



THE AGENCY



SUPERVISION GUIDELINES

Structure and use of Procedures Manual

This Procedures Manual has been compiled to follow the same format at the Supervision Guidelines.

For each section of the Supervision Guidelines, the following is set out:

- **The law** - This section includes notes briefly setting out the provisions relevant to the particular topic.
- **Agency policy** – This section sets out a sample Agency policy for the particular topic.
- **Compliance documentation** – This section includes checklists and other template documents relevant to the steps that need to be taken to assist with compliance.
- **Resources** – Where relevant, this section includes a list of additional resources (including links, fact sheets, PDFs and more) that are relevant to the topic.

While there are certainly many similarities in terms of procedures from Agency to Agency, there are also many differences. Therefore, as the Licensee-in-charge, you must carefully review the content of this Procedures Manual to ensure that it accurately reflects the way you conduct Business. In certain circumstances, it may be necessary to add to the Agency policy and compliance documentation set out in this Procedures Manual. However, in doing so, care should be taken to ensure that any changes are additions and do not remove or amend the original of this Procedures Manual.

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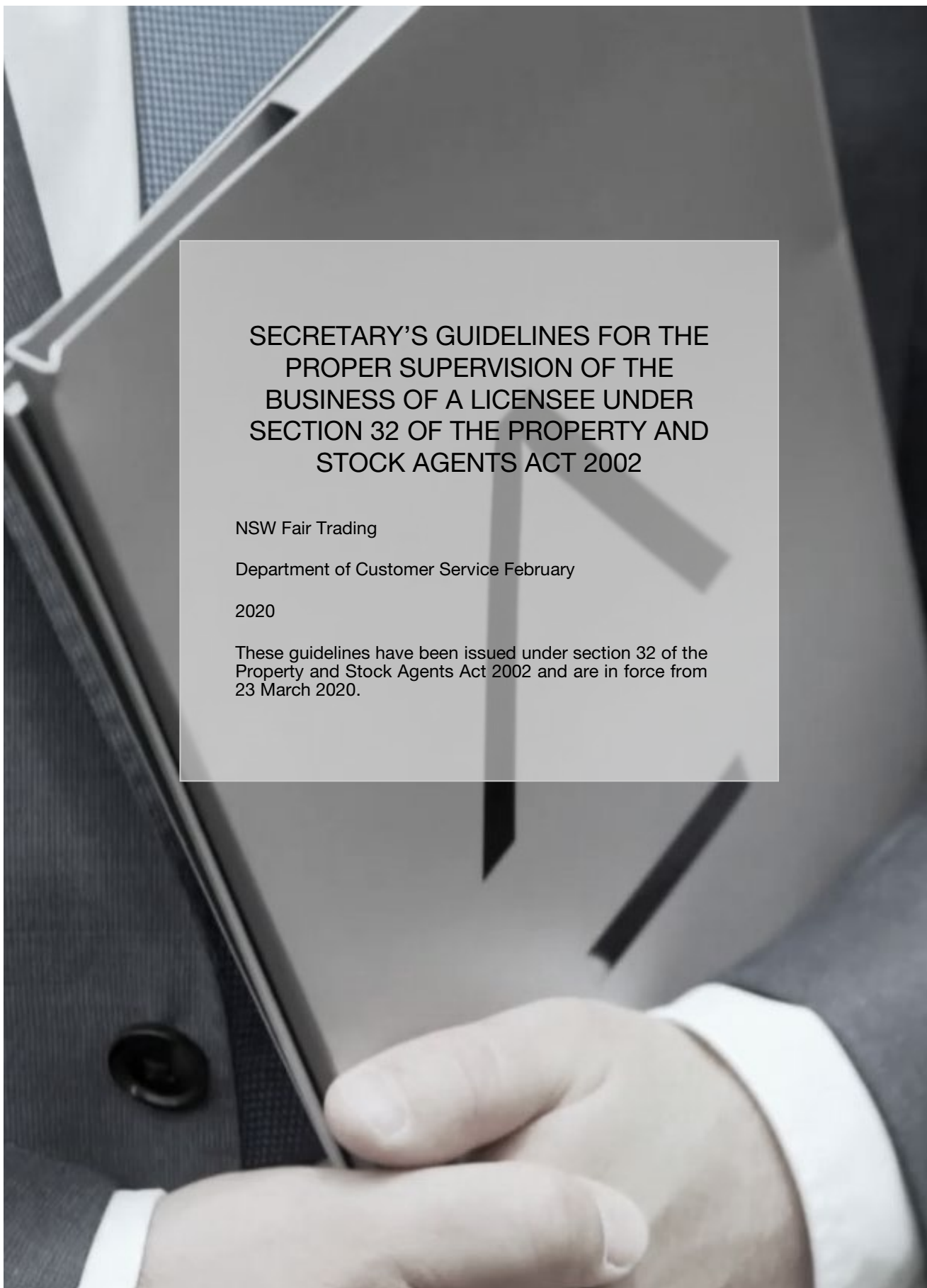
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SUPERVISION GUIDELINES



SECRETARY'S GUIDELINES FOR THE
PROPER SUPERVISION OF THE
BUSINESS OF A LICENSEE UNDER
SECTION 32 OF THE PROPERTY AND
STOCK AGENTS ACT 2002

NSW Fair Trading

Department of Customer Service February

2020

These guidelines have been issued under section 32 of the Property and Stock Agents Act 2002 and are in force from 23 March 2020.



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Part A - Introduction

Section 32 of the Property and Stock Agents Act 2002 (the Act) sets out the requirements for a licensee to properly supervise the business carried on by that licensee.

Section 32(3) sets out non-exhaustive but specific requirements, applicable to sections 32(1) and

32(2), concerning the licensee's duty to properly supervise the conduct of business. These requirements include the following:

1. To properly supervise persons engaged in the business,
2. To establish procedures designed to ensure that the provisions of the Act and any other laws relevant to the conduct of that business are complied with,
3. To monitor the conduct of business in a manner that will ensure as far as practicable that those procedures are complied with.

In addition, section 32(4) provides that the Secretary may "from time to time issue and notify to licensees guidelines as to what constitutes the proper supervision of the business of a licensee".

A failure of a licensee to comply with any of the requirements of these guidelines in connection with a business constitutes a failure to properly supervise the business and carries a maximum penalty of 200 penalty units (\$22,000) in the case of a corporation, or 100 penalty units (\$11,000) in any other case.

Licensees must comply with all the requirements of these supervision guidelines as issued by the Secretary – but that is not the entirety of the licensee's duty to supervise a business. Other requirements include, at a minimum, the general requirements of section 32(3) and all other relevant provisions of the Act.

The supervision guidelines apply to all licence holders under the Act, unless otherwise specified. A licensee and person in charge of the business may be liable for any breach of the supervision guidelines.



Part B - Definitions

i. In these guidelines:

certificate holder means a person to whom a certificate of registration has been issued under the Act

certified copy means a copy of an original document that has on it an endorsement by a person who is authorised as a witness for statutory declarations under Statutory Declarations Regulations 2018 (Cth) – Schedule 2 that it is a true copy of the original document

licensee means a licensee under the Act

licensee in charge means:

- (a) an individual who carries on business under a class 1 licence
- (b) an individual who is employed to be in charge of a business under section 31 of the Act

operational procedures means the processes and procedures required to be prepared and documented under clauses 1, 2, 3, 4, 5, 6, 7 and 8 of these guidelines

price statement means a statement made, either orally or in writing, in the course of marketing a property to a buyer, potential buyer, seller or potential seller that the property is likely to be sold for a specified price or within a specified price range

principal licensee means:

- (a) a licensee (corporation or individual) who employs a licensee in charge under section 31 of the Act
- (b) an individual who carries on business under a class 1 licence and does not employ a licensee in charge

property means real property, business or livestock – whichever is applicable

the Act means the Property and Stock Agents Act 2002

the Regulation means the Property and Stock Agents Regulation 2014

owner means the person/s with both the legal ownership of the property and authority to sell the property.

ii. Words and expressions used in these guidelines that are defined in the Act have the meanings set out in the Act.



Part C – Supervision Guidelines

1 Licensee in charge

- 1.1 A principal licensee must:
 - 1.1.1 ensure that no part of the business is left unsupervised by a licensee in charge
 - 1.1.2 ensure that no more than one licensee in charge is in charge of any one particular part of the business at any time
 - 1.1.3 ensure that any licensee in charge who is permanently or temporarily unable to properly carry out their duties due to illness, leave or some other reason, is replaced by an appropriate class 1 licence holder such that there remains a licensee in charge appointed at all times,
 - 1.1.4 prepare and maintain a document as part of the operational procedures that clearly identifies each licensee in charge relating to the business, the dates on which they were the licensee in charge and if the licensee has appointed more than one licensee in charge, the part of the business that each person is in charge of, including which trust accounts the person is in charge of; and
 - 1.1.5 ensure that details of every licensee in charge employed by the principal licensee, including the dates they commenced and finished being a licensee in charge, are notified to the Secretary in accordance with section 31(3) of the Act. This includes notifying the Secretary of address of each place of business at which the person discharges their duties as a licensee in charge of the business.

2 Requirement to prepare occupational procedures

- 2.1 A principal licensee must prepare and maintain operational procedures for the purposes of providing adequate supervision of business processes and employee conduct across the entirety of their business.
- 2.2 A principal licensee must ensure all operational procedures of the business are reviewed at least once each calendar year to ensure they are sufficiently robust and comply with the law.
- 2.3 A principal licensee must ensure all persons engaged in the business are familiar with and comply with all operational procedures.
- 2.4 A licensee must comply with all operational procedures of the business they are engaged in.



3 Trust account procedures

- 3.1 A principal licensee who employs a licensee in charge must:
 - 3.1.1 ensure that each trust account maintained in accordance with Part 7 of the Act by the principal licensee, in connection with their business as a licensee, has only one licensee in charge who is responsible for and able to authorise withdrawal of money from that account, and
 - 3.1.2 prepare and maintain a document that clearly identifies each licensee in charge and the trust account/s for which they are responsible.
- 3.2 A principal licensee must prepare and maintain written procedures for the review of trust accounts and daily or next day banking practices with respect to the receipt of trust money.
- 3.3 Without limiting clause 3.2, the written procedures must ensure:
 - 3.3.1 that each trust account has only one licensee in charge who can authorise the withdrawal of trust money from that account, and details of the relevant licensee in charge and trust account have been recorded for each trust account,
 - 3.3.2 a review of trust account transactions is conducted at least once per calendar month,
 - 3.3.3 the amounts deposited into and withdrawn from the trust account have been verified using the relevant financial institution's records as source documents,
 - 3.3.4 all persons who have access to the trust account system have separate logins, and their passwords are not shared with anyone,
 - 3.3.5 any adjustments shown in an end of month reconciliation can be explained with evidence,
 - 3.3.6 there are processes for obtaining and documenting the express authorisation of a licensee in charge to withdraw trust funds in accordance with the Regulation,
 - 3.3.7 rental and sales money is paid into the appropriate trust accounts, and
 - 3.3.8 rental money owing to a landlord under a residential tenancy agreement (less any authorised expenses) is paid to the landlord at the end of each calendar month, unless instructed otherwise by the landlord.
- 3.4 A licensee in charge must maintain a record of all cash transactions which includes, at a minimum:
 - 3.4.1 the cash amount received,
 - 3.4.2 the name of the person who received the cash from the payer,
 - 3.4.3 the name of the person who prepared the daily banking of those funds,
 - 3.4.4 the name of the person who deposited the funds in trust at the financial institution, and
 - 3.4.5 the trust account details.



4. Identification check for the purposes of fraud prevention

- 4.1. A principal licensee must prepare and maintain written procedures for the verification of the identity of a party with whom it is proposed to enter an agency agreement.
- 4.2. Without limiting clause 4.1, the written procedures must provide for the following:
 - 4.2.1. a process to verify that the identity of a person entering an agency agreement is the owner of the property that is subject to the agreement or, the person has the legal right to act on behalf of the owner,
 - 4.2.2. if applicable, in the case of a person who has the legal right to act on behalf of the owner — where that person is not listed on the certificate of title, the original or a certified copy of the document which confers the power of sale or management on that person must be sighted, and a copy of the document must be retained,
 - 4.2.3. if applicable, where there is no mortgagee listed on the certificate of title, written confirmation of the power of sale or management is sought from all registered owners listed on the title,
 - 4.2.4. where it is not possible to comply with clause 4.2.3, a reasonable attempt must be made to verify the power of sale or management with the registered owner of the property and a record retained of each attempt,
 - 4.2.5. a record must be kept of all documentation relied upon to verify an individual's identity,
 - 4.2.6. the confirmation of identity check must meet all provisions of clause 4.3 of the supervision guidelines.
- 4.3. In verifying the identity of a person, a licensee must sight an original or certified copy of:
 - 4.3.1. a primary proof of identity document,
 - 4.3.2. two secondary proof of identity documents, and
 - 4.3.3. a document providing proof of legal ownership of the property.
 - 4.3.4. in the case of the sale of a business, only 4.3.1 and 4.3.2 apply.
- 4.4. For the purposes of clause 4.3, a primary proof of identity document is:
 - 4.4.1. a current Australian driver's licence, or
 - 4.4.2. a current photo card issued by a State or Territory Government agency, or
 - 4.4.3. a current Australian passport, or
 - 4.4.4. a current non-Australian passport.
- 4.5. For the purposes of clause 4.3, a secondary proof of identity document is:
 - 4.5.1. a current Medicare card, or
 - 4.5.2. a current credit card, or



- 4.5.3. a current passbook or an account statement from a bank, building society or credit union up to one year old, or
 - 4.5.4. an electoral enrolment card or evidence of enrolment not more than two years old, or
 - 4.5.5. a gas, electricity or council rates bill up to one year old, or
 - 4.5.6. a water rates notice up to one year old.
- 4.6 For the purposes of clause 4.3, a document that is proof of legal ownership of the property is:
- 4.6.1 the certificate of title for the property, or
 - 4.6.2 a current council rates notice up to one year old, or
 - 4.6.3 a land valuation notice up to one year old, or
 - 4.6.4 a National Vendor Declaration concerning the relevant livestock.
- 4.7 In verifying a proof of identity document, a licensee must ensure:
- 4.7.1 the documents are legible and appear not to have been altered in any way, and
 - 4.7.2 there is no discrepancy between the information collected by a licensee and the information contained in the documents, other than a discrepancy that can be explained and supported with evidence, and
 - 4.7.3 the photograph contained in photographic identification documents is a true likeness to the person whose identity is being verified.

5. Ongoing dealings with parties to an agency agreement

- 5.1. A principal licensee must prepare and maintain written procedures that ensure all communication during the provision of services under an agency agreement is with the owner of the property or the person with the legal right to act on the owner's behalf.
- 5.2. Without limiting clause 5.1, the written procedures for ongoing communication must ensure:
 - 5.2.1. persons engaged in the business only use contact details held on the file which have been confirmed to belong to the person who is party to the agency agreement,
 - 5.2.2. if a party to the agency agreement requests to change their contact or bank details, the change of details is confirmed, via an alternative contact method to the way in which the request originated with all parties to the agency agreement.



6. Sale of residential property – selling price and other representations

- 6.1. Clause 6 is only applicable to the sale of residential property.
- 6.2. A principal licensee must prepare and maintain written procedures for substantiating any estimated selling price, as defined in section 72 of the Act, that has been provided to a seller or prospective buyer of residential property.
- 6.3. Without limiting clause 6.2, the written procedures must ensure that the following factors have been considered when determining the estimated selling price:
 - 6.3.1. any sales of comparable properties,
 - 6.3.2. feedback from potential purchasers,
 - 6.3.3. any current or relevant valuations provided in respect of the property,
 - 6.3.4. the characteristics and features of the property,
 - 6.3.5. the methods used to market the property,
 - 6.3.6. any other available factor that may affect the estimated selling price.
- 6.4. A licensee must retain a record of information that demonstrates how the estimated selling price was determined to be reasonable.
- 6.5. A licensee must ensure that the estimated selling price is reviewed at least weekly to confirm it remains a reasonable estimated selling price.
- 6.6. When changes are made to an estimated selling price, a licensee must ensure:
 - 6.6.1. the change is communicated in writing to the vendor with evidence of how they estimated the revised estimated selling price as soon as practicable, and
 - 6.6.2. the relevant agency agreement is amended to reflect the revised estimated selling price
- 6.7. Where there is a difference between the estimated selling price and the actual selling price, licensee must be able to demonstrate that the difference was reasonable in the circumstances.
- 6.8. A licensee must ensure that any price statement made by a person engaged in the business is consistent with:
 - 6.8.1. the vendor's instructions, and
 - 6.8.2. is not lower than the estimated selling price.
- 6.9. Where a vendor instructs a person engaged in a licensee's business not to disclose a selling price, a licensee must ensure that the estimated selling price or any other selling price is not disclosed to potential buyers in writing or verbally by any person engaged in the business.
- 6.10. Where a licensee is responsible for managing the sale of a multi-unit or multi-lot property under an agency agreement, they must comply with the following:
 - 6.10.1. If any price indication is given, it must include the estimated selling prices for the lowest and highest priced properties in each property category



expressed by:

- a. providing the price ranges for each category, with the low end of the range being the estimated selling price of the lowest priced property in the category and the higher end of the range being the most expensive property in that category; or
 - b. stating the estimated selling price in the agency agreement of the lowest and highest priced properties for each property category
- 6.10.2 Any collective marketing of residential units or lots that include a price indication must also advise prospective buyers that there are multiple properties within each category of varying prices
- 6.10.3 All advertising and marketing must be updated to reflect the value of the current lowest priced lot or unit available.
- 6.11 A principal licensee must prepare and maintain written procedures that ensure all persons engaged in the business who are involved in the sales process are aware of, and meet, the following requirements:
- 6.11.1 All advertising material must accurately describe the property concerned and the information provided complies with the relevant agency agreement and legislative requirements in the Act, the Australian Consumer Law under the Competition and Consumer Act 2010 (Cth),
 - 6.11.2 All conflicts of interest must be properly disclosed, as required by Division 4 of Part 3 of the Act, to the clients, and where appropriate, any prospective buyers,
 - 6.11.3 The listing agent engaged to sell the property must be aware of the restrictions on obtaining a beneficial interest in the property.

7. Complaints handling procedures

- 7.1. A principal licensee must prepare and maintain written complaint handling procedures.
- 7.2. Without limiting clause 7.1, the written procedures must provide that:
 - 7.2.1. all complaints and the actions taken by the business in response to the complaint are recorded in a register and retained for at least 3 years from the date of receipt or resolution of the complaint, whichever is later, and
 - 7.2.2. complaints relating to financial transactions are reported to a licensee in charge as soon as practicable and are to be supervised directly by that licensee in charge.

8. Employee supervision

- 8.1. A principal licensee must prepare and maintain written procedures outlining the respective roles and responsibilities of licensees and certificate holders in relation to the preparation and signing of agency agreements, franchising agreements and agency agreements under which two or more licensed agents act in conjunction.



8.2. A licensee in charge is responsible for verifying:

- 8.2.1. all persons engaged in the business have completed all continuing professional development they are required to undertake according to the Secretary's requirements issued and notified to licensees and certificate holders under section 20 of the Act,
- 8.2.2. the applicable work experience requirements in accordance with the Property and Stock Agents (Qualifications) Order 2019 have been met, and
- 8.2.3. the length of time an individual has been engaged by the agency.

9. Gifts and benefits register

9.1. A principal licensee must prepare and maintain a register of all gifts and benefits received by persons engaged in the business in accordance with section 53F of the Act.

10. Record keeping

10.1. A licensee in charge must maintain records showing evidence of:

- 10.1.1. regular reviews of operational procedures, and
- 10.1.2. any non-compliance with the operational procedures by persons engaged in the business

10.2. A licensee in charge must be able to produce all documentation relevant to clauses 1-10 of these supervision guidelines to an authorised office in accordance with section 105 of the Act.

All records relevant to clauses 1-10 must be kept for at least 3 years.



Part D – Offence Provisions

The failure to comply with a clause of these guidelines is a contravention of section 32 of the Act, an offence which carries a maximum penalty of 200 penalty units (\$22,000) in the case of a corporation, or 100 penalty units (\$11,000) in any other case.

Contravention of section 32 can trigger disciplinary action under section 191(a) of the Act. This section allows the Secretary to undertake disciplinary action against a person for contravening a provision of the Act, whether or not the person has been prosecuted or convicted of an offence in respect of the contravention.

Systemic failure to properly supervise the conduct of a business may also be relevant to any consideration as to whether a licensee is a fit and proper person to be involved in the conduct of a business under section 191(e) of the Act.

