (b) holds any other required insurance policies for the property.

43. INSPECTIONS

Member C&I Agents should:

- (a) conduct inspections for the property at a time, day and frequency approved by the Client (and existing lessee if applicable);
- (b) request permission for a private inspection by giving the Client (and lessee) as much notice as practicable; and
- (c) only allow prospective buyers to take photographs or videos of the property with the permission of the Client (and existing lessee, if applicable)

44. PROSPECTIVE LESSEE'S

- (a) Member C&I Agents should prepare a criteria for a suitable lessee based on their Client's instructions which they may use to assess the suitability of prospective lessees.
- (b) Member C&I Agents should obtain sufficient information about a prospective lessee and any proposed guarantor. Member C&I Agents should verify and confirm:
 - i. the prospective lessee's identity (such as photo identification, proof of citizenship or residency status, ASIC company search to verify a registered company, obtaining a copy of any trust deed or power of attorney);
 - ii. information about the prospective lessee's business (such as CV, references from former lessors, property managers);
 - iii. the prospective lessee's financial circumstances (such as bank statements, credit history check, statement of assets and liabilities prepared by an accountant, tax return); and

the prospective lessee's suitability (such as online court check, police check, personal references).

45. ASSESSING SUITABILITY OF A PROSPECTIVE LESSEE

Member C&I Agents should assess the suitability of a prospective lessee and be satisfied that:

- (a) the prospective lessee has sufficient financial means to meet their obligations under a lease without placing themselves into financial hardship;
- (b) the prospective lessee is a suitable business with a good rental history, credit history and is not currently party to any proceedings which would effect their ability to fulfil their obligations under a lease;
- (c) the type of business conducted by the lessee and whether it is suitable for the use of the property or if any approvals would need to be obtained; and
- (d) there are no apparent circumstances as to why the prospective lessee is not a suitable lessee for the property.

46. CLIENT INSTRUCTIONS


- (a) Member C&I Agents must comply with the Client's instructions with respect to the extent of involvement the Client wishes to have in selecting a lessee. Member C&I Agents must provide the Client with any information requested about a prospective lessee for their consideration.
- (b) Notwithstanding the Client's extent of involvement in selecting the lessee, Member C&I Agents must obtain written confirmation from their Client to approve a prospective lessee.

47. HEADS OF AGREEMENT

- (a) Member C&I Agents may prepare a heads of agreement on the basis of their Client's instructions of the material terms and conditions of a lease for the property including:
- i. what rent is offered (including or excluding GST);
 - ii. how outgoings are payable (gross lease / fixed amount / pro rata);
 - iii. type and frequency of rent reviews (CPI / fixed / market review);
 - iv. what security will be taken (amount / bank guarantee or security bond);
 - v. if guarantors are required (director guarantees);
 - vi. the term of the lease and if there are any options;
 - vii. if there are any included fixtures, fittings or chattels and any conditions of their use;
 - viii. the permitted use of the property;
 - ix. if there are any special conditions (prepared by the Client's Legal Practitioner);
 - x. if there are any incentives offered by the Client;
 - xi. if the lessee's business requires certain approvals / licences / certifications to operate at the property, special conditions the Client may require;
 - xii. if the Client has any conditions to enter the lease (such as having their legal costs paid or any deposit paid in advance); and
 - xiii. if the prospective lessee will incur forfeiture of fees paid in advance if they do not proceed with the lease.

- (b) Member C&I Agents should obtain a completed and signed heads of agreement from the prospective lessee (with any amendments clearly shown and initialled by the lessee) for the Client's consideration.
- (c) Member C&I Agents must not make any representations or give any warranties to the Client or the lessee about the permitted use of the property, the zoning of the property or the classification of the property.

48. THE LEASE


- (a) Member C&I Agents must not provide advice or determination as to what type of lease is appropriate for their Client and the property.
- (b) If a Member C&I Agent is instructed to prepare a lease by a Client, the Member C&I Agent must provide a statement to the Client that:
- i. the Member C&I Agent cannot provide legal advice about which type of lease is appropriate for the property, the relevant disclosures that are required outside of the standard REIQ Commercial Tenancy Agreement;
 - ii. that the Client may incur significant financial or legal consequences if they do not receive specific advice about issues that relate to the property which the Member C&I Agent cannot provide advice for; and
 - iii. that the Member C&I Agent has recommended the Client obtain  legal advice and instruct their legal advisor to prepare the lease for the property.



