



Standards of Business Practice

THE REAL ESTATE INSTITUTE OF QUEENSLAND LTD

ABN 49 009 661 287

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Part 1 General

Article 1 Object

The main object of these Standards is to increase the accountability of Members in carrying on the business of a real estate agent or auctioneer by:

- (a) setting the standards of behaviour and acceptable conduct for Members in their dealings with each other and with both clients and consumers;
- (b) encouraging Members to promote compliance with the Standards by other Members; and
- (c) enabling the enforcement of ethical and appropriate behaviour through disciplinary action.

Article 2 Interpretation

- (a) The Standards apply to all Members in addition to Statute Law and where any conflict arises between the Standards and Statute Law, the Statute Law will prevail.
- (b) The Standards apply to all Members regardless of whether any inducements or instructions are received from a Client or Consumer to the contrary.

Article 3 Definitions

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

- (a) **Act** means the *Property Occupations Act 2014* (Qld);
- (b) **Agent** means a property agent or resident letting agent as defined under the *Property Occupations Act 2014* (Qld);
- (c) **Appointment** means a valid appointment of a Member to provide services in accordance with the *Property Occupations Act 2014* (Qld); and in the required form;
- (d) **Auctioneer** means an auctioneer licensed in accordance with section 14 of the *Property Occupations Act 2014* (Qld);
- (e) **Australian Legal Practitioner** means an Australian Legal Practitioner in accordance with the *Legal Profession Act 2007* (Qld).
- (f) **Client** means a person or body corporate that retains a Member to represent their interests in a real estate transaction or manage real estate or a business sale transaction;
- (g) **Consumer** means a person or body corporate that transacts business with a Member but does not retain their services;
- (h) **Institute** means The Real Estate Institute of Queensland Ltd (ABN 49 009 661 287);
- (i) **Listed Agent** means the Agent holding an Appointment;
- (j) **Member (includes Members)** means a business entity or person whose name is entered in the Register as a Member of the Institute;
- (k) **Register** means the register of Members of the Institute which is maintained under the *Corporations Act 2001*;
- (l) **REIQ Auction Terms** means the Terms and Conditions of Sale by Public Auction, published by the Institute from time to time;

- (m) **REIQ By-laws** means the By-laws of the Institute registered under the *Corporations Act 2001*;
- (n) **Standards** means the Standards of Business Practice published by the Institute;
- (o) **Statute Law** means any law under Commonwealth legislation or Queensland legislation, including the *Property Occupations Act 2014 (Qld)* and the *Property Occupations Regulation 2014 (Qld)*; and
- (p) **Tribunal** means the Tribunal as defined in the REIQ By-laws:
 - (i) For the resolution of a complaint by a Member against another Member – the Professional Standards Division of the Tribunal; or
 - (ii) For the resolution of a complaint by a Client or Consumer against a Member – the Consumer Complaints Division of the Tribunal.

Article 4 Professional and Competent Practice of Members

Members must:

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

Part 2 Conduct – Member to Client or Consumer

Article 5 Inspection of Standards

Members must make these Standards available for inspection by any Client or Consumer who makes a request for them.

Article 6 Prior Appointments

Prior to accepting an Appointment to provide a service permitted under the Act, a Member must take reasonable steps to find out whether the Client has:

- (a) an active appointment with an Agent to perform the same service (“**Active Appointment**”);
or

- (b) previously had an appointment with an Agent to perform the same service (“**Prior Appointment**”).

If the Client’s response to the Member’s enquiry confirms the existence of an Active Appointment or Prior Appointment, the Member must, prior to entering into the Appointment, provide the Client with a written warning statement advising that they may have to pay:

- (a) commission to more than one Agent; and/or
- (b) damages for breach of contract.

The written warning statement must be provided to the Client before the Member is engaged to provide the service and the Client must be given an adequate opportunity to read and consider the warning statement.

Article 7 Statements about other Agents and Members

A Member must not make false, derogatory or unprofessional comments (in writing or verbally) about another Agent or Member in order to seek a commercial advantage of some kind and/or cause a Client to terminate or not renew another Appointment.

If a Member makes a false, derogatory or unprofessional comments about another Agent or Member, the Member who made such comments must, within 5 business days:

- (a) take all reasonable steps necessary to retract such false, derogatory or unprofessional comment; and
- (b) provide the other Agent or Member with a written apology, and undertaking to withdraw such comment.

Article 8 Funeral Notices

Members shall not harass the public by attempting to obtain an Appointment from information published in death or funeral notices.

Article 9 Statements with respect to the Marketing, Sale, Rent or Lease of Properties or Businesses

Members must not:

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

Article 10 – Statements amounting to Legal Advice

Members must not

- i. insert and/or alter a term of a contract or other relevant document, unless that term was prepared and/or altered by an Australian Legal Practitioner.
- ii. give legal advice in relation to any contract or other relevant document.

Part 3 Conduct – Member to Member

Article 11 Complaints about other Members

Members must not knowingly or recklessly:

- (a) file a false, frivolous or vexatious complaint with the Tribunal; or
- (b) make a false or misleading statement about another Member's business or business practices.

Article 12 Conjunctional Sales

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

Part 4 Conduct – Dealing with the Tribunal

Article 13 Co-operation with the Tribunal

A Member must co-operate with all reasonable requests for the provision of information, directions and decisions of the Tribunal in connection with any proceeding pertaining to any alleged breach of the Standards.

Article 14 Facts to be placed before the Tribunal

In relation to any proceeding pertaining to any alleged breach of the Standards a Member must place all relevant facts before the Tribunal.

Part 5 Auctions

Article 15 Compliance

Members must comply with the REIQ Auction Terms.

Article 16 Inspection of auction terms and conditions

Members must make the terms and conditions for the sale of the property by auction available for inspection prior to the auction.

Article 17 No reserve

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

- (a) must caution the Seller against selling the property without a reserve; and
- (b) must not allow a bid to be made by or on behalf of the seller at the auction.

Article 18 Bids on behalf of the Seller

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

Article 19 Announcement prior to sale

When a property being auctioned is about to be sold under the hammer the Member Auctioneer must provide clear notice that the property is about to be sold by making no less than three final announcements, clearly distinguishing between each of those announcements.

Article 20 Member acting for seller and potential buyer

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