The Secretary may serve a notice to show cause on a person if the Secretary is of the opinion that there is reasonable cause to believe that there are grounds for taking disciplinary action against the person.

Disciplinary action may range from a caution or reprimand to a disqualification from being involved in the direction, management or conduct of the business of a licensee.



1. LICENSEE IN CHARGE



- 1.1 THE LAW
- 1.1.1 Section 31 of the Property and Stock Agent Act requires that the Licensee in charge must hold a Class 1 Licence.
- 1.1.2 In accordance with section 31(3), individual or Corporation that employs a Class 1 Licensee must notify Fair Trading within five business days of the Licensee in charge being appointed. This notice must include the name and licence number of the Licensee in charge, as well as the address of each place of business where the Licensee in charge will discharge their duties.
- 1.2 AGENCY POLICY
- 1.2.1 The Principal Licensee will ensure that all areas of the Business are properly supervised at all times by the nominated Licensees in charge, and will complete the to acknowledge their understanding of their duties and responsibilities in this capacity.
- 1.2.2 No part of the Business will be left unsupervised by a Licensee-in-charge at any time. Where a Licensee in charge is temporarily to permanently unable to properly carry out their duties (whether due to illness, leave or some other reason), the Principal Licensee will ensure they are replaced by an appropriate Class 1 Licence holder.
- 1.2.3 The Business will have a minimum of one Licensee in charge appointed at all times. The appointment and removal of any Licensee in charge will be recorded in the Licensee-in-charge Register.
- 1.2.4 The Business is permitted to appoint more than one Licensee in charge at any one time, however no more than one Licensee in charge will be responsible for each area of the Business at any one time. The area of the Business that each Licensee in charge is responsible for will be recorded in the Licensee in charge Register.
- 1.2.5 The Principal Licensee will ensure that the details of every Licensee in charge are recorded in the Licensee in charge Register. This register will include the name and licence number of each Licensee in charge, the address of each place of business where they discharge their duties, and the dates on which they were appointed and removed. Where the Business appoints more than one Licensee in charge, the register will also include details of the area/s of the Business they are responsible for, as well as the Trust Account/s they are responsible for.
- 1.2.6 If the Business appoints more than one Licensee in charge, only one Licensee in charge will have the responsibility for the Trust Account. This appointment will be recorded in the Licensee in charge Register. Where the Business has both a sales department and a property management department, it may elect to appoint one Licensee in charge for the Sales Trust Account and another Licensee in charge for the Property Management Trust Account.
- 1.2.7 Fair Trading will be notified within five business days a Licensee in charge being appointed and not less than five days prior to the removal of a Licensee in charge. This notice must include the name and licence number of the Licensee in charge, and the address of each place of business where they acted as Licensee in charge. This notice will be provided NSW Fair Trading by using Notice of Appointment/Removal of Licensee in charge and emailing the completed form to propertylicensing@customerservice.nsw.gov.au



- 1.3 COMPLIANCE DOCUMENTATION
 - 1.3.1 Principal Licensee Declaration
 - 1.3.2 Principal Licensee Checklist
 - 1.3.3 Licensee in charge Appointment Form
 - 1.3.4 Licensee in charge Register
 - 1.3.5 Notice of Appointment/Removal of Licensee in charge



PRINCIPAL LICENSEE DECLARATION

I, _____, as Principal Licensee acknowledge that I will comply with the following requirements outlined in the Secretary's Guidelines for the Property Supervision of the Business of Licensee under section 32 of the Property and Stock Agents Act 2002 and in accordance with section 31 of the Property and Stock Agents Act 2002 (NSW).

As Principal Licensee, I acknowledge that I must: (please tick)

<ul style="list-style-type: none"> • Ensure that no part of the Business is left unsupervised by a Licensee in charge. 	<input type="checkbox"/>
<ul style="list-style-type: none"> • Ensure that no more than one Licensee in charge is in charge of one particular part of the Business at any one time. 	<input type="checkbox"/>
<ul style="list-style-type: none"> • Ensure that any Licensee in charge who is permanently or temporarily unable to properly carry out their duties due to illness, leave or some other reason, is replaced by an appropriate Class 1 Real Estate Licence holder, such that there remains a Licensee in charge appointed at all times. 	<input type="checkbox"/>
<ul style="list-style-type: none"> • Prepare and maintain the Licensee in charge Register as part of the operational procedures that clearly identifies each Licensee in charge relating to the Business, the dates on which they were the Licensee in charge, and, if the Principal Licensee has appointed more than one Licensee in charge, the part of the Business that each person is in charge of, including which Trust Account/s they are in charge of. 	<input type="checkbox"/>
<ul style="list-style-type: none"> • Ensure the details of every Licensee in charge employed by the Principal Licensee, including the dates they commenced and finished being Licensee in charge, are notified to the Secretary in accordance with section 31(3) of the Act. This includes notifying the Secretary of the address of each place of Business at which the person discharges their duties as a Licensee in charge of the Business. 	<input type="checkbox"/>
<ul style="list-style-type: none"> • Ensure that each appointed Licensee in charge is aware of the responsibilities of the Licensee in charge position and completes the Licensee in charge Appointment Form. 	<input type="checkbox"/>
<ul style="list-style-type: none"> • Ensure that the Licensee in charge Register is updated immediately upon the start or finish of any Licensee in charge appointment. 	<input type="checkbox"/>
<ul style="list-style-type: none"> • Ensure that NSW Fair Trading is notified in a compliant manner of any change to the Licensee in charge Register within five (5) business days of the change. 	<input type="checkbox"/>
<ul style="list-style-type: none"> • Prepare and maintain operational procedures to ensure adequate supervision of Business processes and employee conduct. 	<input type="checkbox"/>
<ul style="list-style-type: none"> • Carry out an annual review of all operational procedures of the Business to ensure they comply with the law. Any policies and procedures that are changes will be included in the Procedures Manual Change Register. 	<input type="checkbox"/>
<ul style="list-style-type: none"> • Ensure that all staff are familiar with and comply with all operational procedures. Each staff member will be issued with a copy of the Procedures Manual and will sign and acknowledge their receipt and understanding. 	<input type="checkbox"/>
<ul style="list-style-type: none"> • Ensure that all appointed Licensees in charge are compliant with and enforce compliance with all operational procedures relevant to the part/s of the Business they are responsible for. 	<input type="checkbox"/>



PRINCIPAL LICENSEE DECLARATION

<ul style="list-style-type: none"> Appoint a single Licensee in charge to be responsible for each Trust Account operated by the Business. These details will be clearly recorded in the Licensee in charge Register. 	<input type="checkbox"/>
<ul style="list-style-type: none"> Prepare and maintain written procedures for the review of Trust Accounts and daily or next day banking procedures with respect to the receipt of trust money. Each nominated Licensee in charge will carry out all required month-end processes and properly supervise the operation of each Trust Account under their control. 	<input type="checkbox"/>
<ul style="list-style-type: none"> Prepare and maintain written procedures for the verification of the identity of a party with whom it is proposed to enter an Agency Agreement. 	<input type="checkbox"/>
<ul style="list-style-type: none"> Prepare and maintain written procedures that ensure all communication during the provision of services under an Agency Agreement is with the owner or the property or person with the legal right to act on the owner's behalf. 	<input type="checkbox"/>
<ul style="list-style-type: none"> Prepare and maintain written procedures for substantiating any Estimated Selling Price (as defined by section 72 of the Property and Stock Agents Act), that has been provided to a seller or prospective buyer of residential property. 	<input type="checkbox"/>
<ul style="list-style-type: none"> Prepare and maintain written complaints handling procedures and enforce the use of the Complaints Register. 	<input type="checkbox"/>
<ul style="list-style-type: none"> Prepare and maintain written procedures outlining the respective roles and responsibilities of Licence holders and Certificate of Registration holders in relation to the preparation and signing of Agency Agreements. 	<input type="checkbox"/>
<ul style="list-style-type: none"> Prepare and maintain the Gifts and Benefits Register to record the gifts and benefits received by persons engaged in the Business in accordance with section 53F of the Property and Stock Agents Act. 	<input type="checkbox"/>
<ul style="list-style-type: none"> Verify with each appointed Licensee in charge that regular internal audits have been carried out to ensure strict compliance with operational policies and procedures. All instances of non-compliance will be documented, reviewed and appropriate action taken to remedy the breach. 	<input type="checkbox"/>
Acknowledgement	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Principal Licensee:	Name:
	Signature:
	Date:



PRINCIPAL LICENSEE CHECKLIST

Are all areas of the Business properly supervised by a Licensee in charge at all times?	<input type="checkbox"/>
Are there procedures in place to ensure that there is only one Licensee in charge responsible for each area of the Business at any one time?	<input type="checkbox"/>
Are there procedures in place to ensure that a Licensee in charge who is unable to carry out their duties is replaced by an appropriate Class 1 Licence holder?	<input type="checkbox"/>
Is a Licensee in charge Register in place?	<input type="checkbox"/>
Does the Licensee in charge Register clearly identify each Licensee in charge (including licence number), appointment and removal dates, area of responsibility (including any Trust Account) and each place of business where they will discharge their responsibilities?	<input type="checkbox"/>
Are there procedures in place to ensure the Secretary is notified of the appointment or removal of any Licensee in charge?	<input type="checkbox"/>
Is there a record showing the dates on which the relevant Licensees in charge were in charge?	<input type="checkbox"/>
Acknowledgement	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Principal Licensee:	Name:
	Signature:
	Date:



LICENSEE IN CHARGE APPOINTMENT FORM

I, _____, declare that I have been appointed Licensee in charge of the business detailed below in accordance with section 31 of the Property and Stock Agents Act 2002 (NSW).

I am appointed as: Principal Licensee Licensee in charge

I am responsible for: Whole of the business Part/s of the business

Where appointed as Licensee in charge for part/s of the business, list the part/s of business responsible for:

Acknowledgement of appointment as Licensee in charge (please tick)

In accepting my appointment as Licensee in charge, I acknowledge the following:

- I have not been and will not be appointed as Licensee in charge of any business other than that listed below.
- I am responsible for ensuring that my Class 1 Real Estate Licence remains current, and will fulfill all my Continuing Professional Development and renewal obligations.
- I am responsible for properly supervising all employees within the business, or those employees in the part/s of the business for which I have been appointed as Licensee in charge.
- I am responsible for all the duties and obligations of the Licensee in charge as required by section 32 of the Property and Stock Agents Act and will fulfil all the requirements outlined in the Secretary's Guidelines for the Property Supervision of the Business of Licensee under section 32 of the Property and Stock Agents Act 2020.
- I am solely responsible for the compliant operation of the trust account/s listed below and will ensure that all operations are carried out in accordance with legislative requirements.
- I am solely responsible for authorising the disbursement of funds from the trust account/s listed below and I understand that this duty cannot be delegated.
- I will notify NSW Fair Trading of my appointment as Licensee in charge within five (5) business days of that appointment.
- I will notify NSW Fair Trading within five (5) business days if I am temporarily or permanently unable to carry out my duties as Licensee in charge because of illness, leave or any other reason. This notification will include the start and finish dates of my appointment and the details of the replacement Licensee in charge.
- I will ensure that the **Licensee in charge Register** will be updated at the start and end of my appointment as Licensee in charge.



LICENSEE IN CHARGE REGISTER

The Principal Licensee is responsible for ensuring that the **Licensee in charge Register** is immediately updated upon the appointment or cessation of any Licensee in charge.

Business details

Name:

ABN:

Corporation number:

Business address:

Principal Licensee:

Trust account details

The following Trust Account/s are operated by the business mentioned above.

TRUST ACCOUNT #1

Account name:

BSB:

Account number:

Unique identifying number:

Relevant department:

TRUST ACCOUNT #2

Account name:

BSB:

Account number:

Unique identifying number:

Relevant department:

TRUST ACCOUNT #3

Account name:

BSB:

Account number:

Unique identifying number:

Relevant department:

Add additional sections for further Trust Accounts as required.



LICENSEE IN CHARGE REGISTER

Licensee in charge details	
LICENSEE IN CHARGE #1	
Name:	
Licence number:	
Appointment date: Has Fair Trading been notified of the appointment? Y/N	
Removal date: Has Fair Trading been notified of the removal? Y/N	
Area of responsibility:	
Trust account:	
Place(s) of business where duties will be discharged:	
LICENSEE IN CHARGE #2	
Name:	
Licence number:	
Appointment date: Has Fair Trading been notified of the appointment? Y/N	
Removal date: Has Fair Trading been notified of the removal? Y/N	
Area of responsibility:	
Trust account:	
Place(s) of business where duties will be discharged:	
LICENSEE IN CHARGE #3	
Name:	
Licence number:	
Appointment date: Has Fair Trading been notified of the appointment? Y/N	
Removal date: Has Fair Trading been notified of the removal? Y/N	
Area of responsibility:	
Trust account:	
Place(s) of business where duties will be discharged:	
Add additional sections as required.	



LICENSEE IN CHARGE REGISTER

Acknowledgement	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Principal Licensee:	Name:
	Signature:
	Date:



NOTICE OF APPOINTMENT FORM

Licensee details		
Name:		
Licence number:		
Class of licence:		
Appointment date:		
Business details		
The individual mentioned above has been appointed as Licensee in charge for the following business, or the part/s of the business as listed.		
Name:		
ABN:		
Corporation number:		
Business address:		
I am appointed as:	<input type="checkbox"/> Principal Licensee	<input type="checkbox"/> Licensee in charge
Appointed for:	<input type="checkbox"/> Whole of the business	<input type="checkbox"/> Part/s of the business
Where appointed as Licensee in charge for part/s of the business, list the part/s of business responsible for:		
Trust account details		
The Licensee in charge mentioned above is responsible for the operation and disbursement of funds from the following Trust Account/s.		
TRUST ACCOUNT #1		
Account name:		
BSB:		
Account number:		
Unique identifying number:		
Relevant department:		



NOTICE OF APPOINTMENT FORM



TRUST ACCOUNT #2	
Account name:	
BSB:	
Account number:	
Unique identifying number:	
Relevant department:	
TRUST ACCOUNT #3	
Account name:	
BSB:	
Account number:	
Unique identifying number:	
Relevant department:	
Add additional sections for further Trust Accounts as required.	
Acknowledgement	
Date of notification to NSW Fair Trading:	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Appointed Licensee in charge:	Name:
	Signature:
	Date:
Principal Licensee:	Name:
	Signature:
	Date:



2. REQUIREMENT TO PREPARE OPERATIONAL PROCEDURES



To discharge their obligations under the Supervision Guidelines, the Licensee in charge must have a sound understanding of the Property and Stock Agents Act and other laws relevant to the conduct of the Business. Without this, discharging compliance obligations and implementing the procedures set out in this Procedures Manual is difficult.

As part of their responsibilities, the Principal Licensee will supervise and monitor the people employed and engaged in the Business in accordance with this Procedures Manual. They will instruct all people employed and engaged in the Business in the use of this Procedures Manual and the procedures herein.

The original document that forms the foundation of this Procedures Manual was prepared by The Real Estate Institute of New South Wales Limited (REINSW). The Principal Licensee in charge has reviewed and added to the original document to ensure the Procedures Manual reflects the conduct of the Business.

The Principal Licensee acknowledges that REINSW will regularly and continually monitor and amend the original document and the Principal Licensee must regularly and continually monitor and amend the Procedures Manual to reflect changes in the original document and regulatory framework.

2.1 THE LAW

- 2.1.1 Section 32(1) of the Property and Stock Agents Act provides that a Licensee must “properly supervise” the Business carried on by that Licensee in charge.
- 2.1.2 Section 32(3) sets out a non-exhaustive list of what constitutes proper supervision is. Specifically, it requires the Licensee in charge to:
- Properly supervise persons engaged in the Business
 - Establish procedures to ensure that the Property and Stock Agents Act and any other laws relevant to the conduct of the Business are complied with
 - Monitor the conduct of the Business in a way that ensures, as far as practicable, those procedures are complied with.
- 2.1.3 Section 32(4) allows the Secretary to publish guidelines relating to proper supervision; that is, the Supervision Guidelines.
- 2.1.4 Failure to comply with the Supervision Guidelines is a contravention of section 32 of the Property and Stock Agents Act, which is an offence that carries a maximum penalty of 200 penalty units (\$22,000) for a Corporation or 100 penalty units (\$11,000) in any other case.
- 2.1.5 Contravention of section 32 of the Property and Stock Agents Act can also trigger disciplinary action under section 191(a) of the Act, ranging from a caution or reprimand through to disqualification from being involved in the direction, management or conduct of the Business.
- 2.1.6 Systemic failure to properly supervise the conduct of the Business may also be relevant to any consideration of whether the Licensee-in-charge is a fit and proper person to be involved in the direction, management or conduct of a Business under section 191(e) of the Property and Stock Agents Act.



2.2 AGENCY POLICY

- 2.2.1 The Agency takes its compliance obligations seriously, and recognises the substantial risks and consequences attached to compliance breaches (both in terms of financial penalties and reputational damage).
- 2.2.2 The Agency uses this Procedures Manual as a tool to satisfactorily address its compliance obligations under the Supervision Guidelines and other relevant laws. In doing so, the Agency strives to not only comply with the law, but also to embrace the spirit of the law.
- 2.2.3 The Licensee in charge will ensure that:
- They comply with all operational procedures of the Business as set in this Procedures Manual and will acknowledge this compliance on the Procedures Manual Checklist.
 - A current Procedures Manual is in place at all times to ensure the proper supervision of business processes and employee conduct across all facets of the Business.
 - The Procedures Manual is reviewed a least once every year to ensure they are robust and comply with the law. Any changes identified as needing to be made will be entered in the Procedures Manual Change Register. In addition, the Agency will conduct other periodic reviews to identify opportunities to adopt best practice standards in agency practice and to ensure that it reflects the current original document prepared by REINSW.
 - A copy of the Procedures Manual is given on an annual basis to all employees, who will sign an acknowledgement of receipt using the Staff Acknowledgement Form. Receipt of these signed forms will be recorded in the Staff Acknowledgement Register.
 - All employees and people engaged in the Business will be trained to ensure they are familiar with the Procedures Manual and comply with operational procedures.
 - Random and systematic checks of files and documentation are conducted to ensure the procedures set out in the Procedures Manual are being complied with.

2.3 COMPLIANCE DOCUMENTATION

- 2.3.1 Procedures Manual Checklist
- 2.3.2 Procedures Manual Change Register
- 2.3.3 Staff Acknowledgement Form
- 2.3.4 Staff Acknowledgement Register



PROCEDURES MANUAL CHECKLIST

Has a Procedures Manual been developed for the purpose of providing proper supervision of business processes and conduct of employees and those engaged in the Business?	
Does the Procedures Manual ensure proper supervision across the entirety of the Business?	
Is an annual review of the Procedures Manual diarised and a reminder triggered to action the review?	
Where a change to a policy or procedure is required following an annual review, has the change been entered into the Procedures Manual Change Register and actioned as soon as possible?	
Employee notification	
Is a copy of the Procedures Manual made available to all employees and people engaged in the Business on an annual basis and an acknowledgement of receipt signed using the Staff Acknowledgement Form ?	
Is a copy of the Procedures Manual made available to all employees and people engaged in the Business whenever an update is made and an acknowledgement of receipt signed using the Staff Acknowledgement Form ?	
Are all completed Staff Acknowledgement Forms recorded in the Staff Acknowledgment Register ?	
Have all employees and people engaged in the Business received training on the implementation of procedures set out in the Procedures Manual?	
Do all employees and people engaged in the Business understand the outcomes sought from compliance with the procedures set out in the Procedures Manual?	
Is training on the implementation of procedures set out in the Procedure Manual part of the induction of all new employees and people engaged in the Business?	
Acknowledgement	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Principal Licensee:	Name:
	Signature:
	Date:



PROCEDURES MANUAL CHANGE REGISTER

Following the annual review of the Procedures Manual, any changes to procedures and processes should be entered below.

Name of policy/procedure:	
Recommended change:	
Date change made:	
Date change notified/explained to team:	



STAFF ACKNOWLEDGEMENT FORM

I acknowledge that I have received a copy of the Procedures Manual setting out the agency's policies and procedures, in compliance with the Secretary's Guidelines for the Property Supervision of the Business of a Licensee under section 32 of the Property and Stock Agents Act 2002.