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49. RETAIL SHOP LEASES ACT

If the *Retail Shop Leases Act* (RSLA) applies to a lease of the property, Member C&I Agents must do all things necessary to comply with the Act on behalf of the Client, including:

- (a) provide the necessary disclosure statements to the prospective lessee, renewing lessee or assignee, such as a completed and signed Lessor Disclosure Statement, Lessee Disclosure Statement, Legal Advice Certificate, Financial Advice Certificate;
- (b) ensure time limits prescribed by the Act are complied with:
 - i. the prospective lessee must not sign the lease within 7 days of receiving the lease and disclosure required by the Act unless a Waiver is given; and
 - ii. time limits prescribed for renewal of the lease, giving notice to exercise an option to renew and to withdraw any notice; and
- (c) direct the Client to seek legal advice about the specific requirements of the RSLA which may apply to their lease. 

50. ASBESTOS IDENTIFICATION, REGISTER AND MANAGEMENT PLAN

- (a) Member C&I Agents must make reasonable enquiries with the Client to ascertain:
 - i. if a competent person has been engaged to identify all asbestos or asbestos contaminating material at the property;
 - ii. if an asbestos register compliant with the *Work Health and Safety Regulation 2011* (Qld) has been prepared and is kept on the property; and
 - iii. if an asbestos management plan compliant with *Work Health and Safety Regulation 2011* (Qld) has been prepared and is kept on the property.

- (b) If the Client has not complied with their legal obligations or the Member C&I Agent has reasonable doubt that the Client has complied with their legal obligations under the *Work Health and Safety Regulation 2011* (Qld), then the Member C&I Agent should direct the Client to seek legal advice about their obligations and disclosure requirements which must be made under a contract and legislation. 

51. CRITICAL DATES

Member C&I Agents should diarise all critical dates in the lease or applying to the lease under relevant legislation and provide their Client or their Client's Legal Practitioner with a reminder of the critical date within a reasonable time of that date.

52. PROPERTY CONDITION REPORTS

- (a) Member C&I Agents may conduct a property condition report within a reasonable time before the lessee takes possession of the property to evidence the condition, cleanliness and state of repair of all aspects of the property including all fixtures, fittings, plant and equipment at the property.



- (b) Member C&I Agents should ensure the property condition report is accurate, substantially complete and is supported with clear photographs evidencing the condition of the property and its fixtures.

53. HANDOVER

Member C&I Agents must not handover possession of the property to the lessee until:

- (a) any conditions of access required by the Client are met, for example:
 - i. the lessee has returned all lease documents, disclosure and advice certificates signed correctly to the Client or their Legal Practitioner;
 - ii. an initial deposit has been paid to the Member C&I Agent;
 - iii. a security deposit has been paid or original bank guarantee been handed over to the Client or their Legal Practitioner;
 - iv. the lessee has provided a certificate of currency evidencing that they hold the insurances for the property that they are required to under the lease;
 - v. the Client has completed any works they are required to complete under the lease prior to handover;
 - vi. the lessee has completed any works or fit out they are required to complete under the lease; or
 - vii. any other conditions that a party must attend to prior to the lessee being given possession of the property under the lease; and

- (b) the Member C&I Agent receives written approval from the Client or the client's Legal Practitioner confirming all conditions have been satisfied and the Member C&I Agent is authorised to handover possession of the property to the lessee.

54. HOLDING SECURITY FOR A CLIENT

- (a) Member C&I Agents should not hold a security bond in their trust account on behalf of a Client unless they have obtained instructions in writing from the Client and the lessee authorising the Member C&I Agent to hold funds in their trust account for the duration of the lease. Member C&I Agents can impose any conditions they determine are necessary to comply with their trust accounting obligations.
- (b) Member C&I Agents should not hold an original bank guarantee for their Client unless they can place the original bank guarantee in a safe custody storage facility.

55. BODY CORPORATE – COMMERCIAL LOTS IN A CTS

Member C&I Agents must complete the Information for Body Corporate Roll (BCCM Form 8) and provide to the manager of the body corporate immediately after a lease agreement with a term of six (6) months or more is entered by a lessee.

56. DEALING WITH LESSEES

Member C&I Agents should comply with the following conduct when dealing with lessees:

- (a) provide a response to the lessee within a reasonable time of receiving a notice or correspondence;
- (b) act courteously and professionally;
- (c) keep detailed, accurate and complete records of all communications with the lessee including emails, letters, notices and file notes of phone calls;


- (d) provide suitable time frames for actions to be taken;
- (e) keep in open communication with the lessee;
- (f) not provide lessees with legal or financial advice. If a lessee seeks advice from a Member C&I Agent about their rights and obligations under lease or any relevant legislation, the Member C&I Agent should refer the lessee to seek independent legal advice; and
- (g) not interfere with the lessee's entitlement to quiet enjoyment of the property.