Name:

Signature:

Date:



3. TRUST ACCOUNT REQUIREMENTS



To comply with the requirements of the Supervision Guidelines, the Trust Account Procedures section of the Procedures Manual includes the following:

- Opening a Trust Account (see paragraph 3.1)
- Closing a Trust Account (see paragraph 3.2)
- Receiving trust money (see paragraph 3.3)
- Disbursing trust money (see paragraph 3.4)
- Overdrawn Trust Account (see paragraph 3.5)
- Interest on Trust Account (see paragraph 3.6)
- Computerised Trust Account (see paragraph 3.7)
- Unclaimed trust money (see paragraph 3.8)
- Audit of Trust Account (see paragraph 3.9)
- Trust Account records (see paragraph 3.10)

The operation of a Trust Account requires strict adherence to the law and is one of -the greatest risks for an Agency. The nominated Licensee in charge has a sole responsibility to ensure that every transaction in the Trust Account is actioned correctly. Only the nominated Licensee in charge can authorise the withdrawal of money from the Trust Account.

The nominated Licensee in charge must establish effective systems and procedures that minimise risk, and the potential for error and loss of trust monies. They must also ensure that any expenses incurred are valid and reasonable, and that all transactions are dealt with promptly and in accordance with the client's instructions.

When it comes to the management of trust monies, the Licensee-in-charge must ensure that there is an Agency Agreement in place for each client before receiving any trust monies on their behalf. Further, the client's instructions regarding the disbursement of trust monies must be clearly recorded in writing in the Agency Agreement. Any subsequent instructions from the client must be obtained in writing.

Agencies that handle both sales and property management must have two Trust Accounts – a Sales Trust Account and a Property Management Trust Account. Agencies that only handle sales or property management only need one Trust Account. Each of these Trust Accounts must comply with the requirements set out in Part 7 of the Property and Stock Agents Act, and Part 4 of the Property and Stock Agents Regulation. There are also further specific requirements for the Property Management Trust Account that must be complied with.



3.1 Opening a Trust Account

3.1.1 THE LAW

- 3.1.1.1 Section 86(1) of Property and Stock Agents Act relevantly requires that any money received for or on behalf of any person by a Licensee in connection with the Licensee's Business must be paid into a Trust Account held with an authorised deposit-taking institution in New South Wales. Further, that money must be retained in that Trust Account until such time as it is paid or disbursed. The authorised deposit-taking institution must be approved by the Secretary.
- 3.1.1.2 Where the Agency is a Corporation, section 86(2) sets out that the Trust Account must be in the name of the name of the Corporation. If the Agency is not a Corporation, the Trust Account must be in the name of the Licensee of the firm of the Licensees of which the Licensee in charge is a member.
- 3.1.1.3 Section 86(3(b) requires the words "Trust Account" to appear in the name of the account and in the description of the Trust Account. The words "Trust Account" must also appear in the description of the Trust Account in the Licensee's books and records, and on all cheques drawn on the Trust Account.
- 3.1.1.4 When opening a Trust Account, the Licensee must ensure that the authorised deposit-taking institution is notified in writing that the account is a Trust Account required by the Property and Stock Agents Act (see section 86(4)). This notice must be in the approved form by the Secretary and the Licensee must serve a copy of the notice on the Secretary within 14 days of opening the Trust Account.

3.1.2 AGENCY POLICY

3.1.2.1 The Licensee-in-charge will:

Open a Trust Account before commencing trading as an Agency.

- Ensure the Trust Account is held in the correct name (i.e. in the name of the Corporation where the Agency is a Corporation or otherwise in the name of the Licensee or firm of Licensees of which the Licensee is a member).
- Ensure the words "Trust Account" are included in the name of the Trust Account.
- Ensure the words "Trust Account" are included in the description of the Trust Account in the Agency's books and records, and all cheques drawn on the Trust Account.
- Notify the authorised deposit-taking institution in the approved form that the account is a "Trust Account" required by the Property and Stock Agents Act and serve a copy of the notice on the Secretary within 14 days of opening the Trust Account.

- 3.1.2.2 Throughout the period that the Agency trades, the Licensee in charge will ensure that the Agency maintains a Trust Account with an authorised deposit-taking institution.



3.1.3 COMPLIANCE DOCUMENTATION

3.1.3.1 Opening a Trust Account Checklist

3.1.4 RESOURCES

3.1.4.1 [Trust accounts and audit requirements](#) (including a list of authorised deposit-taking institutions)



OPENING A TRUST ACCOUNT CHECKLIST

OPENING A TRUST ACCOUNT CHECKLIST	
Has a Trust Account been opened prior to commencing trading?	
Is the Trust Account with an authorised deposit-taking institution?	
Is the Trust Account in the correct name?	
Are the words "Trust Account" included in the name of the Trust Account?	
Are the words "Trust Account" included in the description of the Trust Account in the Agency's books and records?	
Has the authorised deposit-taking institution been notified in the approved form that the Trust Account is a Trust Account required by the <i>Property and Stock Agents Act</i> ?	
Has a copy of the notice in the approved form been served on the Secretary within 14 days of opening the Trust Account?	
Have two Trust Accounts been opened where the Agency has both a sales department and a property management department?	
Acknowledgement	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



3.2 Closing a Trust Account

3.2.1 THE LAW

3.2.1.1 Section 86(5) of the Property and Stock Agents Act requires a Licensee to notify the Secretary within 14 days of closing a Trust Account.

3.2.1.2 This notice may be given online via Service NSW. Alternatively, a Notice of Closing of a Trust Account form (i.e. the Green Form) may be completed and submitted to Fair Trading.

3.2.1.3 The authorised deposit-taking institution then has an obligation to notify the Secretary of the closing of the Trust Account and will provide the Licensee in charge with a form recording the account closure details. This form should be kept by the Licensee in charge.

3.2.2 AGENCY POLICY

3.2.2.1 The Licensee in charge will:

- Notify the Secretary within 14 days of closing the Trust Account (via Service NSW or using the Notice of Closing of a Trust Account form)
- Ensure receipt of a keep a copy of the form provided by the authorised deposit-taking institution that records the account closure details.

3.2.2.2 Where the Agency is moving the Trust Account to another authorised deposit-taking institution, the Licensee-in-charge will ensure a new Trust Account is opened no later than the next banking day after the closure of the old Trust Account.

3.2.3 COMPLIANCE DOCUMENTATION

3.2.3.1 Closing a Trust Account Checklist

3.2.4 RESOURCES

3.2.4.1 Fair Trading website: [Trust accounts and audit requirements](#)

3.2.4.2 [Notice of closing of a Trust Account](#) (i.e. the Green Form)



CLOSING A TRUST ACCOUNT CHECKLIST

CLOSING A TRUST ACCOUNT CHECKLIST	
Has the Trust Account been closed?	
Has the Secretary been notified within 14 days of closing the Trust Account? (via Service NSW or using the Notice of Closing of a Trust Account form)?	
If required, has a new Trust Account been opened no later than the next banking day after the closure of the old Trust Account?	
Acknowledgement	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



3.3 Receiving trust money

3.3.1 THE LAW

3.3.1.1 Agencies regularly receive money on behalf of clients and other people; e.g. deposits for the sale of property and rental payments. Section 86(1) of the Property and Stock Agents Act requires these monies to be held for and on behalf of these people in a Trust Account with an authorised deposit - taking institution until paid or disbursed.

3.3.1.2 Clause 28 of the Property and Stock Agents Regulation requires a Licensee to maintain a separate ledger account for trust money received on behalf of or paid to each person on behalf of whom the Agent acts. The ledger must include the name of the person on behalf of whom the Licensee is acting and a reference number or other identification. Details of each transaction affecting the trust money must also be included, including:

- Date of the transaction
- Description of the transaction
- Details to identify the trust record originating the transaction
- Amount of the transaction
- Resulting account balance after the transaction.

3.3.1.3 Receipts

Clause 23 of the Property and Stock Agents Regulation requires that a receipt from the trust receipt book must be issued for all monies paid into the Trust Account as soon as those monies are received.

Clause 23(3) sets out that the receipt must include:

- Date of issue
- Receipt number in numerical sequence
- Name of the Licensee-in-charge and the words "Trust Account"
- Name of the person from whom the payment was received
- Name and ledger reference of the person on behalf of whom the payment was made
- Why the money was received (including identifying the transaction in respect of which the money was paid)
- Amount of money received and how it was received (i.e. cash, cheque or electronic funds transfer)

Where the receipt relates to rental monies, clause 23(8) requires the date to which the rent has been calculated and the position of the rental account as at that date must also be included on the receipt.

In the case of a strata managing agent receiving monies, clause 23(9) requires the following additional details to be included on the receipt:

- If the receipt is issued from the general trust receipt book, name of the Owners Corporation on behalf of which the payment is received
- If the payment is in respect of a contribution, the lot number and period in respect of which the payment is made.
- If the payment was received in respect of multiple matters, the apportionment of that payment between the matters.



Receipts must be numbered and used in numerical order (see clause 23(4)).

A Trust Account receipt book may be used. In this case, the cash book and the client ledger are written up separately. More common are computer systems where the receipt, cash book entry and ledger entry are made at the same time. Indeed, clause 23 (2)(b) requires that where a Trust Account receipt book is not used, a copy of the entries made on the receipt must be made simultaneously in the cash book. In a manual system, this is usually effected by a carbon system, where the receipt particulars are automatically copied into the cash book and the ledger for the client.

If a Trust Account receipt book is used, a copy of the entries made on the receipt must be made simultaneously on the machine numbered duplicate form in the book (see clause 23 (2) (a)). This is usually done by using a sheet of carbon. Strictly, the Property and Stock Agents Regulation does not require the cash book entry to be made immediately upon the receipt being created, but it is advisable to do so. It is REINSW's view and guidance that both the cash book and the client ledger should be written up on a daily basis.

Clause 23 (9) provides that an original receipt must be issued on demand to the person from whom the money is received. A Licensee must retain any original receipts that are not provided to the person from whom the money is received (see clause 23 (6)(a). Further, any original cancelled and duplicate receipts must be retained (see clause 23 (6)(b) and clause 26 (6)(c).

3.3.1.2 Electronic funds transfer

Most Agencies prefer money to be deposited into the Trust Account via electronic funds transfer.

Where this is the case, information should be downloaded from the authorised deposit-taking institution and entered into the receipt side of the cash book. A receipt number or transaction number should be allocated to each entry.

3.3.1.3 Depositing trust money

All trust money received must be paid into the Trust Account before the end of the next banking day or as soon as possible.

Clause 25 of the Property and Stock Agents Regulation sets out that where money is deposited into the Trust Account, the following details must be recorded in the deposit book or other written deposit record:

- Date of deposit
- Amount of deposit
- Whether the deposit consists of cheques, notes or coins
- Details of all cheques (specifically name of drawer, name and branch of bank and amount)



3.3.2 AGENCY POLICY

3.3.2.1 The Licensee-in-charge must ensure that:

- There is a separate ledger account for trust money received on behalf of or paid to each client
- All money is paid to the relevant Trust Account before the end of the next banking day or as soon as possible

All monies deposited into the relevant Trust Account are receipted in compliance with the Property and Stock Agents Act and Property and Stock Agents Regulation.

3.3.2.2 The Licensee in charge will ensure that all Trust Account activity, where possible, is conducted electronically. Further, they will ensure that the accounting function is supported by approved computer software that has been designed to comply with the Property and Stock Agents Act and Property and Stock Agents Regulation

3.3.3 COMPLIANCE DOCUMENTATION

3.3.3.1 Receiving Trust Money Checklist

3.3.4 RESOURCES

3.3.4.1 Fair Trading Website: [Trust accounts and audit requirements](#)



RECEIVING TRUST MONEY CHECKLIST

RECEIVING TRUST MONEY CHECKLIST	
Is there a separate ledger account for trust money received on behalf of or paid to each client?	
Is there a procedure in place to ensure that all money is deposited to Trust Accounts before the end of the next banking day or as soon as possible?	
<i>Receipts</i>	
Are all Trust Account receipts sequentially numbered and used in numerical order?	
Do all receipts include the name of the Licensee-in-charge and the words "Trust Account"?	
Do all receipts include the following details?	
• Date of issue	
• Receipt number in numerical sequence	
• Name of the Licensee and the words "Trust Account"	
• Name of the person from whom the payment was received	
• Name and ledger reference number of the person on behalf of whom the payment was made	
• Details sufficient to identify the relevant transaction (including why the money was received)	
• Amount of money received and how it was received (i.e. cash, cheque, electronic funds transfer or otherwise)	
Do rent receipts include the date to which rent is calculated and the position of the rental account?	
Do receipts in relation to strata properties include the name of the Owners Corporation, lot number and period in respect of which the payment is made, and the apportionment between matters if the payment was received in respect of multiple matters?	
<i>Electronic funds transfer</i>	
Has information been downloaded from the authorised deposit-taking institution and entered into the receipt side of the cash book?	
Has a receipt number or transaction number been allocated to each entry?	



RECEIVING TRUST MONEY CHECKLIST

<i>Cash and cheque deposits</i>	
Is trust money received via cheque or cash deposited into the Trust Account before the end of the next banking day or as soon as possible?	
Where trust money received via cheque or cash is deposited into the Trust Account, are the following details recorded:	
• Date of deposit	
• Amount of deposit	
• Whether the deposit consists of cheques, notes or coins	
• Details of all cheques (specifically, name of drawer, name and branch of bank, and amount)	
• Name of person who received the cheque or cash from the payer	
• Name of person who prepared the daily banking of the funds	
• Name of person who deposited the cash and cheques in the Trust Account at the authorised deposit-taking institution	
<i>Acknowledgement</i>	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



3.4 Disbursing trust money

3.4.1 THE LAW

- 3.4.1.1 Monies paid into a Trust Account must be held in that Trust Account until they are disbursed in accordance with the requirements of the Property and Stock Agents Act and Property and Stock Agents Regulation.
- 3.4.1.2 Importantly, only the Licensee in charge who is recorded in the Business's Licensee in charge Register and nominated to Fair Trading as having responsibility for the Trust Account can authorise withdrawal of money from that account. The Licensee in charge cannot delegate this responsibility to another person.
- 3.4.1.3 Subject to certain statutory exceptions, section 86(1)(b) of the Property and Stock Agents Act provides that monies held in trust for a person can only be paid to that person or disbursed at their direction. This is the fundamental rule for monies held in trust.
- 3.4.1.4 Clause 24(1) of the Property and Stock Agents Regulation sets out the two ways that trust money can be withdrawn from a Trust Account: by cheque or by electronic funds transfer. There can be no cash withdrawals from the Trust Account.
- 3.4.1.5 Cheques

In the case of Trust Account cheques, clause 24(2) of the Property and Stock Agents Regulation requires that each cheque must:

- Be machine numbered in series
- Marked as 'not-negotiable'
- Not be payable to cash
- Contain the name of the Licensee or the name of the Agency, and the words "Trust Account"
- Be signed by the Licensee in charge

Clause 24(3) of the Property and Stock Agents Regulation sets out that the Licensee in charge must ensure that cheques are drawn in numerical order of the series to which they belong and that a record of the following is kept for each cheque:

- Number and date of issue of the cheque, name of the payee and amount of the cheque
- Details identifying the ledger account to be debited, and the name and ledger reference number of the person on behalf of whom the cheque is drawn
- Reason for which the cheque is drawn and applicable invoice number (if available).

These details are to be entered into the cash book. In some systems, the details may also be kept separately with the cheque records, but this does not negate the obligation to enter the details in the cash book. A parallel entry must also be made in the relevant ledger account.

Pursuant to clause 24(4) of the Property and Stock Agents Regulation, if the Licensee maintains an accounting system that (at the same time at which, and in the same operation as that in which, a cheque is drawn) causes the particulars required by clause 24(3) to be directly entered in the cash book, this is sufficient compliance with record keeping requirements. Computer systems have this feature.



3.4.1.6 Electronic funds transfers

Clause 24(5) of the Property and Stock Agents Regulation requires a record to be kept of the following for each electronic funds transfer:

- Name of the person effecting the transfer
- Reference number or other details sufficient to identify the transfer, its date, the name of the payee and the amount transferred to or from each ledger account
- Details identifying the ledger accounts to be debited, and the name and ledger reference number of each person on behalf of whom the transfer is made
- Reason for the transfer.

These are, in essence, the same details as required for trust cheques. The same rules and principles apply regarding entries in the cash book and individual ledger accounts.

3.4.1.7 Sales deposits

Generally, trust money is only paid out of the Trust Account on the instructions of the person on whose behalf that money is held (see section 86(1) of the Property and Stock Agents Act). However, there are some occasions where the person who paid the money into the Trust Account is not the person on whose behalf that money is held.

A common example is where a purchaser pays money for a deposit and it is later disbursed to the Vendor upon settlement of the sale. Traditionally, the Agent receives written advice from the Purchaser's solicitor (i.e. Order on the Agent) that the Agent may account to the Vendor for the deposit. This has always been considered sufficient authority to disburse the trust monies held on behalf of the Purchaser. While the Contract for Sale is on foot, requests are often made by the Vendor for the Purchaser to release monies on deposit so the Vendor can make a deposit on another property. This can only be done with the clear instructions and on the authority of the Purchaser, and the Agent must not release the trust money unless written authorisation is received from the Purchaser or the Purchaser's solicitor and a record of that authorisation is kept on the sales file.

3.4.1.8 Trust money not to pay debts

Section 88 of the Property and Stock Agents Act specifically prohibits a Licensee in charge from using trust money to pay their own debts. However, this prohibition does not remove the right of a Licensee in charge to exercise a just claim or lien against the trust money.



3.4.2 AGENCY POLICY

- 3.4.2.1 The Licensee in charge will ensure that all monies deposited in the Trust Account are disbursed in compliance with the Property and Stock Agents Act and Property and Stock Agents Regulation . This includes ensuring that all monies held in trust for a person are only paid to that person or disbursed at their direction.
- 3.4.2.2 The Licensee in charge will ensure that the client's instructions regarding the disbursement of trust monies are clearly recorded in writing and retained on the client's file.
- 3.4.2.3 Only the Licensee in charge who is recorded in the Business's Licensee in charge Register and nominated to the Fair Trading as having responsibility for the Trust Account can authorise withdrawal of money from that account. The Licensee-in-charge cannot and must not delegate this responsibility to another person.
- 3.4.2.4 The Licensee in charge will ensure that all Trust Account activity is electronic and the accounting function is supported by approved computer software that has been designed to comply with the Property and Stock Agents Act and Property and Stock Agents Regulation .
- 3.4.2.5 The Licensee in charge will ensure that a record is kept for each electronic funds transfer that complies with the requirements of the Property and Stock Agents Regulation .
- 3.4.2.6 The Licensee in charge and any other Licensees in the Business cannot and must not use trust money to pay their own debts.

3.4.3 COMPLIANCE DOCUMENTATION

- 3.4.3.1 Disbursing Trust Money Checklist

3.4.4 RESOURCES

- 3.4.4.1 Fair Trading Website: [Trust accounts and audit requirements](#)



DISBURSING TRUST MONEY CHECKLIST

DISBURSING TRUST MONEY CHECKLIST	
<i>Client instructions</i>	
Are the client's instructions for the disbursement of trust monies clearly recorded in writing on the Agency Agreement?	
Have any subsequent client instructions for the disbursement of trust monies been obtained in writing and kept on file?	
<i>Licensee in charge</i>	
Is there only one Licensee in charge who can authorise withdrawal of trust money from the Trust Account?	
Have the details of the Licensee in charge who can authorise withdrawal of trust money from the Trust Account been recorded on the Licensee in charge Register ?	
Have the details of the Licensee in charge who can authorise withdrawal of trust money from the Trust Account been notified to Fair Trading?	
Has the express authorisation of the Licensee in charge been obtained and documented for the withdrawal of trust funds?	
Is the money held in trust for a person being paid to that person or disbursed at their direction?	
<i>Cheques</i>	
Do all Trust Account cheques include the following details?	
• Machine number in series	
• The words 'not-negotiable'	
• Not payable to cash	
• Name of the Licensee in charge or the name of the Agency, and the words "Trust Account"	
• Signature of the Licensee in charge?	
Are the following records kept for each Trust Account cheque in the cash book and relevant ledger account?	
• Number and date of issue of the cheque, name of the payee and amount of the cheque	
• Details identifying the ledger account to be debited, and the name and ledger reference number of the person on behalf of whom the cheque is drawn	
• Reason for which the cheque is drawn.	



DISBURSING TRUST MONEY CHECKLIST

<i>Electronic funds transfer</i>	
Does the record of every electronic funds transfer include the following details:	
<ul style="list-style-type: none"> Name of the person making the transfer 	
<ul style="list-style-type: none"> Reference number or other details sufficient to identify the transfer, date, name of the payee and amount transferred to or from each ledger account 	
<ul style="list-style-type: none"> Details identifying the ledger accounts to be debited, and the name and ledger reference number of each person on behalf of whom the transfer is made 	
<ul style="list-style-type: none"> Reason for the transfer. 	
<i>Sales deposits</i>	
Does the Licensee in charge understand when and how payments can be made in the case of sales deposits?	
<i>Trust money not to pay debts</i>	
Are there procedures in place to ensure that trust monies are not used to pay the Licensee in charge's debts?	
<i>Acknowledgement</i>	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



3.5 Overdrawn Trust Account

3.5.1 THE LAW

3.5.1.1 Trust Accounts should never be overdrawn, however there may be instances where this happens. In these circumstances, the Licensee in charge has certain obligations.

3.5.1.2 Section 89 of the Property and Stock Agent Act requires a Licensee in charge to notify the Secretary within five days of becoming aware that a Trust Account is overdrawn. This notification must include:

- Name and number of the Trust Account
- Amount by which the Trust Account is overdrawn
- Reason the Trust Account is overdrawn.

3.5.1.3 Where a Trust Account is overdrawn, section 92 requires the authorised deposit-taking institution also notify the Secretary once it becomes aware of the overdraw.

3.5.2 AGENCY POLICY

3.5.2.1 The Licensee in charge will ensure that the Trust Account is never overdrawn.

3.5.2.2 Where the Licensee in charge becomes aware that a Trust Account is overdrawn, the Licensee-in-charge will notify Fair Trading immediately (and no later than five days) that the account overdrawn.

3.5.2.3 The Licensee in charge will work cooperatively with the authorised-deposit taking institution and Fair Trading as a matter of priority to rectify the issues causing the Trust Account to be overdrawn.

3.5.3 COMPLIANCE DOCUMENTATION

3.5.3.1 Overdrawn Trust Account Checklist

3.5.4 RESOURCES

3.5.4.1 Fair Trading Website: [Trust accounts and audit requirements](#)



OVERDRAWN TRUST ACCOUNT CHECKLIST

OVERDRAWN TRUST ACCOUNT CHECKLIST	
Has Fair Trading been notified within five days of the Licensee becoming aware that the Trust Account is overdrawn?	
Does the notice to Fair Trading include the following details?	
• Name and number of the Trust Account?	
• Amount by which the Trust Account is overdrawn?	
• Reason the Trust Account is overdrawn?	
Is a monthly reconciliation conducted to identify whether the Trust Account is overdrawn?	
Are procedures in place to rectify the issues causing the Trust Account to be overdrawn?	
Authorisation	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



3.6 Interest on Trust Account

3.6.1 THE LAW

3.6.1.1 Section 90 of the Property and Stock Agents Act provides for the interest earned on Trust Account deposits to be paid to a Statutory Interest Account maintained by Fair Trading. The process for calculating and paying the interest is the responsibility of the authorized deposit-taking institution, not the Licensee in charge.

3.6.1.2 Section 91 of the Property and Stock Agents Act requires the authorized deposit-taking Institution to notify the Secretary at the end of each month of the number of Trust Accounts opened during that month, the names of the Licensees who opened the accounts, and the account names, numbers and relevant branch addresses..

3.6.2 AGENCY POLICY

3.6.2.1 The Licensee in charge will ensure that all provisions relating to the proper administration of the Trust Account will comply with the Property and Stock Agents Act and Property and Stock Agents Regulation at all times.

3.6.3 COMPLIANCE DOCUMENTATION

3.6.3.1 Interest on Trust Account Checklist

3.6.4 RESOURCES

3.6.4.1 Fair Trading Website: [Trust accounts and audit requirements](#)



INTEREST ON TRUST ACCOUNT CHECKLIST

INTEREST ON TRUST ACCOUNT CHECKLIST	
Are mechanisms in place to ensure that no interest is credited to the Trust Account?	
Where an interest credit is identified, has the authorised deposit-taking institution been notified within 14 days?	
Is there a file note about rectification of the authorised deposit-taking institution's error?	
<i>Authorisation</i>	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



3.7 Computerised Trust Account

3.7.1 THE LAW

3.7.1.1 Clause 224 of the Property and Stock Agents Regulation sets out the requirements for maintaining Trust Account records via a computerised system.

3.7.1.2 The Licensee in charge must ensure that:

- Records are compiled in chronological sequence
- Records include all changes (before and after) to the Trust Account (whether creation, amendment or deletion) that includes the following information:
 - Client's name and address
 - Client's reference number (if any)
 - Agency description
 - Trust Account number
- The program includes in its records each field of a data entry screen intended to receive information
- All journals must balance before entries are made in the ledger
- Journal reference numbers are allocated and numbered in sequence under program control
- The program does not allow a Trust Account to:
 - have a debit balance (unless a contemporaneous record is made, so that a separate chronological report of all such occurrences is produced in permanent legible form on demand)
 - have any transaction particulars amended otherwise than by a separate transaction effecting the amendment
 - be deleted unless the balance of the account is zero
 - be deleted unless records are produced on demand in permanent legible form in English (e.g. in hard copy).
- Either:
 - A back-up copy of all records is made no less frequently than once a month the most recent back-up is kept in a safe place at a separate location to protect against incidents such as fire, or a power or disk failure
 - All records are backed up using cloud technology through the internet no less frequently than once a month.

3.7.2 AGENCY POLICY

3.7.2.1 The Licensee in charge will ensure that the computer software system used for trust accounting complies with the requirements of the Property and Stock Agents Act and Property and Stock Agents Regulation

3.7.2.2 The Licensee in charge will ensure that all persons with access to the Trust Account computer software system will have separate logins and that passwords are not shared under any circumstances.

3.7.3 COMPLIANCE DOCUMENTATION

3.7.3.1 Computerised Trust Account Checklist

3.7.4 RESOURCES

3.7.4.1 Fair Trading Website: [Trust accounts and audit requirements](#)



COMPUTERISED TRUST ACCOUNT CHECKLIST

COMPUTERISED TRUST ACCOUNT CHECKLIST	
Does the computer software system used for trust accounting comply with the requirements of the <i>Property and Stock Agents Act</i> and <i>Property and Stock Agents Regulation</i> ?	
Is there a record, in chronological sequence, of all changes (before and after) to the Trust Account (whether creation, amendment or deletion), that includes the following information:	
• Client reference number (if any)	
• Name of client	
• Address of client	
• Agency description	
• Trust Account number	
Does the Trust Account computer system meet the following criteria?	
• The system allocates reference numbers in sequence for journal entries.	
• The system does not accept a transaction that results in a debit balance	
• The system will not delete a ledger unless there is a zero balance or unless records are produced on demand in permanent legible form in English (e.g. in hard copy).	
• The system does not allow amendments to be made to entries unless a separate transaction is recorded.	
Are all records backed up no less frequently than once a month and kept in a safe place at a separate location? (for example, cloud back-up)	
Do all people with access to the Trust Account computer have a separate login and understand that they are not to share these details, including passwords, under any circumstances?	
Acknowledgement	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



3.8 Unclaimed trust money

3.8.1 THE LAW

- 3.8.1.1 The Unclaimed Money Act applies to unclaimed money held in a Trust Account.
- 3.8.1.2 Section 9B of the Unclaimed Money Act defines unclaimed money as money held in a Trust Account kept in a Trust Account kept by a Licensee for more than two years. The Licensee must make reasonable efforts to identify and locate the owner of the money and ensure the money is paid to that owner.
- 3.8.1.3 Where unclaimed money is held by a Business on 30 June in any year, section 10 of the Unclaimed Money Act requires it to be paid to the Chief Commissioner of the NSW Office of State Revenue within four months of 30 June. The return to the Chief Commissioner must include particulars of the unclaimed money in the approved form. The transfer to the owner of the unclaimed money must contain such particulars relating to the paid amounts as are required by the form.
- 3.8.1.4 In addition to the general definition of unclaimed money in section 9B, unclaimed money is also defined in section 9C of the Unclaimed Money Act as money held in a Trust Account by a former Licensee or the personal representative of a deceased Licensee. Where unclaimed money is held in a Trust Account in such circumstances, the person holding the unclaimed money must lodge a return in the approved form with the Chief Commissioner of the NSW Office of State Revenue and pay the money to the Chief Commissioner within three months after the person ceased to be a Licensee or became a personal representative of the deceased Licensee.

3.8.2 AGENCY POLICY

- 3.8.2.1 The Licensee in charge will adhere to all requirements under the Unclaimed Money Act relating to unclaimed money held in Trust Accounts.

3.8.3 COMPLIANCE DOCUMENTATION

- 3.8.3.1 Unclaimed Trust Account Money Checklist

3.8.4 RESOURCES

- 3.8.4.1 Fair Trading Website: [Trust accounts and audit requirements](#)



UNCLAIMED TRUST MONEY CHECKLIST

UNCLAIMED TRUST MONEY CHECKLIST	
Is an annual review of the Trust Account to identify unclaimed money diarised and a reminder triggered to action the review?	
Has money been held in a Trust Account for more than two years?	
Where unclaimed money is identified, have reasonable efforts been made to identify and locate the owner of the money and ensure the money is paid to that owner?	
Where unclaimed money is identified, having been held for more than two years, has notice been given to the Chief Commissioner of the NSW Office of State Revenue with the following details:	
<ul style="list-style-type: none">• Amount of money held	
<ul style="list-style-type: none">• Name of person on whose behalf the money is held	
<ul style="list-style-type: none">• Last known address of the person on whose behalf the money is held	
Acknowledgement	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



3.9 Audit of Trust Account

3.9.1 THE LAW

- 3.9.1.1 The Property and Stock Agents Act requires all Trust Accounts to be audited.
- 3.9.1.2 Section 111 relevantly requires a Licensee to have records and documents relating to the Trust Account audited annually by a person qualified to act as an auditor (see section 115). This audit must be carried out within three months of the end of the applicable audit period (unless the Secretary grants an extension). The Licensee must keep the auditor's report for at least three years.
- 3.9.1.3 Section 112 provides that the audit period is the year ending 30 June. However, the Secretary may fix a different audit period in certain circumstances.
- 3.9.1.4 Section 115(1) of the Property and Stock Agents Act set out that auditors must be a qualified to act within the meaning of the Corporations Act, Australian Securities and Investments Commission Act or otherwise must be approved by the Secretary.
- 3.9.1.5 The is required to lodge audit report via the online portal (see section 116).

3.9.2 AGENCY POLICY

- 3.9.2.1 The Licensee in charge will adhere to all requirements under the Property and Stock Agents Act for the auditing of their Trust Accounts.
- 3.9.2.2 The Licensee in charge will conduct random audits of the Trust Account to ensure that all transactions are true and correct.

3.9.3 COMPLIANCE DOCUMENTATION

- 3.9.3.1 Trust Account Audit Checklist

3.9.4 RESOURCES

- 3.9.4.1 Fair Trading Website: [Trust accounts and audit requirements](#)



TRUST ACCOUNT AUDIT CHECKLIST

TRUST ACCOUNT AUDIT CHECKLIST	
Has the annual audit been diarised and a reminder triggered to action the audit?	<input type="checkbox"/>
Is the auditor qualified to act as an auditor for the purposes of the <i>Property and Stock Agents Act</i> ?	<input type="checkbox"/>
Are auditor reports retained for three years?	<input type="checkbox"/>
Are random audits conducted by the nominated Licensee or accountant to ensure that all transactions are true and correct?	<input type="checkbox"/>
Does the auditor provide the Licensee with a copy of their annual auditor's report?	<input type="checkbox"/>
Does the auditor provide the Secretary with a copy of the report within 14 days of providing it to the Licensee?	<input type="checkbox"/>
Acknowledgement	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



3.10 Trust Account records

3.10.1 THE LAW

3.10.1.1 The Property and Stock Agents Regulation requires the Licensee to keep certain records are maintained in relation to each Trust Account. These records include:

- Cash book Journal
- Individual ledger accounts
- Monthly trial balance of ledger accounts,

3.10.1.2 Cash book

Clause 26 of the Property and Stock Agents Regulation deals with the cash book and sets out the requirements for recording Trust Account transactions.

A Licensee must keep a record of daily receipts and payments of money into and out of the Trust Accounts.

The pages of the cash book must be numbered consecutively. Similarly, the consecutive numbers of the receipts issued or cancelled must be shown in the cash book, as must the consecutive numbers of cheques drawn or cancelled (see clause 26(2)).

If money is received or disbursed by electronic funds transfer, the consecutive reference numbers (or other identification) must be shown. The same details as appear on the receipt must appear in the cash book.

When a cheque is drawn, entries in the cash book must show:

- Number and date of issue of cheque
- Name of payee
- Amount of cheque
- Details of ledger of account to be debited
- Name and ledger reference number on whose behalf the cheque is drawn
- Reason for drawing the cheque and applicable invoice number (if available).

In the case of an electronic funds transfer, entries in the cash book must show:

- Name of person making the transfer
- Reference number to identify the transfer
- Date of transfer
- Name of payee
- Amount transferred to and from each ledger
- Details identifying ledger of account to be debited
- Name and ledger reference number on whose behalf the transfer is made
- Reason for transfer.

3.10.1.3 Journal

Clause 27 of the Property and Stock Agent Regulation requires a Licensee to record in a journal and sets out that it must contain a record of all transfers between accounts in the Trust Account ledger that are not made by cheque or electronic funds transfer.

The following details must be recorded:

- Date of transfer
- Amount transferred to and from each ledger account Names of all ledger accounts to be debited or credited Reference number or other identification
- Particulars to identify the transfer and reason for the transfer.



When entered into the journal, each transfer must be numbered consecutively.

3.10.1.4 Ledgers

Clause 28 of the Property and Stock Agents Regulation deals with Trust Account ledgers.

The Licensee must maintain a separate ledger account for trust money received on behalf of or paid to each Principal.

Clause 28(3) requires that the ledger account must include the following:

- Date of transaction
- Description of transaction
- Detail to identify the trust recording originating the transaction
- Amount of transaction
- Resulting current balance of account after the transaction.

3.10.1.5 Monthly trial balance

The monthly trial balance is dealt with in Clause 29 of the Property and Stock Agents Regulation.

A Licensee must, within 21 days after the end of each calendar month, prepare a monthly trial balance of all edger accounts that is current as at the end of that month.

The trial balance statement must include:

- Relevant month
- Date of preparation
- List of each ledger account that doesn't have a zero balance at the end of the month as well as the client's name, reference number or other identification and balance of each of those accounts
- Total of the ledger account balances at the end of the month
- Comparison between the total and the balance in the cash book reconciled with the balance in the Trust Account.

3.10.1.6 Keeping records

Under section 104 of the Property and Stock Agents Act , the Licensee must make records containing full particulars of all transactions and other prescribed records. These records must be kept for at least three years at the registered office of the Licensee.

Clause 33 of the Property and Stock Agents Regulation requires a Licensee to ensure that all written records and entries in books of account are in English. No restrictions exist on the technology that can be used to make and keep records (i.e. they can be made and kept on paper or by electronic means)

3.10.2 AGENCY POLICY

3.10.2.1 All Trust Accounts will be maintained in accordance with the requirements of the Property and Stock Agents Act .

3.10.2.2 The Licensee-in-charge will keep records of all Trust Account transactions and keep these records for no less than three years at the registered office of the Principal Licensee.



3.10.3 COMPLIANCE DOCUMENTATION

3.10.3.1 Trust Account Records Checklist

3.10.4 RESOURCES

3.10.4.1 Fair Trading website: [Trust accounts and audit requirements](#)



TRUST ACCOUNT RECORDS CHECKLIST

TRUST ACCOUNT RECORDS CHECKLIST	
Are there procedures in place to ensure that each Trust Account is maintained in accordance with Part 7 of the Property and Stock Agents Act and Part 4 of the Property and Stock Agents Regulation ?	
Are there procedures in place to ensure that, with respect to each Trust Account, only one Licensee in charge is responsible for and able to authorise withdrawal of money from it?	
Are details of each Licensee in charge and the Trust Account they are responsible for recorded in the Licensee in charge Register ?	
Does the Agency have a Sales Trust Account? (where required)	
Does the Agency have a Property Management Trust Account? (where required)	
Does the Agency have a Strata Management Trust Account? (where required)	
Does the Agency have separate Trust Accounts for separate strata plans?	
Does the Licensee in charge maintain the following records:	
<ul style="list-style-type: none"> Cash book 	
<ul style="list-style-type: none"> Journal 	
<ul style="list-style-type: none"> Individual ledger accounts 	
<ul style="list-style-type: none"> Monthly trial balance of ledger accounts 	
<i>Cash book</i>	
Are the pages of the cash book numbered consecutively?	
Are consecutive numbers of receipts issued or cancelled shown in the cash book?	
Are consecutive numbers of cheques drawn or cancelled shown in the cash book?	
Where a cheque is drawn, does the cash book show the following:	
<ul style="list-style-type: none"> Number and date of issue of the cheque 	
<ul style="list-style-type: none"> Name of payee 	
<ul style="list-style-type: none"> Amount of cheque 	
<ul style="list-style-type: none"> Details of the ledger account to be debited 	
<ul style="list-style-type: none"> Name and ledger reference number on whose behalf the cheque is drawn 	
<ul style="list-style-type: none"> Reason for drawing the cheque and applicable invoice number (if available) 	
Where there is an electronic cash transfer, does the cash book show the following:	



TRUST ACCOUNT RECORDS CHECKLIST

• Name of person making the transfer	
• Reference number to identify the transfer	
• Date of transfer	
• Name of payee	
• Amount transferred to and from each ledger	
• Details identifying the ledger account to be debited	
• Name and ledger reference number on whose behalf the transfer is made	
• Reason for the transfer and applicable invoice number (if available)	
<i>Journal entries</i>	
Does the journal record all transfers between accounts in the Trust Account ledger that are not made by electronic funds transfer or cheque?	
Does each transaction in the journal include the following:	
• Date of transfer	
• Amount transferred to and from each ledger account	
• Names of all ledger accounts to be debited or credited	
• Reference number or other identification	
• Particulars to identify the transfer and reason for the transfer	
Is each transfer in the journal numbered consecutively?	
<i>Ledgers</i>	
Is a separate ledger account kept for each Principal?	
Are the following details kept in relation to each Trust Account transaction:	
• Date of transaction	
• Description of transaction	
• Detail to identify the trust record originating the transaction	
• Amount of transaction	
• Resulting current balance of account after the transaction.	
<i>Monthly trial balance</i>	
Is the preparation of a trial balance statement diarised each month and a reminder triggered to prepare the statement?	
Is a trial balance statement of all ledger accounts is produced within 21 days of the end of each calendar month?	
Does the trial balance include the following:	



TRUST ACCOUNT RECORDS CHECKLIST

• Relevant month	
• Date of preparation	
• List of each ledger account that does not have a zero balance at the end of the month, as well as the client's name, reference number or other identification, and balance of each account	
• Total of the ledger account balances at the end of the month	
• Comparison between the total and the balance in the cash book reconciled with the balance in the Trust Account	
<i>Keeping records</i>	
Are records kept of all Trust Account transactions?	
Are all Trust Account records kept for three years?	
Are all Trust Account records kept at the registered office of the Licensee in a safe storage facility?	
Are all written records and entries in books of account in English?	
Is an annual review of Trust Account record keeping requirements diarised and a reminder triggered to action the review?	
<i>Sales transactions</i>	
Does every property for sale have a separate account?	
Do the records contain the following information for sales transactions:	
• File number	
• Vendor's name	
• Vendor's contact details	
• Address of property sold	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
<i>Property management transactions</i>	
Does every property under management have a separate file?	
Do the records contain the following information for property management transactions:	



TRUST ACCOUNT RECORDS CHECKLIST

• File number	
• Landlord's name	
• Landlord's contact details	
• Address of property leased	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement (if applicable)	
• Date of each lease	
• Contact details of each tenant	
Acknowledgement	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



4. IDENTIFICATIONCHECK FOR FRAUD PREVENTION



4.1 THE LAW

- 4.1.1 All Agencies need to be on high alert for identity fraud and must verify the identity of the person with whom it is proposed to enter into an Agency Agreement.
- 4.1.2 To combat the increase in identity fraud and scams, Fair Trading issued the Real Estate Fraud Prevention Guidelines to help Agents verify the identity of Vendors to prevent real estate fraud.
- 4.1.3 The Real Estate Fraud Prevention Guidelines are a set of practices and procedures for Agents to follow and confirm the identity of Vendors or their representatives. They also include a list of possible warning signs and guidelines, including a proof of identity checklist.
- 4.1.4 In accordance with the Real Estate Fraud Prevention Guidelines, Agents are required to confirm the identity of a person entering into an Agency Agreement (e.g. an owner of the property). When doing so, the Licensee must sight an original or certified copy of a primary proof of identity document, two secondary proof of identity documents and a document providing proof of legal ownership of the property.