57. PROCEDURES UNDER A LEASE

Member C&I Agents may facilitate procedures under the terms of a lease however should not provide legal advice as to the parties rights, obligations or entitlements under those terms of the lease.

58. LESSOR CONSENTS

- (a) If a lessee is required to obtain the Client's consent to any matter under the lease, the Member C&I Agent may facilitate obtaining the Client's consent in accordance with the procedure set out under the terms of the lease and to the extent that they are not providing legal advice or services to the Client.

- (b) If the Client's consent is conditional on any matters or imposes any obligations on the lessee, the Member C&I Agent must direct the Client to obtain legal advice about the consent and what documents may need to be prepared to formalise the consent. 

59. RECEIVING RENTS AND OUTGOINGS

- (a) Member C&I Agents are authorised under the PO Form 6A to collect rents and outgoing on behalf of the Client.
- (b) Member C&I Agents can deduct their fees and expenses incurred from monies received, if authorised under the PO Form 6A REIQ Schedule.
- (c) Member C&I Agents must provide to the Client in writing an account of all monies received, paid or appropriated in accordance with the lease.

60. RENT REVIEWS

- (a) Member C&I Agents may conduct rent reviews on behalf of the Client.
- (b) Rent reviews must be calculated in accordance with the procedures set out in the lease.
- (c) Member C&I Agents must ensure any notices required to be given to a lessee with respect to a rent review under the terms of the lease are provided by the stated due dates.

61. PEST MANAGEMENT

If a Member C&I Agent is instructed by a Client to arrange a pest management activity at the property, the Member C&I Agent must only engage a licensed pest management business to conduct the activity. Member C&I Agents should seek evidence that the pest management business is licensed.




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62. INSPECTIONS

- (a) Member C&I Agents may conduct inspections:
 - i. only at such time and frequency as entitled to under the lease;
 - ii. by inspecting every area at the property they are required to;
 - iii. without removing a lessee's property; and
 - iv. bearing in mind fair wear and tear and what is reasonable.
- (b) Member C&I Agents may provide an Inspection Report to the Client which includes:
 - i. what items were satisfactory on visual inspection;
 - ii. what items were not satisfactory on visual inspection and details;
 - iii. details of any emergency maintenance works required to be completed;
 - iv. details of any other maintenance works required to be completed;
 - v. a statement whereby the Client acknowledges the Member C&I Agent has conducted a visual inspection only and is not a licensed engineer, architect, builder, pool safety inspector or any other type of professional tradesman.

63. ASSIGNMENT OF LEASE

If a Member C&I Agent receives a request from a lessee to assign a lease, the Member C&I Agent should:


- (a) obtain sufficient information about the prospective new lessee for the Client's consideration as set out in guideline 45 of this Chapter 7;
- (b) advise the Client to seek legal advice in relation to the assignment so that the appropriate documents can be prepared; and 
- (c) not allow the property to be handed over to the new lessee until the Member C&I Agent receives written confirmation from the Client or their Legal Practitioner that the property can be handed over.

64. SALE OF THE PROPERTY

If a Client proposes to sell or does sell the property, the Member C&I Agent should provide the lessee with notices as required under the terms of their lease or RSLA if applicable.

65. DAMAGE TO THE PROPERTY

If the Member C&I Agent becomes aware or is notified of any damage done to the property, the Member C&I Agent should:

- (a) inspect the damage to the property, ascertain the alleged cause of the damage (if possible) and inform their Client promptly;
- (b) comply with the procedure set out in the lease as to which party is responsible to repair damage to the property or particular fixtures and fittings in the property; and
- (c) if any dispute arises as to how the damage was caused, the cost of repair, who is liable for the cost of repair, the Member C&I Agent should direct the Client to seek legal advice. 

66. MAINTENANCE AND REPAIRS

If a Member C&I Agent is authorised by a Client to arrange routine maintenance and repairs to the property, the Member C&I Agent may do so to the maximum amount they are authorised under the PO Form 6A unless they receive written instructions from the Client approving the cost of the repairs to be spent by the Member C&I Agent.

67. CONTRACTORS

- (a) Member C&I Agents may refer contractors to the Client or lessee for the repair and maintenance of the property.
- (b) Member C&I Agents must only refer contractors that are reputable, qualified and that hold all licences and approvals required under relevant legislation.