4.2 AGENCY POLICY

- 4.2.1 The Agent will always conduct an identification check in accordance with the Real Estate Fraud Prevention Guidelines to confirm that the person they are dealing with the registered owner (or owners) of the property (or the owner's authorised representative).
- 4.2.2 There will be circumstances where the person with the legal right to deal with the property is not the registered owner. For example, the person may hold a Power of Attorney or Enduring Power of Attorney, or may be an executor, mortgagee in possession or hold an appropriate court order.
- 4.2.3 The Agent should:
 - Verify the person's identity.** The Agent must sight an original or certified copy of a primary proof of identity document, two secondary proof of identity documents and a document providing proof of legal ownership of the property. The Proof of Identity Checklist sets out the documents that are acceptable as proof of identity documents.
 - Confirm legal ownership.** The Agent should verify the ownership of the property from an original or certified copy of a primary ownership document, such as property's certificate, of title, a land valuation notice up to one year old, current council rates notice up to one year old or National Vendor Declaration concerning relevant livestock.
 - Check name/s on the Agency Agreement.** Where the person is the legal owner of the property (rather than a representative of the owner), the Agent should check that the name on the Agency Agreement is the same as that on the property's certificate.
 - Conduct a face-to-face check.** The Agent should conduct checks face-to-face, and the original documents (or certified copies of the originals) should be sighted to verify identity.



- 4.2.4 The Agent should be reasonably satisfied that:
- **Documents are legible.** The Agent should be satisfied that all documents relied upon to verify the identity of the person are legible and do not appear to have been altered in any way.
 - **There are no discrepancies.** The Agent should be satisfied that there is no apparent discrepancy between the information collected from the person and the information contained in the certificate of title, other than a discrepancy that can be reasonably explained or supported (e.g. a change of name because the legal owner has recently married).
 - **Photographs match.** In the case of primary identification documents, the Agent should be satisfied that the photo in the document is a true likeness of the legal owner of the property.
 - **Documents are filed.** Copies of all documents used to verify the client's identity have been placed in the client's file.
- 4.2.5 The Agent should ensure that they only deal with the person named on the Agency Agreement. Particular caution should be exercised where a financial institution mortgagee is not listed, or the client is overseas or remote, and dealings are not on a face-to-face basis.
- 4.2.6 The Agent should:
- **Establish security question.** The Agent will establish security questions with the confirmed legal owner that only that owner will be able to answer. These questions should be asked every time contact is made.
 - **Use verified contact details.** When communicating with the confirmed legal owner, the Agent should only use contact details (postal, email or phone) that are confirmed to be genuine by the legal owner and are held on file. Where an owner changes their contact details, the Agent should confirm the new details by corresponding via the current details held on file.
 - **Use original signatures.** The Agent should seek to obtain original signatures on documents, rather than scanned or facsimile signatures. Further, all signatures, must be carefully checked by agents against original signatures held on file.
 - **Re-type email addresses.** When replying to an email, agents should type the known email address held on file, rather than simply clicking 'reply' or reply all", to ensure communications go to the correct person.
- 4.2.7 It's important that the Agent is able to identify the possible warning signs of fraud when they arise.
Some of these warning signs include:
- **Change of details.** A recent change of address or other contact details that have not been provided until instructions to sell a property are received should raise a red flag.
 - **Overseas documents.** Transactions that involve people or documents located overseas, especially countries known for scams, will warrant further investigation.
 - **New bank account details.** The Agent should be on alert for requests for funds to be sent to a different bank account from that normally used by the client (including, but not limited to, offshore accounts).
 - **Urgent sales.** Where the Agent receives advice that a sale is 'urgent' (for example, because of an overseas investment opportunity), agents should be cautious.
 - **New email address.** Where a new email address that is generic in nature (for example, a Hotmail, Gmail or Yahoo address) is notified, the new address should be confirmed via telephone or SMS.
 - **Quick sales.** Comments by the person that incentives will be provided to the agent if the sale is quick should be treated with extreme caution.



4.2.8 If the Agent suspects identity fraud in a real estate transaction, they should contact the NSW Police or Fair Trading, and don't act on the property sale.

4.2 COMPLIANCE DOCUMENTATION

4.2.1 Identity Fraud Prevention Checklist

4.2.2 NSW Proof of Identity Checklist for Vendors

4.2.3 Internal New Mgt Take-Over Management Compliance Check List

4.3 RESOURCES

4.3.1 Fair Trading website: [Real Estate Fraud Prevention Guidelines](#)



IDENTITY FRAUD PREVENTION CHECKLIST

Is a written policy and procedures in place for Agents to follow to verify the identity of a person with whom it is proposed to enter an Agency Agreement?	Y	N
Do all Agents and employees and people engaged by the Business understand the identity fraud prevention policy and procedures?	Y	N
Is training about the identity fraud prevent policy part of the induction of all new employees and people engaged by the Business?	Y	N

Acknowledgement	
I acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in Charge:	Name:
	Signature:
	Date:

Acknowledgement	
I acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in Charge:	Name:
	Signature:
	Date:





Suggested Proof of Identity Checklist for Vendors (or appointed representative)

Vendor name:	
Property Address:	

1 Primary Proof of Identity documents (originals or certified copies)

The vendor (or representative) must provide **one** document from the following list.

The original document or certified copy must be sighted. The document must show the individual's name, day, month and year of birth, current photograph and signature.

Place an 'X' in the box of the document provided.

	A current Australian driver's licence or a current photo card issued by a State or Territory Government agency
	A current Australian passport
	A current non-Australian passport

Enter details of the document provided:

Document Type <small>Eg. Australian Passport</small>	Document number	Date of issue <small>(DD/MM/YYYY)</small>	Expiry Date <small>(DD/MM/YYYY)</small>	Place of issue	Original or certified copy sighted by <small>(please print name)</small>

2 Secondary Proof of Identity documents (originals or certified copies)

The vendor (or representative) must provide **two** documents from the following list.

The original document or certified copy must be sighted. The documents must show the individual's name, signature and residential address where applicable.

Place an 'X' in the box of the documents provided.

	A current Medicare card		A water rates notice up to one year old
	A current credit card		A gas, electricity or council rates bill up to one year old
	A current passbook or an account statement from a bank, building society or credit union up to one year old		An electoral enrolment card or evidence of enrolment not more than two years old

3 Proof of Legal Ownership of Property (original or certified copy) must be provided by the vendor (or representative):

The original document or a certified copy must be sighted. The document must show the property's residential address and vendor's name.

	The certificate of title for the property		A land valuation notice up to one year old
	A current council rates notice up to one year old		A National Vendor Declaration concerning the relevant livestock

The licensee must ensure:

1. the documents are legible and appear not to have been altered in any way, and
2. there is no discrepancy between the information collected by a licensee and the information contained in the documents, other than a discrepancy that can be explained and supported by evidence, and
3. the photograph contained in photographic identification documents is a true likeness to the person whose identity is being verified.

Declaration: I have sighted and confirmed the Proof of Identity documents against original documents provided by the vendor (or appointed representative).

		___/___/___
Name of Agent	Agent's Signature	Date

New Management

Take Over

DATABASE: EAST | WEST | NORTH | VIC | QLD

Property Address:

Owner: :

Portfolio Partner:

New Business Partner/Leasing Partner:

Referring Agent Name:

Self-Generated Source:

ALL New Biz - New Management - NB Responsible for all docs received

		NB	DATE	Staff initials
1. MAA + Owner Info Stat. + Listing Sheet completed		<input type="checkbox"/>		
2. All Owner ID + Proof O/ship attached	Photo ID <input type="checkbox"/> Medicare <input type="checkbox"/> Council / Water Rates <input type="checkbox"/>	<input type="checkbox"/>		
3. RP Data Search to be attached to MAA	Compliance check for Ownership	<input type="checkbox"/>		
4. Landlord Insurance – notify change of address/agent	Company:	<input type="checkbox"/>		
5. Utility accounts	Or Owner to pay <input type="checkbox"/>	<input type="checkbox"/>		
notify change of address/agent	Water <input type="checkbox"/> Council <input type="checkbox"/> Strata <input type="checkbox"/>	<input type="checkbox"/>		
6. Smoke Alarm + Blind + Elec – send work order		<input type="checkbox"/>		
7. Strata By-Laws [if applicable]		<input type="checkbox"/>		
8. Owner issued OFT Information Statement	Read and Acknowledged – Email in Filesmart	<input type="checkbox"/>		
9. Water Efficiency work order		<input type="checkbox"/>		
10. Pool Compliance Certificate work order		<input type="checkbox"/>		
11. Photocopy keys & swipes registered for board	Supply to compliance team	<input type="checkbox"/>		
12. Photo shoot	Date:	<input type="checkbox"/>		
13. Management Free period	Email invitation sent to Accounts, GM & PP	<input type="checkbox"/>		
14. All documents to Compliance team	Prior to advertising	<input type="checkbox"/>		
15. Catch up with Portfolio Partner for full update	Coordinate 1 st Inspection & Good Feel Call	<input type="checkbox"/>		

1. Take – Over Information & documents collected [Compliance | PP to cross check and complete 1 to 4]

Previous Agent's Name:	TakeOver Date:
a. Lease Agreeemnt <input type="checkbox"/>	c. Tenant Application <input type="checkbox"/>
b. Ledgers & Status Report <input type="checkbox"/>	d. Ingoing Reports <input type="checkbox"/>
	e. Routine Inspections <input type="checkbox"/>
	f. Keys Fobs Swipe <input type="checkbox"/>
	g. Bond <input type="checkbox"/>
	f. Rental Increase letters <input type="checkbox"/>
1. Send Change of Managing Agent Bond Form to RBO	<input type="checkbox"/> ADMIN
2. Send Tenant 'Change of Agent Letter + DD form "	<input type="checkbox"/> ADMIN
3. Add Next Inspection & Rent review Dates	<input type="checkbox"/> ADMIN
4. All documents saved in Property Tree	<input type="checkbox"/> ADMIN

2. Compliance Team - Management Agency Agreement - NB to scan across with MAA to compliance team

1. PT INPUT Owner & Property + description + tags	Including Account Code: MID/EOM payment <input type="checkbox"/>	<input type="checkbox"/>	Date
2. Send Owner compliance / intro email/letter	Attached signed MAA	<input type="checkbox"/>	Date
2. MAA + Listing Sheet + ID + proof o/ship	Including Owner acknowledgement Information Statement	<input type="checkbox"/>	Date
3. Add Special conditions PT	[check special conditions on MAA]	<input type="checkbox"/>	Date
4. Add Owners Fees in owners notes card	EAST A/C Code: A VIC A/C Code: D North A/C Code: N	<input type="checkbox"/>	Date
9. Photocopy keys & swipes registered for board	Add property/key number to IRE Key Tracker	<input type="checkbox"/>	Date
5. Council Water & Strata + By-Laws redirection	[relavant webistes up dated]	<input type="checkbox"/>	Date
6. Notify NBP & PM once PT input is complete		<input type="checkbox"/>	Date
7. Bond Transfer follow through	Update Bond No. in Property Tree	<input type="checkbox"/>	Date

Signed NBP:

Compliance:

DATE:



5. ONGOING DEALING WITH PARTIES TO AN AGENCY AGREEMENT



5.1 AGENCY POLICY

5.1.1 Once an Agency Agreement is entered into, the Agent will communicate throughout the provision of services under the Agency Agreement with the Principal to the Agency Agreement (i.e. the owner or owners of the property, or the person with the legal right to act on behalf of the owner or owners).

5.1.2 When communicating with the Principal to the Agency Agreement, the Agent will only use the contact details that are held on file, which have been confirmed by the Principal.

5.1.3 Where a change of contact details or bank account details is received, the Agent will carry out the steps to confirm the change of details via an alternate contact method than the method used to request the change. The contact details used to make the change request just not to be used to confirm the change of details.

5.2 COMPLIANCE DOCUMENTATION

5.2.1 Client Bank Account Details (for sales)

5.2.2 Change of Contract Details Sales

5.2.3 Landlord Change of Information Withhold Contact Bank Authority Form



CLIENT BANK ACCOUNT DETAILS

Property Address: _____

Client Name(s): _____

Sales Agent: _____

We request completion and return of this form to our office prior to the transfer of funds. Bank details are requested so we may disburse the deposit directly into your nominated bank account.

FORM MUST BE HAND WRITTEN

Bank Name: _____

Account Name: _____

BSB Number: _____

Account Number: _____

Signature(s): _____

Top Level Real Estate Pty Ltd and its related entities (including The Agency Sales Pty Ltd trading as 'The Agency') are collecting your personal information for the purpose of disbursement of settlement funds. We will only use and disclose your personal information for the purpose for which we collected it, to satisfy any associated regulatory requirements, and for other related purposes that you would reasonably expect, or as otherwise permitted or required by law. Generally, we will not disclose your personal information to recipients located overseas, except with your consent or where we are otherwise permitted or required to do so by law. However, we do engage in the use of third party products offered internationally and we therefore cannot exclude the possibility that your personal information may be processed on servers located outside Australia. You are not required to give us any of the information we've requested from you. However, choosing not to provide us with all or part of this information may limit our ability to disburse funds to you.

Our Privacy Policy contains additional information regarding how we handle personal information, including how we store and safeguard your personal information, how you may seek access to, or correction of, personal information that we hold about you and how you may make a complaint if you believe we have handled your personal information in a way that breaches our privacy obligations. If you would like further information please contact our Privacy Officer by mail at The Agency, PO Box 7725, Bondi Beach NSW 2026, or by email at law@theagency.com.au.



CHANGE OF CONTACT DETAILS SALES

Name of Principal requesting change:			
Date that change is to take effect:			
Change requested: (please circle)	Email	Phone	Address
CONTACT DETAILS			
Original contact details:	Email:		
	Phone:		
	Address:		
New contact details:	Email:		
	Phone:		
	Address:		
Principal acknowledgement			
Principal #1:	Name:		
	Signature:		
Principal #2	Name:		
	Signature:		
Agent to complete			
Date request received:			
Agent processing request:			
CONTACT DETAILS			
Original contact details verified?	Y	N	
Authority confirmed by alternate means?	Y	N	
Authority confirmed by all Principals?	Y	N	
New contact details recorded?	Y	N	
Agent acknowledgement			
I acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.			
Agent:	Name:		
	Signature:		
	Date:		



The Agency Landlord Change of Information_Withhold_Contact_Bnk Authority Form



Landlord Authority to Withhold Trust Account Funds

Name of Landlord/s (as shown on the Management agency agreement)	
Property Address	
Reason for funds to be withheld	
Month of withhold / or start and end date for ongoing withhold	OR to
Amount withhold – all or part	<input type="checkbox"/> All <input type="checkbox"/> Part \$

Change of contact or bank account details

Date change is to take effect on	
Request to change (tick which is applicable)	<input type="checkbox"/> Email <input type="checkbox"/> Phone <input type="checkbox"/> Address <input type="checkbox"/> Bank Account
Confirm original contact details	Phone:..... Address:.....
Email:	
Confirm new contact details	Phone:..... Address:.....
Email:	
Confirm original bank account details	Account Name:..... BSB:..... AC Number:.....
Confirm new bank account details	Account Name:..... BSB:..... AC Number:.....
Date of request	
Name of principal/s	
Signature/s of principal/s	

Rental Trust Accountant to complete

Name of PM	Name of Processing accountant	
Date request received from landlord	Original contract/account details	Verified <input type="checkbox"/> Yes
Date entered into trust account system	Authority form confirmed	<input type="checkbox"/> Yes
Authority saved to owner file <input type="checkbox"/> Yes <input type="checkbox"/> No	Authority instructions completed	<input type="checkbox"/> Yes

6. SELLING PRICE AND OTHER REPRESENTATIONS



To comply with the requirements of the Supervision Guidelines, this section of the Procedures Manual includes the following:

- Estimated Selling Price (see paragraph 6.1)
- Agency Agreements (see paragraph 6.2)
- Contact for Sale (see paragraph 6.3)
- False, misleading and deceptive conduct (see paragraph 6.4)
- Material Facts (see paragraph 6.5)
- Conflict of Interest (see paragraph 6.6)
- Disclosure of interest in property (see paragraph 6.7)



6.1 Estimated Selling Price

The first step following the Vendor's invitation for the Agent to provide a listing presentation is the determination of the Estimated Selling Price.

While this determining the Estimated Selling Price is not an exact science, there are certain things that the Agent should consider prior to expressing an opinion regarding the Estimated Selling Price and these need to be documented.

The Agent must open a sales file and have all the required documents within that file to demonstrate the reasonableness of the Estimated Selling Price. This must be done irrespective of whether the

Agent is ultimately engaged by the Vendor to sell the property or not.

6.1.1 THE LAW

6.1.1.1 Determining the Estimated Selling Price

The Rules of Conduct at Schedule 2, clause 1 and clause 2, of the Property and Stock Agents Regulation require the Agent to physically inspect the property for sale and prepare a Sales Inspection Report and Agency Agreement (Agency Agreement), which includes the Estimated Selling Price. Doing so is a condition precedent to the Agent acting for the Vendor.

Section 72A of the Property and Stock Agents Act prohibits an Agent from entering into an Agency Agreement unless that Agency Agreement includes an Estimated Selling Price.

This Estimated Selling Price set out in the Agency Agreement may be expressed as either a price or a price range. Where the Estimated Selling Price is expressed as a price range, the highest price in the price range must not exceed the lowest price in the price range by more than 10% (e.g. \$500,000- \$550,000).

When advising the Vendor of the Estimated Selling Price, the Agent must provide the Vendor with evidence to support the reasonableness of the Agent's Estimated Selling Price. The Agent must ensure that they can demonstrate that the calculation of the Estimated Selling Price was reasonable in all the circumstances at the time and that the Agent had due regard to those matters that should be considered.

Reviewing and changing the Estimated Selling Price

Section 72A of the Property and Stock Agents Act states that an Agent must ensure that the Estimated Selling Price is not only reasonable at the time it is first determined, but also that it remains reasonable thereafter.

It is incumbent on the Agent to determine the Estimated Selling Price competently. Penalties may apply if the Agent does not make reasonable enquiries and apply the necessary assessment in determining the Estimated Selling Price.

The Supervision Guidelines require the Agent to review the Estimated Selling Price at least weekly to ensure that it remains a reasonable Estimated Selling Price.

Where changes are made to the Estimated Selling Price, the Agent must amend the Agency Agreement and provide notice in writing of the change to the Vendor. This notice must include the revised Estimated Selling Price and, the reasons for the revision. Evidence supporting the reasonableness of the revised Estimated Selling



Price must also be provided.

6.1.1.2 Marketing and advertising the Estimated Selling Price

Representations of price to prospective Purchasers must be consistent with the Estimated Selling Price the Agent gave to the Vendor. The Agent cannot mislead a prospective Purchaser by quoting an anticipated sale price that is less than the Agent's current Estimated Selling Price.

Section 73 of the Property and Stock Agents Act sets out that the Agent must not publish any advertising with a selling price that is less than the Estimated Selling Price for the property. Further, the Agent must not promote the price for the property using the words "offer over" or "offers above" (or any similar words or symbols).

Where the Estimated Selling Price changes, the Agent must take all reasonable steps to amend or remove any advertising where a selling price published is less than the revised Estimated Selling Price.

There is no requirement to provide prospective Purchasers with the Estimated Selling Price. Underquoting is where the Agent represents the sale price as less than the Estimated Selling Price.

6.1.2 AGENCY POLICY

6.1.2.1 Determining the Estimated Selling Price

The Agent will determine the Estimated Selling Price in accordance with the process set out in the Estimated Selling Price Form. Once the Estimated Selling Price is determined by the Agent, it must be entered in the Agency Agreement.

The Estimated Selling Price must be reviewed and tested for reasonableness by the Licensee in charge before signing the Agency Agreement. If the Estimated Selling Price is found to be reasonable, it must be approved in writing by the Licensee in Charge.

Prior to providing an Estimated Selling Price to the Vendor, the Agent must collect and file evidence relevant to the determination of the Estimated Selling Price (as set out in the Estimated Selling Price Form).

Where a property does not fall within a marketplace norm, the Agent must place a summary on the sales file that explains how the Estimated Selling Price has been determined.

All listings must be submitted to the Compliance Department before advertising is commenced. The Compliance Department will review and verify the Estimated Selling Price and ensure all advertising reflects the Estimated Selling Price accurately. The Agent does not have the system authority required to send advertising live and the Marketing Department must ensure Compliance Approval is logged before actioning.

6.1.2.2 Reviewing and changing the Estimated Selling Price

The Agent must review the Estimated Selling Price each week to confirm that it remains a reasonable Estimated Selling Price. Where the Estimated Selling Price is changed, the Agent will provide notice in writing to the Vendor using the Notice of Revised Estimated Selling Price form.



Where the Estimated Selling Price changes, the agent must submit the completed Notice of Revised Estimated Selling Price form that has been served on the vendor to the Compliance Department. The Compliance Department will review and verify the revised Estimated Selling Price as correct. When the revision is approved, it will be confirmed in writing and changes to advertising will be actioned by the Marketing Department.

The Agent does not have the system authority required to make changes to price.

6.1.2.3 Marketing and advertising the Estimated Selling Price

A Price Statement must be approved by the Licensee-in-charge. This price statement must be in accordance with the Vendor's instructions, however it must not be lower than the Agent's Estimated Selling Price.

The Agent and Vendor will ensure that the Price Statement on all marketing and advertising material is correct. Where the Estimated Selling Price changes, the Agent will amend or remove any marketing material as soon as practicable.

Where the Vendor instructs the Agent not to disclose the Estimated Selling Price, the Licensee in charge and must ensure that neither the Estimated Selling Price or any other price statement is disclosed to potential Purchasers (either verbally or in writing).

6.1.2.4 Multi-unit or multi-lot listings

For multi-unit and multi-lot properties under an Agency Agreement, the Estimated Selling Price must include the Estimated Selling Price for the lowest and highest priced properties:

- All available units or lots will be grouped into categories
- If any price indication is given, it must include an Estimated Selling Price for the lowest and highest priced properties in each category

Any collective marketing of residential units or lots that includes a price indication must also disclose that there are multiple properties within each category of varying prices.

6.1.3 COMPLIANCE DOCUMENTATION

6.1.3.1 Estimated Selling Price Form

6.1.3.2 Notice of Revised Estimated Selling Price Form

6.1.4 RESOURCES

6.1.4.1 Fair Trading website: [Underquoting](#)



ESTIMATED SELLING PRICE FORM

Vendor Name/s: _____

Property Address: _____

1. Comparable properties

Address:	Beds:	Baths:	Car:	Size:
Sold Price:	Sold Date:			
Features, similarities & differences:				
Address:	Beds:	Baths:	Car:	Size:
Sold Price:	Sold Date:			
Features, similarities & differences:				
Address:	Beds:	Baths:	Car:	Size:
Sold Price:	Sold Date:			
Features, similarities & differences:				



ESTIMATED SELLING PRICE FORM

2. Property features

The relevant features and attributes of a property will vary from area to area. For example, proximity to transport may be a key consideration in one market, while in another it might be proximity to the beach or water views. Have the following been considered and documented?

Location and proximity to amenities	Y	N
Architectural features	Y	N
Local government zoning	Y	N
Restrictions (e.g. right of way, covenants, easements, resumption by public authorities)	Y	N
Future use (e.g. redevelopment potential)	Y	N
Size, condition and age of the premises	Y	N
Structure (e.g. bricks, tile roof, ceiling height, aluminium windows etc)	Y	N
Size and slope of the land	Y	N
Energy efficiency	Y	N
Views and other features of the land	Y	N
Regular versus irregular shaped land	Y	N
House numbers	Y	N
Feng shui	Y	N
Length of settlement	Y	N

Other unique, highly sought after or distinguishing features likely to influence the Estimated Selling Price:



ESTIMATED SELLING PRICE FORM

3. Assessment of current market conditions

Both macro and local level factors need to be considered. Have the following been considered and documented?

Economic factors such as interest rates, the general state of the economy and any seasonal factors.	Y	N
Current Purchaser demand, including the number of known potential buyers in a position to purchase.	Y	N
The number of comparable properties available for sale.	Y	N
The general state of the real estate market in the area where the property is located.	Y	N

Notes:

4. Identification of likely Purchasers

The property may offer special interest to a particular class of Purchasers that has the potential to attract a premium price for the Vendor. The identification of the target market also helps with marketing. Have the following matters been considered and documented?

Adjoining property owners	Y	N
Niche market (e.g. business use)	Y	N
Developers	Y	N

Other / Notes:

5. Vendor motivation

The motivation of the Vendor to sell is an important element in the sale process. Any discussions relating to the Vendor's circumstances should be documented in the sales file. Unless the Vendor has given express instructions, the information is confidential and must not be disclosed. However, keeping a record of this information will provide evidence for substantiation purposes.

Detail / Notes:



ESTIMATED SELLING PRICE FORM

6. Material facts

There may be material facts that require disclosure (section 52 of the *Property and Stock Agents Act*). These may have an impact on the likely sale price and the Estimated Selling Price. Has the Agent asked the Principal about the items set out in clause 54 of the Property and Stock Agents Regulation?

Detail / Notes / Instructions from Vendor:

7. Other facts and comments

There may be other facts or issues that will influence the determination of the Estimated Selling Price. For example, the Vendor may nominate a preference for a particular method of sale that is contrary to the Agent's advice.

Detail / Notes:

I have received and understand the above information from my agent with relation to the sale of my/our property.

Vendor(s) Signature

Date

Any fee or reward, in any form, for a referral has been approved by the Licensee in Charge, the interest has been declared to the vendor via the prescribed form (Section 47 Disclosures) . Y

Any beneficial interest in the property has been approved by the Licensee in Charge, the interest has been declared to the vendor via the prescribed form (Section 57 Disclosures). Y

Any interest in the proceeds of the sale has been declared to the Licensee in Charge, and interest has been declared clearly on all marketing material. Y

I have asked the vendor about any other matters that may potentially impact the sale Y

I acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.

Agent Name

Agent Signature

Date

DISCLAIMER – While we make every effort to ensure that the information we provide you is correct and up-to-date, we do not warrant its accuracy or reliability. Interested parties should exercise their own independent skill and judgement before they rely on it. In any important matter, you should seek professional advice relevant to your own circumstances.



NOTICE OF REVISED ESTIMATED SELLING PRICE FORM

This notice should be completed by the Agent and given to the Principal when the Agent revises their estimated selling price for the Property during the term of the agency agreement. This notice should only be served electronically if the Principal has included their email address in the agency agreement as their address for electronic service.

Principal _____
ABN/ACN _____
Address _____
Phone _____
Email _____

Agent _____
Licensee's Licence No * _____
ABN/ACN _____
Trading as _____
Address _____
Phone _____
Email _____

*Note: If the Agent trades as a corporation the licensee's licence number is the corporation's licence number.

Property:

Notice:

In accordance with section 72A(4)(b) of the Act, this notice amends the estimated selling price in the agency agreement between the Principal and the Agent dated _____

Revised Estimated Selling Price:

Agent's opinion as to current estimated selling price (or price range): _____

Reasons for the Change in Estimated Selling Price:

The estimated selling price is no longer a reasonable estimate of the likely selling price of the Property because:

Evidence of the Reasonableness of the Agent's Revised Estimated Selling Price:

Evidence is attached to this notice

The Agent has provided the Principal with evidence before the date of this notice

Notes:

- The revised estimated selling price is not to be construed as a valuation and if a price range is used then the highest price in the price range must not be more than 10% higher than the lowest price in the price range.
- Evidence of how the Agent determines their current estimated selling price may include comparable sales, market conditions, the Property's features and other relevant information
- As soon as practicable after the date of this notice, the Agent must take all reasonable steps to amend or retract any marketing of the Property so that it reflects the revised estimated selling price set out in this notice.
- The Principal's consent is not required to amend the agency agreement for the purpose of revising the estimated selling price.

Service of Notice:

Full name of the Principal to whom this notice is being served: _____

Full name of the person receiving this notice on behalf of the Principal: _____

Date of Service: _____ Time of Service: _____ Method of Service: _____

Full name of the person serving this notice: _____

Agent Name: _____ Agent Signature: _____ Date: _____



6.2 Agency Agreements

An Agent must not act for a Vendor unless an Agency Agreement, including a sales inspection report, is in place and completed correctly in accordance with the Property and Stock Agents Act and the Property and Stock Agents Regulation.

The Agency Agreement must include an Estimated Selling Price.

It is an offence to provide real estate services without an Agency Agreement in place. Further, an Agent is not entitled to commission in the absence of an Agency Agreement. The courts interpret the Property and Stock Agents Act strictly and have declared Agency Agreements invalid on the basis of even minor errors, or non-compliance with applicable requirements of the Regulation, disentitling the Agent to their commission.

Therefore, it is important to clearly understand the services that have been agreed between the client and the Agent, and ensure those services are accurately and completely set out in the Agency Agreement.

6.2.1 THE LAW

6.2.1.1 Before the Agent can market a property for sale or lease, an Agency Agreement must be in place.

6.2.1.2 Section 55(1) of the Property and Stock Agents Act provides that a Licensee is not entitled to any commission or expenses unless there is a written Agency Agreement in place that has been signed by (or on behalf of) both the Principal and the Licensee, the Agency Agreement complies with all applicable requirements of the Property and Stock Agents Regulation, and a copy of the Agency Agreement signed by or on behalf of the Licensee was served on the Principal within 48 hours after signing.

6.2.1.3 Any Licensed person in the employ of the Licensee-in-charge can sign the Agency Agreement. However, while an Assistant Agent can prepare the Sales Inspection Report, they cannot sign the Agency Agreement.

6.2.1.4 For residential sales, the Agency Agreement must comply with Schedule 7 and Schedule 8 of the Property and Stock Agents Regulation.

6.2.1.5 The Agency Agreement must set out:

- Names of each party
- Address of the Principal, Licensee's licence number and any Business name of the Licensee Authority of the person on behalf of whom the Agent will act to enter into the Agency Agreement
- Real estate services the Agent will provide to the Principal Period for which the Agency Agreement remains in force or indicating that the Agency Agreement remains in force until terminated
- Amounts of any fees or commissions the Principal agrees to pay for those real estate services or way in which they are to be calculated
- Circumstances in which the Agent is entitled to payment (e.g. commission is payable only upon sale of the property)
- How and when payment is to be made (e.g. the Agent will deduct their commission from the deposit money paid by the Purchaser)
- How and when payment is to be made (e.g. the Agent will deduct their commission from the deposit money paid by the Purchaser)
- Sources and amounts (to the extent they can be reasonably estimated) of all



rebates, discounts, commissions or benefits the Licensee will or may receive from third parties

- Warnings about circumstances in which the Principal may have to pay commission to more than one Agent and a warning that commission is payable even if the sale is not completed (if the Agency Agreement includes such a term)
- The extent of the Agent's authority to act for the Principal (e.g. whether the Agent is permitted to exchange the Contract for Sale on the Principal's behalf or make changes to the Contract for Sale)
- The Agent's Estimated Selling Price.
- If the Agency Agreement provides for termination by a party, it must indicate how and when it can be terminated.

6.2.1.6 The Principal has the right to negotiate the terms and conditions of the Agency Agreement and to ask for legally permitted changes to be made. Alterations to the Agency Agreement need to be signed by all parties (except if the Agent revises the Estimated Selling Price).

6.2.1.7 In addition, a signed copy of the Agency Agreement signed by or on behalf of the Licensee must be given to the Principal within 48 hours of signing. This can be done electronically.

Section 60 of the Property and Stock Agents Act provides that the Principal may, at their option, rescind the Agency Agreement during the cooling-off period. A notice of rescission must be in writing, addressed to the Agent, be to the effect that the Principal rescinds the Agency Agreement and must be signed by the Principal or their lawyer (or by each Principal or their respective lawyers if more than one Principal). The cooling-off period commences when the Agency Agreement is signed and ends at 5.00pm on the next day that is a business day or Saturday (see section 59(2)).

6.2.1.8 It is important to note that there are certain circumstances in which a cooling-off period does not apply (see section 59(5)), specifically:

- The Agent provides to the Principal a copy of the proposed agency agreement and a copy of the Consumer Guide in the approved form at least one business day before the Principal Signs the Agency Agreement is signed; and
- Before the Principal signs the Agency Agreement, they sign a waiver form waiving the cooling-off period in form approved by the Secretary by order published in the Gazette.

6.2.2 AGENCY POLICY

6.2.2.1 The Agency will exclusively use REINSW agency agreements .

6.2.2.2 The Agent will provide a copy of the proposed agency agreement and a copy of the Consumer Guide for Vendors, to the Vendor at least one business day prior to the Vendor signing the Agency Agreement.

6.2.2.3 In completing the Agency Agreement, the Agent will:

Confirm the vendor's identity. The Agent will verify the Vendor's identity by reference to the Agency's Identity Fraud Prevention Policy, the Real Estate Fraud Prevention Guidelines and the Proof of Identity Checklist in order to prevent identity fraud.

- **Check legal ownership.** The Agent will verify the ownership of the property from an original or certified copy of a primary ownership document, such as the property's certificate of title, a land valuation notice up to one year old, current council rates notice up to one year old or other document conferring the power



of sale. A Land Title search with NSW Land Registry Services .

- **Check signatories are correct.** Agency Agreement must be signed by all legal owners of the property or their authorised representatives. If an authorised representative signs on behalf of a legal owner then the authority of that signatory (i.e. a power of attorney or authority letter) should be attached to the Agency Agreement. If the property is owned by a company, the Agent must ensure it is a valid and registered company, and have documentation that ensures the person signing the agency agreement has the authority to do so.
- **Provide signed copy to Vendor.** The Licensee should serve a copy of the Agency Agreement signed by or on behalf of the Licensee on the Vendor within 48 hours of signing.

6.2.2.4 Prior to marketing the property, the Licensee must sign the Agency Agreement to ensure it has been:

- Fully and correctly completed.
- Signed by a Licensed Agent (as Assistant Agents cannot sign Agency Agreements)
- Signed by or on behalf of the Vendor
- Dated

6.2.2.5 In addition, the Licensee-in-charge should check that the Licensee has given the Vendor a copy signed by or on behalf of the Licensee within 48 hours of signing.

6.2.3 COMPLIANCE DOCUMENTATION

6.2.3.1 Listing Compliance NSW Checklist

6.2.4 RESOURCES

6.2.4.1 Fair Trading Website: [Agency agreements](#)

6.2.4.2 [Consumer Guide for Vendors](#)



LISTING COMPLIANCE NSW CHECKLIST

Agent to collate, prepare and upload the following documents to AgentBox under the listing card.

- 1. Agency Agreement Uploaded to the “documents” section under the “resources tab” in listing card of Agent Box:**
 - A complete Agency Agreement including the completed Sales Inspection Report
 - Agent Corporation Details (if an independent contractor) AND The Agency Sales NSW Pty Ltd Corporation Details **if a payroll agent, only The Agency Sales NSW Pty Ltd Corporation Details are required*
 - Every area of the Agency Agreement complete, no blank spaces.
 - The Estimated Selling Price is completed with a single price or a range not exceeding 10% from the lower figure
 - In the case of multi-unit or multi-lot properties has the lowest and highest prices of the properties been included
 - The Vendors instructions regarding Price Statement has been completed
 - Commission has been represented in both a percentage and dollar value (unless it's a flat fee)
 - Marketing amount on Agency Agreement must match the marketing amount on signed marketing quote
 - Auction date on the Agency Agreement is present and matches the auction date advertised (*If this is NOT an auction property, disregard*)
 - Acknowledgement from the Vendor that they received the Consumer Guide (*Agency Agreements for the Sale of Residential Property*) at least one business day before the agency agreement was signed.
 - Date in which the completed Agency Agreement was given to the vendor
 - Prescribed warnings and notices have not been removed from the document
 - Discounts, rebates, commission or benefits have been disclosed
 - Signed & Dated by the vendor(s)
 - Signed & Dated by the agent(s)

- 2. Proof of ID uploaded to the “documents” section under the “resources tab” in listing card of Agent Box:**
 - OFT Proof of ID checklist form complete, signed & dated by agent for all owners
 - Name on the Proof of ID must match the name on Agency Agreement AND Contract of Sale
 - If there is a Power of Attorney being used we must have a copy and Proof of ID must be completed on all listed POAs
 - If the property is owned by a company, an ASIC search must be provided with all shareholders listed
 - All shareholders need to sign the agency agreement and complete Proof of ID

- 3. Estimated Selling Price Form uploaded to the “documents” section under the “resources tab” in listing card of Agent Box:**
 - Has the Estimated Selling Price Form been signed by both the Vendor and the Agent
 - o Included is a minimum of 3 comparable sales
 - Have notes been provided against each comparable sale referencing their features, similarities and differences to substantiate the Estimated Selling Price
 - Comparable sales should be within 6 months of the date of the Agency Agreement
 - Comparable sales should be within 1km of the property radius
 - Comparable sales should be within the estimate price guide on the Agency Agreement
 - o Has the property features been identified that have contributed to determining the Estimated Selling Price
 - o Has an assessment of current market conditions been completed
 - o Have likely purchasers been identified that has the potential to attract a premium
 - o Have the vendors motivation been identified
 - o Have material facts that could impact the price been identified and disclosed



LISTING COMPLIANCE NSW CHECKLIST

4. **Contract of sale uploaded to the “Contract” section under the “resources tab” in listing card of Agent Box:**
 - Vendor name on the contract must match the name on the Agency Agreement and Proof of ID
 - Property address on the contract must match the address on the agency agreement
 - Current documents to be contained within the contract include:
 - Planning Certificate 10.7
 - Sewerage diagram
 - Title search
 - Deposited plan or strata plan
 - Any registered deeds, dealing or other instruments shown on title
 - Standard conditions
 - Swimming pool certificate of compliance or non-compliance (if applicable)

5. **Auction Booking (if applicable):**
 - Auction details on the Agency Agreement must match the Auction details that are due to feed to the portals

6. **Marketing confirmation uploaded to the “documents” section under the “resources tab” in listing card of Agent Box:**
 - Marketing quote must be present and signed by Vendor or authorised signatory
 - Campaign Agent amount must match the amount shown on the marketing quote
 - Campaign Agent portal must be completed and submitted

7. **The listing card in Agent Box must be complete with all relevant information to feed live to the internet:**
 - Number of Bedrooms, Bathrooms & Car spaces – accurate and as reflected on the floorplan
 - Agents Estimated Selling price – matching the Agency Agreement exactly
 - Advertised price – matching the Authority exactly or “Contact Agent”
 - “Search Price” (this price is not visible but it is the price that feeds to the portals to determine the search range) must be only a single figure.
 - Method of sale – matching the Authority exactly
 - Auction Booking confirmed and added to the listing card
 - Vendor(s) details entered and correct to the “agents & contacts” section on the listing card
 - Vendor(s) solicitor details entered and correct to the “agents & contacts” section on the listing card
 - Full address displayed always (never hide address)
 - Listing Date to match the date the Agency Agreement is signed
 - Agency Agreement expiry date to match the expiry length of time stated on the Agency Agreement



LISTING COMPLIANCE NSW CHECKLIST

When requesting compliance, the agent declares the following:

False, misleading & deceptive conduct:

- ✓ They have taken all reasonable steps to ensure that information being provided is accurate.
- ✓ They have checked the accuracy of all information (both written and/or images) included in any marketing or advertisements prior to publication (whether online or in print)
- ✓ The vendor has approved all marketing and advertisements prior to publication (whether online or in print)
- ✓ The agent has checked that there are no terms or provisions in the Agency Agreement, Contract for Sale or any other agreement for the sale and purchase of land or any interest in land that prevents the Purchaser from claiming or being awarded damages or any other relief for misrepresentation or concealment in connection with the sale and purchase of land or interest.

Material facts:

- ✓ They have asked the vendor about the items set out in clause 54 of the Property and Stock Agents Regulations
- ✓ They have asked the vendor about any other matters that may potentially impact the sale
- ✓ They will disclose all material facts within their knowledge to potential purchasers

Conflict of interest checklist:

- ✓ Any fee or reward in any form, for a referral and this has been approved by the Licensee in Charge, the interest has been declared to the vendor via the prescribed form (Section 47 Disclosures) and the vendor has signed the form.
- ✓ Any beneficial interest in the property has been approved by the Licensee in Charge, the interest has been declared to the vendor via the prescribed form (Section 57 Disclosures) and the vendor has signed the form.
- ✓ They are not acting for both the vendor and the purchaser

Disclosure of interest checklist:

- ✓ Any interest in the proceeds of the sale has been declared to the Licensee in Charge, and interest has been declared clearly on all marketing material (whether online or in print)



6.3 Contract for Sale

An Agent must not market or otherwise offer a property for sale unless a completed Contract for Sale is in place and Purchase of Land (including the prescribed documents) for sale is available for inspection upon the request at the Agent's office at all times.

The Agent should thoroughly read and understand the Contract for Sale, as there will be information in the Contract for Sale that impacts on how the property is marketed and the end sale result. Many properties have a latent value (for example, zoning), and this will be revealed in the Contract for Sale and will impact how the Agent is able to maximise the ultimate selling price.

Some Agents believe in error that they do not need to have Contract for Sale in place in the case of an 'off-market' sale. If an Agent is offering a property to prospective purchasers, in any circumstances, the property is 'on the market' and a Contract for Sale is required. While the property may not be advertised in the public domain as being for sale, it is nevertheless 'on the market' and a Contract for Sale must be in place before marketing or inspection of the property starts.