- (c) If the Member C&I Agent receives any rebate, discount or other benefit from a third party service provider that is engaged due to the referral of the Member C&I Agent, this must be disclosed in the PO Form 6A in Section 4 of Part 8.

68. NOTICES

- (a) Member C&I Agents may issue notices on behalf of the Client, with their Client's written approval, that the Client may to issue under the terms of the lease, except for a notice relating to a default of the lease or notice to remedy breach of covenant which must be prepared by a legal advisor.
- (b) Member C&I Agents should consider if legal advice is required prior to issuing notices relating to:
 - i. destruction of a property;
 - ii. rent abatement;
 - iii. relocation of a property;
 - iv. demolition or development of a property;
 - v. a termination right under the lease; or
 - vi. lease renewals.

69. LESSEE'S DEFAULT

- (a) If a lessee defaults on the lease by failing to make a payment when due or failing to comply with any obligation, the Member C&I Agent should advise the Client promptly after becoming aware of the default.
- (b) Member C&I Agents may make enquiries with the lessee about the default and request to lessee to rectify the default within a reasonable period of time. Member C&I Agents should keep records of all correspondence or communications with the lessee about a default of the lease.
- (c) Member C&I Agents must not provide legal advice to the Client or lessee about their rights and entitlements under the lease.



It is an offence to provide legal services if you are not an Australian Legal Practitioner and could cost you up to \$46,440 or 2 years' imprisonment⁷⁰.

- (d) Member C&I Agents must not provide any legal services to the Client such as preparing a notice to remedy breach of covenant.

70. TAKING POSSESSION OF A PROPERTY

- (a) If a Client instructs a Member C&I Agent to take possession of a property (including by changing the locks) the Member C&I Agent should direct the Client to obtain legal




⁷⁰ Legal Profession Act 2007 (Qld), s 24

advice before the Member C&I Agent can carry out the instructions.

- (b) Member C&I Agents should only arrange to take possession of a property if they receive written instructions to do so from their Client or their Client's Legal Practitioner, after legal advice has been obtained by the Client.
- (c) If a Member C&I Agent is instructed by the Client to release a lessee's security, the Member C&I Agent must do so promptly.

71. LESSEE'S MAKE GOOD WORKS

- (a) After a lessee has completed their make good obligations and have vacated a property, the Member C&I Agent should inspect the property and provide a property condition report to the Client detailing the condition, cleanliness and state of repair of all aspects of the property including all fixtures, fittings, plant and equipment at the property, having regard to fair wear and tear.
- (b) Member C&I Agents cannot require a lessee to undertake specific treatment to the property that is not specified in the lease if such treatment is not necessary for a lessee to comply with its obligations under a lease.
- (c) If any the property is not left in the condition required under the terms of the lease, subject to the requirements of the lease, the Member C&I Agent may issue a notice to the lessee on behalf of the Client setting out what obligations have not been complied with and requiring the lessee to complete the works within a reasonable time frame.
- (d) If the lessee does not rectify the works to the condition required under the lease in the reasonable opinion of the Member C&I Agent, the Member C&I Agent should direct the Client to seek legal advice. 


72. GOODS LEFT AT PROPERTY

If the lessee leaves any items at the property, the Member C&I Agent may deal with the items in accordance with the terms of the lease and as instructed by the Client including removing the property, disposing of the property or storing the property.

73. RELEASE OF SECURITY

Member C&I Agents must not release any security held by the parties until such time that they receive instructions in writing from the Client or their Legal Practitioner. Member C&I Agents at any time may relinquish control of their Client's security to their Client or their Legal Practitioner.

74. ENTITLEMENT TO FEES

- (a) Member C&I Agents are entitled to payment of their commission/fees as stated in the PO Form 6A when they become due.
- (b) If a Client disputes a Member C&I Agents' entitlement to their commission, the Member C&I Agent should send a notice to the Client within 5 business days, stating:
 - i. what amount of commission the Member C&I Agent is entitled to;
 - ii. how the Member C&I Agent proposes to take the commission (if they hold a monies or if an invoice shall be issued);
 - iii. confirming the grounds under which the Member C&I Agent is entitled to the commission and authorised to take the commission (as set out in the PO Form 6A); and
 - iv. giving the Client reasonable time to provide their response before the Member will take further steps to take their commission.
- (c) If the Member C&I Agent does not receive a response from the Client by the stated time or if the Client does not provide a valid reason for their dispute in the Member C&I Agent's opinion, the Member C&I Agent should seek legal advice. 



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