6.3.1 THE LAW

6.3.1.1 Section 63(2) and Property and Stock Agents Act requires the Contract for Sale must be available for inspection at the Agent's registered office at all times.

6.3.1.2 Section 52A of the Conveyancing Act 1919 requires Vendors to disclose prescribed information about the property by including certain documents in the Contract for Sale and Purchase of Land. The Contract for Sale and Purchase of Land must include the applicable documents set out in Schedule 1 to the Conveyancing (Sale of Land) Regulation 2017. These documents are referred to as "statutory disclosures" and typically include:

- A planning certificate (under section 10(7) of the Environment Planning and Assessment Act 1979)
- A sewerage diagram (from the local water authority) A title search (conducted via Property Registry)
- A deposited plan or strata plan
- Any registered deeds, dealings or other instruments shown on title (e.g. easements, profits a prendre, restrictions or positive covenants)
- Standard conditions
- Swimming pool certificate of compliance or non-compliance (if applicable).

6.3.1.3 Section 64 of the Property and Stock Agents Act allows the Agent to complete a proposed Contract for Sale, insert or delete any description of furnishings or chattels, and participate in the exchange of making of Contracts for Sale.



6.3.2 AGENCY POLICY

6.3.2.1 The Agent must not show, offer or advertise a property or indicate that it is for sale unless:

- There is a Contract for Sale available for inspection at the registered office of the Agency
- The Licensee-in-charge has checked the Contract for Sale to ensure that it is completed correctly, and all the statutory disclosures and other documents are included.

6.3.3 COMPLIANCE DOCUMENTATION

6.3.3.1 Listing Compliance NSW Checklist

6.3.4 RESOURCES

6.3.4.1 Fair Trading website: [Sales contracts](#)



6.4 False, misleading and deceptive conduct

6.4.1 THE LAW

- 6.4.1.1 Section 52(1)(a) of the Property and Stock Agents Act prohibits an Agent inducing a person to enter into a contract or arrangement by making any statement, representation or promise that is false, misleading or deceptive (whether to the knowledge of the Agent or not).

Further, section 52 (1)(a) states that an Agent must not induce a person to enter into a contract or arrangement by failing to disclose a prescribed material fact (whether intended or not) that they know or ought reasonably to know).

- 6.4.1.2 Section 52(2) goes on to provide that a statement, representation or promise will be taken to be false, misleading or deceptive if it would “reasonably tend to lead to a belief in the existence of a statement of affairs that does not in fact exist”. This is the case whether or not the statement, representation or promise indicates that the state of affairs actually does exist.

- 6.4.1.3 In accordance with section 52(3), the Agent can defend a claim of false, misleading and deceptive conduct made against them if they can prove that they did not know (and had no reasonable cause to suspect) that the statement, representation or promise was false, misleading or deceptive.

- 6.4.1.4 Importantly, an Agent cannot include a term or provision in the Agency Agreement, Contract for Sale or any other agreement for the sale and purchase of land or any interest in land that prevents the Purchaser from claiming or being awarded damages or any other relief for misrepresentation or concealment in connection with the sale and purchase of land or any interest in land.

6.4.1.5 Australian Consumer Law

Section 18 of the Australian Consumer Law prohibits a person, in trade or in commerce, from engaging in misleading or deceptive conduct.

Further, in relation to the sale of land, section 30 states that a person, in trade or in commerce, must not make a false or misleading representation about the:

- Nature of the interest in the land
- Price payable for the land
- Location of the land
- Characteristics of the land
- Use to which the land is capable of being put or may lawfully be put
- Existence or availability of facilities associated with the land.

6.4.2 AGENCY POLICY

- 6.4.2.1 The Agent will not make any statements, whether written or verbal, that are or may be false, misleading or deceptive in nature. This includes any information (both written wording and/or images) included in advertisements (both online and in print).

- 6.4.2.2 Prior to making any statements, whether written or verbal, the Agent will take all reasonable steps to ensure that the information being provided is accurate. The research undertaken to verify the accuracy of the representations will be included in the sales file.

- 6.4.2.3 The Agent will not include a term or provision in the Agency Agreement , Contract for Sale or any other agreement for the sale and purchase of land or any interest in



land that prevents the Purchaser from claiming or being awarded damages or any other relief for misrepresentation or concealment in connection with the sale and purchase of land or interest.

6.4.3 COMPLIANCE DOCUMENTATION

6.4.3.1 Listing Compliance NSW Checklist

6.4.4 RESOURCES

6.4.4.1 Fair Trading website: [Misleading representations and deceptive conduct](#)



6.5 Material facts

Agents' disclosure obligations under the Property and Stock Agents Act were thrown into the spotlight by the Sef Gonzales case.

In 2004, the Sydney home in which Sef Gonzales murdered his family was sold to buyers who were unaware of its tragic past. Once they found out about the home's history, they didn't want to proceed with the purchase. The NSW Administrative Decisions Tribunal (now known as the NSW Civil and Administrative Tribunal) found that the agent should have made the buyer aware of the murders and ordered that a penalty be paid.

The decision prompted a review of the obligations surrounding disclosure and the law changed as a result. Agents must now disclose any material fact before they can sell a property.

Importantly, the Vendor is not required to disclose material facts. The disclosure of a material fact may devalue the sale price of the property, so it is critical that the Agent has the Vendor's instructions to disclose the material facts. If the Vendor will not provide that instruction, the Agent cannot act.

6.5.1 THE LAW

6.5.1.1 Under section 52 of the Property and Stock Agents Act, the obligation to disclose a material fact lies with the agent.

6.5.1.2 The decision in the Gonzales case provides some direction to agents to help them determine whether something is a material fact. The Tribunal noted in its decision that matters for agents to consider include:

- The agent's treatment of the fact
- Whether the fact is able to be independently ascertained Whether the fact is likely to impact on the price
- The reaction of other buyers to the fact
- Whether the fact results in the property being in a rare or unusual category or position.

6.5.1.3 Fair Trading's Misrepresentation Guidelines provide some further guidance, though not an exhaustive list or definition of material facts. According to the Misrepresentation Guidelines, "apart from individual circumstances where an agent understands that a particular issue is 'material' to an individual ... agents should concern themselves with considering issues which are sensitive for a significant proportion of the population." Examples given include whether the property has a current DA approval, whether it has had water damage known to the agent in the past or if it was the scene of a serious crime during the current or previous occupation.

6.5.1.4 Clause 54 of the Property and Stock Agents Regulation prescribe the following as material facts that need to be disclosed by agents:

- Flood and bushfire - Where the property has been subject to flooding from a natural weather event or bushfire in the last five years
- Health and safety risks - Where the property is subject to significant health or safety risks
- Asbestos - Where the property is listed on the loose-fill asbestos insulation register
- Violent crime - Where the property has been the scene of a murder or manslaughter within the last five years
- Drugs - Where the property has been used to manufacture, cultivate or supply



- any prohibited drugs or prohibited plants within the last two years
- Cladding - Where a fire safety order or building product rectification order has been issued (or there is a notice of intention to issue either order) regarding external combustible cladding, or where a development application or complying development certificate application has been lodged for rectification regarding external combustible cladding.

6.5.2 AGENCY POLICY

6.5.2.1 The Agent will ensure that the Vendor understands the Agent's obligation to disclose material facts. Further, the Agent will question the Vendor about each of the items set out at clause 54 of the Property and Stock Agents Regulation . With the instructions of the Vendor, the Agent will ensure that all matters disclosed by the Vendor are passed on to potential Purchasers.

6.5.2.2 Further, the Agent will ask the Vendor whether there are any further matters that should be disclosed to potential Purchasers. The Agent will also make reasonable enquiries to discover material facts.

6.5.3 COMPLIANCE DOCUMENTATION

6.5.3.1 Listing Compliance NSW Checklist

6.5.4 RESOURCES

6.5.4.1 Fair Trading Website: [Misleading representations and deceptive conduct](#)



6.6 Conflicts of interest

The Property and Stock Agents Act sets out a number of prescriptive requirements in relation to the conflict of interest between Agents and their clients.

6.6.1 THE LAW

6.6.1.1 Section 47 of the Property and Stock Agents Act requires an Agent to disclose to Principal:

- Any relationship with a referral
- Any payment received by the Agent paid by a referral
- Any benefit that a person is going to receive for prompting, marketing or selling of the property
- The amounts of any payment or benefit.

6.6.1.2 Examples of the type of relationships that must be disclosed include:

- Family relationship
- Business relationship
- Fiduciary relationship
- Relationship in which one person is accustomed or obliged to act in accordance with the directions, instructions or wishes of the other.

6.6.1.3 Examples of persons who may receive a benefit include: seller, finance broker, financial broker, financial advisor, financier, property valuer, legal practitioner and real estate agent.

6.6.1.4 Section 47(2) states that the disclosure only become effective if three preconditions are satisfied:

- Disclosure is made on the form prescribed by Fair Trading
- The client acknowledges the disclosure by signing the form
- The disclosure has been made prior to the client entering into the Contract for Sale.

6.6.1.5 Section 47(3) defines a benefit to include “money or other benefit”. This means that if the Agent is receiving a gift for a referral, this is also a benefit.

6.6.1.6 Section 48 of the Property and Stock Agents Act prohibits an Agent from acting for both the Vendor and the Purchaser. In simple terms, an Agent cannot serve two Principals.

6.6.1.7 Where an Agent is retained by a Vendor to sell their property, section 49 of the Property and Stock Agents Act prohibits the Agent from acquiring a beneficial interest in that property. However, section 49(3) provides an exemption from the prohibition if:

- Before the Agent obtains the interest, the client consents in writing in a form approved by Fair Trading; and
- The Agent acts fairly and reasonably in relation to the obtaining of the interest; and
- No commission or other reward is payable to the Agent in relation to the transaction by which the interest is obtained, unless the client consents in writing in a form approved by Fair Trading.

6.6.1.8 Sections 49(4) and (5) set out some of the things that would constitute an Agent obtaining a beneficial interest in property. It is sufficient to say that it is very broad. Additionally, it is important to note that “property” includes an interest in property. This means that obtaining a lease, mortgage or equitable interest is also caught by this section.



6.6.2 AGENCY POLICY

- 6.6.2.1 The Agency will not, at any time or in any circumstance, act for both the Vendor and Purchaser in the same transaction.
- 6.6.2.2 If an Agent can earn a fee or reward in any form for a referral, then the particulars of same are to be fully set out and submitted to the Licensee-in-charge for approval. The Licensee-in-charge can, in their absolute discretion, approve or prohibit the Agent receiving the fee or reward. If the Licensee-in-charge approves, then the Agent will seek the consent of the Vendor or Purchaser in writing using the prescribed form .
- 6.6.2.3 If anyone employed (related to the employee) by the Business seeks to gain a beneficial interest in a property being offered for sale by the Agency, then that person must submit in writing the full particular of the interest sought for the approval of the Licensee-in-charge. The Licensee-in-charge can in their absolute discretion approve or prohibit the employee from participating in the competition for the property. If the Licensee-in-charge approves, then the employee will seek the consent of the Vendor or Purchaser (as the case may be) in writing using the prescribed form.

6.6.3 COMPLIANCE DOCUMENTATION

- 6.6.3.1 Listing Compliance NSW Checklist



6.7 Disclosure of interest in property

6.7.1 THE LAW

6.7.1.1 Section 50(2) of the Property and Stock Agents Act provides that where a Licensee has a “relevant interest” in the sale or proposed sale of a property, they must disclose that interest in any advertisement relating to or in connection with the proposed sale. This includes where the agent has an interest in the proceeds of the sale.

6.7.1.2 In accordance with section 50(3) of the Property and Stock Agents Act, a Licensee has a “relevant interest” in the sale of the a property if they are a direct owner of the property, if they are a Corporation and a director is an owner of the property or if the Licensee is a director of a Corporation and the Corporation owns the property. A “relevant interest” also includes instances where the Licensee owns shares of a Corporation that owns the property or owns units in a unit trust that the owns the property.

6.7.1.3 Employees of the Business and, depending on the circumstances, relatives of the employees of the Business can be captured as having a “relevant interest”.

6.7.2 AGENCY POLICY

6.7.2.1 Where the Licensee has a relevant interest in the property being sold, all advertising (both print and online) must prominently include the following words: “Agent discloses an interest”.

6.7.2.2 The Compliance Department must be notified of the interest so that the Agent Interest Register can be updated.

6.7.3 COMPLIANCE DOCUMENTATION

6.7.3.1 Listing Compliance NSW Checklist

6.7.3.2 Agent Interest Register



AGENT INTEREST REGISTER

Property Address:

Agent Name:

Details of ownership or connection to person of ownership:

Has disclosure of interest on marketing material been made:

Further comments / notes:

Compliance approved: Yes No

Date:



7. COMPLAINTS HANDLING PROCEDURES



As a Licensee in charge, you must prepare and maintain written complaint handling procedures.

The Supervision Guidelines require that these procedures must ensure that all complaints regarding employee behaviour, as well as the Agency's response, are recorded in a register and retained for three years from the receipt or resolution of the complaint (whichever is later).

7.1 AGENCY POLICY

- 7.1.1 The Agency has zero tolerance for an Agent's failure to comply with the Property and Stock Agents Act, Property and Stock Agents Regulation and other laws relevant to the conduct of Business and, as such, all complaints are addressed actively and in compliance with relevant legislation, including privacy laws.
- 7.1.2 The Agency expects all employees to take complaints handling seriously, adhere to the complaints-handling policy
- 7.1.3 Where a complaint relates to a financial transaction, it must be referred to the Licensee in charge as soon as practicable.
- 7.1.4 The Licensee in charge has exclusive carriage of the investigation and resolution of all complaints.
- 7.1.5 The Agency classifies complaints as follows:
- **Feedback.** This type of complaint is treated as input for the Agency's program of continuous improvement.
 - **Financial.** Complaints of inappropriate and/or illegal behaviour in relation to a financial matter are treated most seriously by the Agency and will be actioned as a matter of utmost priority. These complaints must be reported to the Licensee in charge as soon as possible and the Licensee in charge will undertake an investigation and supervise their resolution of the complaint directly. If, upon investigation, it is determined that it is necessary to inform NSW Fair Trading, the Licensee in charge will do so immediately
 - **Non-financial.** Allegations of inappropriate and/or illegal behaviour in relation to a non- financial matter are treated seriously by the Agency and will be actioned as soon as practicable.
- 7.1.6 Complainant's are requested to lodge complaints in writing, setting out matters that they allege have breached appropriate Agent/client behaviour and/or amounts to illegal conduct. These complaints are then entered in the Complaints Register.
- 7.1.7 The Agency will acknowledge each complaint immediately and undertake to respond to the complaint in writing within five business days. In responding to the complaint, the Agency will specifically address each item set out in the complaint. The resolution will be recorded in the Resolving Complaints Checklist.
- 7.1.8 All complaints will remain open until resolved or until all efforts to resolve the complaint have been exhausted.
- 7.1.9 The Agency's website includes an copy of this policy, as well as a link to allow a complainant to email a complaint directly to the Licensee in charge.



- 7.2 COMPLIANCE DOCUMENTATION
 - 7.2.1 Complaint Acknowledgment Letter Template
 - 7.2.2 Complaints Handling Checklist
 - 7.2.3 Complaints Register
 - 7.2.4 Resolving Complaints Checklist



Date

Mr and Mrs Upset Vendor
1 Your Street
YOURTOWN NSW 1234

Dear Mr and Mrs Upset Vendor,

RE: INSERT PROPERTY ADDRESS

Thank you for [your letter/email dated xx/xx/xxx] [telephoning our office on xx/xx/xxx] in relation to your concerns regarding [insert main point or person].

Firstly, I would like to start by thanking you for taking the time to bring these matters to my attention. As the Licensee in Charge of operations here at The Agency I value any client feedback that can help us to best serve the needs of our clients.

I take this matter very seriously as our agency's goodwill in the local community is something that we value very highly here at The Agency.

[Insert where complaint against Property Manager or Salesperson]

Whilst I carry out a thorough investigation I would request that all future dealings be directed to me personally. This is a way of not only providing you with privacy during the investigation process but also elevates any further inconvenience to you, our valued client.

I wish to take this opportunity to explain the internal process involved in our investigations.

1. Your complaint has been recorded in a " [insert General Complaints Register] [insert Financial Controls Complaints Register].
2. **Your Official written complaint.** I would request you complete the attached form that outlines key issues and persons involved so that I may conduct my internal investigation. We would respectfully ask that you complete this form and return to my office marked to my attention.
3. **The Investigations process.** This includes speaking with the relevant members of staff and perusing all relevant documentation in regard to this matter.
4. **Client Liaison.** This step involves providing you with feedback of my findings and ensuring that the utmost is done to address all the issues you have raised.
5. **Agency Action.** In the few instances we have had a complaint I have been able to rectify any misunderstanding to our client's satisfaction. In any case, we as an Agency will learn from the outcomes of this investigation and consider our alternatives for meeting the specific needs of our clients better.

So once again allow me to reinforce that you are important to our agency and you are valued as a client. I give you every assurance that an efficient investigation process will be undertaken and the important issues you have raised will be addressed.

In the meantime I have enclosed one of my business cards so you have it handy should you wish to discuss this matter further.

Assuring you of our best attention.

We remain,

Yours faithfully,

NAME
Licensee in Charge
The Agency

COMPLAINTS HANDLING CHECKLIST

Does the Agency have a complaints register in which all complaints are recorded?	
Are all complaints made against the Agency (or any Agent, employee or person engaged in the Business) recorded in the complaints register?	
Do all Agents, employees and those engaged in the Business understand the complaints handling procedures?	
Are all complaints relating to financial transactions reported to the Licensee in charge as soon as practicable and supervised directly by that Licensee in charge?	
Is training about the complaints handling procedures part of the induction of all new employees and new people engaged in the Business?	
Is the Agency's complaints handling procedure readily available on the website?	
Is there a link on the website that allows a complainant to email a complaint directly to the Licensee in charge?	

Acknowledgement	
I acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:

Acknowledgement	
I acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



COMPLAINTS REGISTER

Name of person making complaint:

Date of complaint:

Details of complaint:

Comments:

Action taken:

Resolution:

Acknowledgment:

I acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.

Licensee in charge name:

Signature:

Date:

*Please attach additional notes if necessary and any client correspondence



RESOLVING COMPLAINTS CHECKLIST

To be completed for each complaint

Has the complaint been recorded in the complaints register?	Y	N
Was the complaint acknowledged immediately?	Y	N
Did the Agency respond to the complaint in writing within five business days?	Y	N
Did the Agency specifically address each item set out in the complaint?	Y	N
In case of a complaint relating to a financial transaction*:		
• Was the complaint reported to the Licensee in charge as soon as practicable?	Y	N
• Was resolution of the complaint supervised directly by the Licensee in charge?	Y	N
Is there a mechanism in place to ensure that records of the complaint are retained for 3 years?	Y	N
Comments / Notes:		

Acknowledgement	
I acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



8. EMPLOYEE SUPERVISION



8.1 THE LAW

8.1.1 Section 20(2) of the Property and Stock Agents Act requires all Licence and Certificate of Registration holders to comply with the Continuing Professional Development requirements set down by the Secretary.

8.2 AGENCY POLICY

8.2.1 The Licensee in charge will ensure that all Agents employed by the Agency or engaged in the Business hold (as appropriate) a current Class 1 Licence, Class 2 Licence or Certificate of Registration.

8.2.2 The Licensee in charge will ensure that all Licences and Certificates are renewed by the renewal date and a record is kept with the relevant details.

8.2.3 The Licensee in charge will ensure that all Licence and Certificate of Registration holders understand their Continuing Professional Development obligations and complete these obligations within the CPD year.

8.2.4 Employee responsibilities

8.2.4.1 All employees of the Agency will ensure:

- They work within the scope of the employment (as per their job description)
- They work in accordance with the requirements of the Property and Stock Agents Act, Property and Stock Agents Regulation and Property and Stock Agents (Qualifications) Order
- Their Real Estate Licence or Certificate of Registration is current at all times
- They comply with CPD obligations, complete these obligations within the CPD year and provide evidence of completion of CPD
- They comply with this Procedures Manual

8.2.4.2 All Assistant Agents will ensure:

- They complete work experience requirements in accordance with the Property and Stock Agents (Qualifications) Order
- They understand that they cannot enter into Agency Agreements on behalf of the Agency

8.2.4.3 All Licence holders (Class 1 and Class 2) will ensure:

- They can, if required, verify an Agency Agreement (and Sales and Inspection Report) prepared by an Assistant Agent
- The Agency Agreement and all accompanying documentation complies with Agency procedures and the law before it is signed
- A property inspection has been carried out prior to the Agency Agreement being prepared, and that it is accurate in all respects, before the Agency Agreement is signed.

8.3 COMPLIANCE DOCUMENTATION

8.3.1 Employee Supervision Checklist

8.3.2 Employee Register



EMPLOYEE SUPERVISION CHECKLIST

Licences and certificates	
Do all Agents employed by the Agency or engaged in the Business hold a current Class 1 Licence, Class 2 Licence or Certificate of Registration? (as appropriate)	
Are the following details recorded in the Employee Register for all Agents employed by the Agency?	
<ul style="list-style-type: none"> Name of Agent 	
<ul style="list-style-type: none"> Date of employment 	
<ul style="list-style-type: none"> Type of Licence or Certificate of Registration 	
<ul style="list-style-type: none"> Licence or Certificate of Registration number 	
<ul style="list-style-type: none"> Renewal date of Licence or Certificate of Registration 	
<ul style="list-style-type: none"> Date CPD completed (including evidence of completion) 	
<ul style="list-style-type: none"> Work experience log (% completed for Assistant Agents) 	
Renewal of licences and certificates	
Are the renewal dates for the Licences and Certificate of Registration of all Agents diarised and a reminder triggered to action the renewal?	
Is there a mechanism in place to ensure all Licence and Certificate of Registration renewals are actioned?	
Continuing professional development	
Do all Agents understand their Continuing Professional Development obligations?	
Is there a record of completion of the Continuing Professional Development obligations for all Agents?	
Does the Agency offer resources to assist Agents to complete their Continuing Professional Development?	
Acknowledgement	
I, _____, acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



9. GIFTS AND BENEFITS REGISTER



9.1 THE LAW

- 9.1.1 As a general principle, the Agent must act in the best interest of the Principal and, importantly, stand in the shoes of the Principal.
- 9.1.2 If the Agent receives a gift or benefit while acting for the Principal, that gift or benefit is rightfully the property of the Principal. However, the Agent can earn and retain a benefit if the Agent discloses full details of the gift or benefit to the Principal and the Principal consents to the Agent keeping that gift or benefit.
- 9.1.3 Section 53F(1) of the Property and Stock Agents Act prohibits an Agent from requesting or accepting a gift or other benefit in circumstances that may reasonably be considered to give rise to a conflict of interest.
- 9.1.4 There are, however, circumstances where the Agent does not have to disclose the request or receipt of a gift or benefit to the Principal; for example, anything provided by the Agent's employer, anything provided in accordance with the terms of an agency agreement or from a client as a gift in gratitude for services provided under an agency agreement, if the gift or benefit is of a kind prescribed by the Property and Stock Agents Regulation or anything with a value less than the prescribed amount in the Property and Stock Agents Act (see section 53F(2)(c) and section 53F(2)(d)).
- 9.1.5 Schedule 1, clause 2 1 of the Property and Stock Agents Regulation imposes a limit of \$60 on the value of gifts and benefits. Therefore, the individual gift or benefit does not exceed \$60, the Agent can request or accept that gift or benefit without disclosing it to the Principal.

9.2 AGENCY POLICY

- 9.2.1 All Agents, and other employees of the Agency and those engaged in the Business, must adhere to the requirements of section 53F of the Property and Stock Agents Act.
- 9.2.2 The Licensee in charge will create and maintain a Gifts and Benefits Register and this register will be made available to all Agents and other employees of the Agency.
- 9.2.3 All Agents and other employees of the Agency and those engaged in the Business will record all gifts and benefits (that are not exempt) in the Gifts and Benefits Register.
- 9.2.4 All Agents, and other employees of the Agency and those engaged in the business, will not request or accept gifts or benefits without first checking to see whether they are able to do so under section 53F of the Property and Stock Agents Act.

All gifts or benefits offered to, or accepted by, an Agent or other employee of the Agency and those engaged in the Business must be disclosed to and approved by the Licensee in charge.

9.3 COMPLIANCE DOCUMENTATION

- 9.3.1 Gifts and Benefits Register



GIFTS & BENEFITS REGISTER

Date gift or benefit requested or received:	
Name of person requesting or receiving gift or benefit:	
Description of gift or benefit:	
Estimated value of gift or benefit:	
Name of person giving gift or benefit:	
Contact details of person giving gift or benefit:	
Relationship of person giving gift or benefit to Agent/Agency:	
Can Agent legally request or accept gift or benefit?	Y N

Acknowledgement	
I acknowledge that I have read and understood the information set out above, and confirm that my responses are true and correct.	
Licensee in charge:	Name:
	Signature:
	Date:



10. RECORD KEEPING



10.1 THE LAW

- 10.1.1 The Property and Stock Agents Act and the Property and Stock Agents Regulation require the Licensee-in-charge to make and keep certain records.
- 10.1.2 Section 104(1) of the Property and Stock Agents Act requires a Licensee to make and keep a record of the particulars of all transactions, as well as other records required by the Property and Stock Agents Regulation (in particular, see Part 5). These records must be kept for at least three years (see section 104(2)) by the Licensee at the Agency's registered office (see section 104(3)). Where a Licensee-in-charge moves on or the Business changes hands, the records must remain at the registered office.
- 10.1.3 All records must be, at all reasonable times, open to inspection by an authorised officer in accordance with section 105(1) of the Property and Stock Agents Act.
- 10.1.4 All records must be kept in English.

10.2 AGENCY POLICY

- 10.2.1 The Licensee in charge will keep and maintain a register of all transactions. This register will be kept at the Agency's registered office for at least three years.
- 10.2.2 The Licensee in charge will carry out a monthly review of the Agency's record to confirm compliance with the Supervision Guidelines and compliance with the policies and procedures set out in this Procedures Manual.
- 10.2.3 The monthly review will include an audit of randomly selected files covering the full range of Agency records, including:
- General Agency records
 - Sales files
 - Property management files
 - Trust Accounts
- 10.2.4 As part of the part of the monthly review, the Licensee-in-charge will complete the Monthly Record Keeping Checklists
- 10.2.5 Where any instances of non-compliance with the Agency's procedures are identified, details of the non-compliance will be recorded in the Monthly Record Keeping Checklists, as well as any remedial action taken. This action may include additional training for the relevant employee.
- 10.2.6 Where, as a result of a monthly review, errors or instances of non-compliance are detected, a broader audit will be carried out to gauge the extent of the problem.
- 10.2.7 Where, as a result of a monthly review, a policy or procedure is found to be no longer appropriate or in line with legislative requirements, the Licensee in charge will (as soon as reasonably practicable) review and amend that policy or procedure in order to maintain compliance. Details will be recorded in the Procedures Manual Change Register (see paragraph 2.3.2) this Procedures Manual will be amended or updated accordingly.
- 10.2.8 In circumstances where a policy or procedure is amended or updated, the Licensee in charge will ensure that the change is communicated to all employees of the Business. Further, all employees will be required to acknowledge the change.
- 10.2.9 All client files are the property of the Business. The Licensee in charge will check



that all required documents are in the client file once the transaction is complete. If the file has all the required documents, then it will be closed and will form part of the records of the Business.

10.2.10 The Licensee in charge will ensure that all documentation relevant to the Supervision Guidelines is available for inspection in accordance with section 105 of the Property and Stock Agents Act.

10.2.11 The Licensee in charge will ensure that all documentation relevant to the Supervision Guidelines is retained for at least three years.

10.3 COMPLIANCE DOCUMENTATION

10.3.1 Monthly Record Keeping Checklist – General

10.3.2 Monthly Record Keeping Checklist – Sales

10.3.3 Monthly Record Keeping Checklist - PM



MONTHLY RECORD KEEPING CHECKLIST - GENERAL

General agency records (please tick if complete and up to date)		
	SALES	PM
Principal Licensee Declaration		
Principal License Checklist		
Licensee in charge Appointment Form		
Licensee in charge Register		
Staff Acknowledgement Form		
Staff Acknowledgement Register		
Complaints Register		
Gifts and Benefits Register		
Are there any instances of non-compliance?	Y N	Y N
<i>Details of non-compliance (if relevant):</i>		



MONTHLY RECORD KEEPING CHECKLIST - SALES

MONTHLY RECORD KEEPING CHECKLIST

The Licensee in charge will carry out a monthly review of property files and relevant records to ensure compliance with the policies and procedures set out in the Procedures Manual, and will complete the relevant details below.

Licensee in charge:	
Part/s of Business responsible for:	
Trust Account/s responsible for:	
Are records kept of all transactions?	
Are records in English?	
Are all records kept for three years?	
Are all records kept at the registered office of the Licensee in charge in a safe storage facility?	
Is an annual review of record keeping requirements diarised and a reminder triggered to action the review?	



MONTHLY RECORD KEEPING CHECKLIST - SALES

Sales files	
Does every property for sale have a separate file?	
<i>A minimum of 3 sales files per month must be reviewed each month</i>	

SALES FILE #1	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #2	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #3		
Sales file reviewed:		
Does the sales file contain the following?		
• File number		
• Vendor's name		
• Vendor's contact details		
• Property sold		
• Copy of Agency Agreement		
• Start date of Agency Agreement		
• Expiry date of Agency Agreement		
• Additional listing records (if required)		
• Estimated Selling Price and relevant information in support		
• Revised Estimated Selling Price notification & relevant information in support	Y	N/A
• Relevant correspondence		
• Marketing commitment completed		
• Purchaser's name		
• Purchaser's contact details		
• Date of exchange		
• Date of settlement		
• Compliance approval completed prior to launch		
Are there any instances of non-compliance?	Y	N
<i>Details of non-compliance (if relevant):</i>		



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #4		
Sales file reviewed:		
Does the sales file contain the following?		
• File number		
• Vendor's name		
• Vendor's contact details		
• Property sold		
• Copy of Agency Agreement		
• Start date of Agency Agreement		
• Expiry date of Agency Agreement		
• Additional listing records (if required)		
• Estimated Selling Price and relevant information in support		
• Revised Estimated Selling Price notification & relevant information in support	Y	N/A
• Relevant correspondence		
• Marketing commitment completed		
• Purchaser's name		
• Purchaser's contact details		
• Date of exchange		
• Date of settlement		
• Compliance approval completed prior to launch		
Are there any instances of non-compliance?	Y	N
<i>Details of non-compliance (if relevant):</i>		



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #5	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES

SALES FILE #6	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #7		
Sales file reviewed:		
Does the sales file contain the following?		
• File number		
• Vendor's name		
• Vendor's contact details		
• Property sold		
• Copy of Agency Agreement		
• Start date of Agency Agreement		
• Expiry date of Agency Agreement		
• Additional listing records (if required)		
• Estimated Selling Price and relevant information in support		
• Revised Estimated Selling Price notification & relevant information in support	Y	N/A
• Relevant correspondence		
• Marketing commitment completed		
• Purchaser's name		
• Purchaser's contact details		
• Date of exchange		
• Date of settlement		
• Compliance approval completed prior to launch		
Are there any instances of non-compliance?	Y	N
<i>Details of non-compliance (if relevant):</i>		



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #8	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #9		
Sales file reviewed:		
Does the sales file contain the following?		
• File number		
• Vendor's name		
• Vendor's contact details		
• Property sold		
• Copy of Agency Agreement		
• Start date of Agency Agreement		
• Expiry date of Agency Agreement		
• Additional listing records (if required)		
• Estimated Selling Price and relevant information in support		
• Revised Estimated Selling Price notification & relevant information in support	Y	N/A
• Relevant correspondence		
• Marketing commitment completed		
• Purchaser's name		
• Purchaser's contact details		
• Date of exchange		
• Date of settlement		
• Compliance approval completed prior to launch		
Are there any instances of non-compliance?	Y	N
<i>Details of non-compliance (if relevant):</i>		



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #10	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #11	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #12		
Sales file reviewed:		
Does the sales file contain the following?		
• File number		
• Vendor's name		
• Vendor's contact details		
• Property sold		
• Copy of Agency Agreement		
• Start date of Agency Agreement		
• Expiry date of Agency Agreement		
• Additional listing records (if required)		
• Estimated Selling Price and relevant information in support		
• Revised Estimated Selling Price notification & relevant information in support	Y	N/A
• Relevant correspondence		
• Marketing commitment completed		
• Purchaser's name		
• Purchaser's contact details		
• Date of exchange		
• Date of settlement		
• Compliance approval completed prior to launch		
Are there any instances of non-compliance?	Y	N
<i>Details of non-compliance (if relevant):</i>		



MONTHLY RECORD KEEPING CHECKLIST - SALES

SALES FILE #13	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES

SALES FILE #14	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES

SALES FILE #15	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES

SALES FILE #16	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #17		
Sales file reviewed:		
Does the sales file contain the following?		
• File number		
• Vendor's name		
• Vendor's contact details		
• Property sold		
• Copy of Agency Agreement		
• Start date of Agency Agreement		
• Expiry date of Agency Agreement		
• Additional listing records (if required)		
• Estimated Selling Price and relevant information in support		
• Revised Estimated Selling Price notification & relevant information in support	Y	N/A
• Relevant correspondence		
• Marketing commitment completed		
• Purchaser's name		
• Purchaser's contact details		
• Date of exchange		
• Date of settlement		
• Compliance approval completed prior to launch		
Are there any instances of non-compliance?	Y	N
<i>Details of non-compliance (if relevant):</i>		



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES FILE #18	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES

SALES FILE #19	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES

SALES FILE #20	
Sales file reviewed:	
Does the sales file contain the following?	
• File number	
• Vendor's name	
• Vendor's contact details	
• Property sold	
• Copy of Agency Agreement	
• Start date of Agency Agreement	
• Expiry date of Agency Agreement	
• Additional listing records (if required)	
• Estimated Selling Price and relevant information in support	
• Revised Estimated Selling Price notification & relevant information in support	Y N/A
• Relevant correspondence	
• Marketing commitment completed	
• Purchaser's name	
• Purchaser's contact details	
• Date of exchange	
• Date of settlement	
• Compliance approval completed prior to launch	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - SALES



SALES Trust Accounts transactions	
Have the following reviews been undertaken?	
• Cash transactions reconciled against cash book entries	
• Confirm Licensee-in-charge authority for three random withdrawals	
• Review monthly trial balance for accuracy	
• Review monthly bank reconciliation to confirm it is in balance	
• Review source documents to explain any adjustments or reversals on the bank reconciliation	
• Any change of bank account details have been verified?	
Are there any instances of non-compliance?	
<i>Details of non-compliance (if relevant):</i>	
Acknowledgement	
I, _____, acknowledge that I have carried out the above monthly review and confirm that my responses are true and correct.	
Licensee in charge	Name:
	Signature:
	Date:



MONTHLY RECORD KEEPING CHECKLIST - PM

MONTHLY RECORD KEEPING CHECKLIST

The Licensee in charge will carry out a monthly review of property files and relevant records to ensure compliance with the policies and procedures set out in the Procedures Manual, and will complete the relevant details below.

Licensee in charge:	
Part/s of Business responsible for:	
Trust Account/s responsible for:	
Are records kept of all transactions?	
Are records in English?	
Are all records kept for three years?	
Are all records kept at the registered office of the Licensee in charge in a safe storage facility?	
Is an annual review of record keeping requirements diarised and a reminder triggered to action the review?	



MONTHLY RECORD KEEPING CHECKLIST - PM



Property management transactions	
Does every property under management have a separate file?	
<i>A minimum of 3 property management files per month must be reviewed each month</i>	

PROPERTY MANAGEMENT FILE #1	
Property management file reviewed:	
Does the property management file contain the following?	
• File number	
• Landlord's name	
• Landlord's contact details	
• Landlord's contact details for inclusion in the Residential Tenancy Agreement?	
• Property leased	
• Copy of the Agency Agreement	
• Start date of Agency Agreement	
• Verified banking details	
• Date of each tenancy	
• Contact details of each tenant	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - PM

PROPERTY MANAGEMENT FILE #2	
Property management file reviewed:	
Does the property management file contain the following?	
• File number	
• Landlord's name	
• Landlord's contact details	
• Landlord's contact details for inclusion in the Residential Tenancy Agreement?	
• Property leased	
• Copy of the Agency Agreement	
• Start date of Agency Agreement	
• Verified banking details	
• Date of each tenancy	
• Contact details of each tenant	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - PM



PROPERTY MANAGEMENT FILE #3	
Property management file reviewed:	
Does the property management file contain the following?	
• File number	
• Landlord's name	
• Landlord's contact details	
• Landlord's contact details for inclusion in the Residential Tenancy Agreement?	
• Property leased	
• Copy of the Agency Agreement	
• Start date of Agency Agreement	
• Verified banking details	
• Date of each tenancy	
• Contact details of each tenant	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - PM

PROPERTY MANAGEMENT FILE #4	
Property management file reviewed:	
Does the property management file contain the following?	
• File number	
• Landlord's name	
• Landlord's contact details	
• Landlord's contact details for inclusion in the Residential Tenancy Agreement?	
• Property leased	
• Copy of the Agency Agreement	
• Start date of Agency Agreement	
• Verified banking details	
• Date of each tenancy	
• Contact details of each tenant	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - PM



PROPERTY MANAGEMENT FILE #5	
Property management file reviewed:	
Does the property management file contain the following?	
• File number	
• Landlord's name	
• Landlord's contact details	
• Landlord's contact details for inclusion in the Residential Tenancy Agreement?	
• Property leased	
• Copy of the Agency Agreement	
• Start date of Agency Agreement	
• Verified banking details	
• Date of each tenancy	
• Contact details of each tenant	
Are there any instances of non-compliance?	Y N
<i>Details of non-compliance (if relevant):</i>	



MONTHLY RECORD KEEPING CHECKLIST - PM

PROPERTY MANAGEMENT Trust Accounts transactions	
Have the following reviews been undertaken?	
• Cash transactions reconciled against cash book entries	
• Confirm Licensee-in-charge authority for three random withdrawals	
• Review monthly trial balance for accuracy	
• Confirm Landlord Funds Withhold Requests received for all landlord accounts with a retained balance (attach report)	
• Review monthly bank reconciliation to confirm it is in balance	
• Review source documents to explain any adjustments or reversals on the bank reconciliation	
• Any change of bank account details have been verified? (attach audit report)	
Are there any instances of non-compliance?	
<i>Details of non-compliance (if relevant):</i>	
Acknowledgement	
I, _____, acknowledge that I have carried out the above monthly review and confirm that my responses are true and correct.	
Licensee in charge	Name:
	Signature:
	Date:



GLOSSARY

Agency	means a licensed corporation, partnership or sole trader.
Agent	means a person that is Licensed and holds Class 1 Real Estate Licence or a Class 2 Real Estate Licence.
Business	means the business activities of the Agency
Certificate holder	means a person to whom a certificate of registration has been issued under the Act.
Certified Copy	means a copy of an original document that has on it an endorsement by a person who is authorized as a witness for statutory declarations under Statutory Declarations Regulations 2018 (Cth) – Schedule 2 that is a true copy of the original document.
Certificate of Registration	means a certificate issued by NSW Fair Trading that permits a person to act as an Assistant Real Estate Agent or an Assistant Stock and Station Agent. This person cannot refer to themselves as an Agent.
Fair Trading	means NSW Fair Trading.
Guidelines	means the Secretary’s Guidelines for the Property Supervision of the Business of a Licensee under section 32 of the Property and Stock Agents Act 2002.
Licence	means a licence issued by Fair Trading that permits a person to act as a Real Estate Agent or a Stock and Station Agent.
Licensee-in-charge	means a person who holds a Class 1 Real Estate Licence and is appointed by the Principal Licensee as the Licensee-in-Charge of the Business.
Operational Procedures	means the processes and procedures required to be prepared and documented under the Supervision Guidelines.
Owner	means the person/s with both the legal ownership of the property and authority to sell the property.
Price Statement	means a statement made, either orally or in writing, in the course of marketing a property to a buyer, potential buyer, seller or potential seller that the property is likely to be sold for a specified price or within a specified price range.
Principal Licensee	means a licensee (corporation or individual) who employs a licensee in charge under section 31 of the Act, or an individual who carries on business under a class 1 licence and does not employ a licensee in charge.
Procedures Manual	means this document, including the annexures and links embedded within it.
Property and Stock Agents Act	means Property and Stock Agents Act 2002 (NSW).
Regulation	means the Property and Stock Agents Regulation 2014 (NSW).
Secretary	means the Commissioner for NSW Fair Trading (of the



Department of Finance, Services & Innovation). The Act permits the Commissioner for NSW Fair Trading to delegate their powers to employees of Fair Trading. This means that notices may be received from delegates of the Commissioner for NSW Fair Trading

Terms that are not defined in this Procedures Manual, but are defined in the Property and Stock Agents Act, have the meaning given in the Act.

