



# Authority Update



18 May 2010

## CEO/Registrar

The Real Estate Agents Authority has now been operational for six months. Between 17 November 2009 and 30 April 2010 we received more than 1,000 brand new licence applications, managed the licence renewal process for approximately 17,000 licensees, conducted 32 licensee briefings in 20 locations around the country, received more than 400 written complaints and allegations and answered more than 18,000 phone calls and 850 emails.

It has been a busy time and we anticipate that the next six months will be just as busy with the Complaints Assessment Committees conducting ongoing investigations of complaints, the Authority researching and scoping continuing education and the implementation of online licensing renewals.

The licensee briefings finished in Wellington on 4 May. Thank you to everyone that came along. If you didn't manage to make it to one of the scheduled sessions, videos of the presentations are available on the Authority's website until 31 May 2010.

The processing of licence renewals is almost complete and approval letters should now have been received. Just over 15,000 licensees renewed their licences and around 1,200 licensees suspended their licence. On 1 April 2010 some 6,000 licences expired as no renewal application was received - however over half of these were held by people who held more than one class of licence and chose to renew only one licence.

If you did not renew your licence, you cannot carry out real estate agency work as your licence has expired. If you still wish to carry out real estate agency work, you must apply for a new licence and meet the current requirements.

Remember, if you are in the process of applying for a licence you are not able to commence real estate agency work until the licence has been granted.

If you have visited our [website](#) recently you would have noticed that we have re-ordered the information on the site into sections titled consumer information, complaints and discipline and licensing.

We have introduced a Complaints and Discipline section which provides information about making a

complaint and the complaints process. This section is where Complaint Assessment Committee (CAC) determinations and penalty orders are published (more on this below). We have transferred information about the industry to the licensing section.

Finally, please remember that licensees are required to provide copies of the relevant Approved Guide before an agency agreement is signed and before a sale and purchase agreement is signed. You must also get written acknowledgement that the Guides have been received. The Authority encourages you to provide printed versions of the Guides.

Thank you to everyone for the support you have shown for the first six months of the introduction of the new regime.

Janet Mazenier  
Chief Executive/Registrar

## Publishing of Complaints Decisions

Complaints Assessment Committees may decide to publish their decisions (section 78(h) of the Act). This is done to ensure that the disciplinary process remains transparent, independent and effective. The publication of decisions is also desirable for the purpose of standard setting and information sharing.

Publishing of decisions means that the CAC determination and associated penalty order (if there is one) will be published on the Authority's website. If the determination is of unsatisfactory conduct, the licensee's record in the Public Register will be updated with this information. In some instances the Authority will choose to issue a media release. If this happens the parties involved in the complaint will be advised that a media release is being issued.

Determinations may be published with or without identifying information e.g. names, addresses etc. as directed by the CAC. If a CAC determines that there is to be no further action, it is usual for the determination to be published with all identifying information removed.

It is anticipated that the Real Estate Agents Disciplinary Tribunal decisions will be made publicly available. We will provide information on this in due course.

Click [here](#) to view the decisions that have been published to date.

## Professional Conduct and Client Care Rules

It is important that all licensees understand the Professional Conduct and Client Care Rules (the Code). The Code sets out the standard of professional conduct and client care required of agents, branch managers and salespersons. It applies to all aspects of real estate agency work and will be used as a reference point for discipline.

Each newsletter highlights a different section of these rules. This newsletter looks at rule 9.

### 9. Client care and dealings with customers

#### General

**9.1** A licensee must act in the best interests of a client and act in accordance with the client's instructions unless to do so would be contrary to law.

**9.2** A licensee must not engage in any conduct that would put a client, prospective client or customer under undue or unfair pressure.

**9.3** A licensee must not take advantage of a client's, prospective client's or customer's inability to understand relevant documents, where such inability is reasonably apparent.

**9.4** A licensee must communicate regularly and in a timely manner and keep the client well informed of matters relevant to the client's interest.

### **Appraisals and pricing**

**9.5** An appraisal of land or a business must be provided in writing to a client by a licensee; must realistically reflect current market conditions; and must be supported by comparable information on sales of similar land in similar locations or businesses.

**9.6** An advertised price must clearly reflect the pricing expectations agreed with the client.

**9.7** A licensee must not mislead customers as to the price expectations of the client.

### **Agency agreements and contractual documents**

**9.8** When inviting signature of an agency agreement a licensee must explain to a prospective client in writing:

- (a) The conditions under which commission must be paid and how commission is calculated, including an estimated cost (actual \$ amount) of commission payable by the client, based on the appraised price of the land or business;
- (b) How the land or business will be marketed and advertised, including any additional expenses that such advertising and marketing will incur. It must be explained to the prospective client that he or she is not obliged to agree to such additional expenses;
- (c) That further information on agency agreements and contractual documents is available from the Authority and how to access this information.

**9.9** When inviting signature of an agency agreement or a sale and purchase agreement, or other contractual document, a licensee must ensure that a prospective client, client, and/or customer is aware that he or she can, and may need to, seek legal, technical, or other advice and information, and allow the prospective client, client, and/or customer a reasonable opportunity to do so.

**9.10** A licensee must not submit an agency agreement or a sale and purchase agreement or other contractual document to any person for signature unless all material particulars have been inserted into or attached to the document.

**9.11** A licensee must not invite a prospective client to sign a sole agency agreement without informing the prospective client that if he or she enters into or has already entered into other agency agreements, he or she could be liable to pay full commission to more than one agent in the event that a transaction is concluded.

**9.12** An agent must not impose conditions on a client through an agency agreement that are not reasonably necessary to protect the interests of the agent.

**9.13** A licensee must submit to the client all offers concerning the sale, purchase, or other disposal of any land or business, provided that such offers are in writing.

**9.14** A licensee must retain copies of all offers (whether such offers resulted in a transaction or not) for a period of 12 months.

### **Advertising and marketing**

**9.15** Unless authorised by a client, through an agency agreement, a licensee must not offer or market any land or business, including by putting details on any website or by placing a sign on the property.

**9.16** A licensee must not advertise any land or business on terms that are different from those authorised by the client.

**9.17** When authorised by a client to incur expenses, a licensee must seek to obtain the best value for the client.

**9.18** A licensee must take due care to ensure the security of the land or business and avoid risks of damage that may arise from customer access to the land or business.

### **Conflicts of interest**

**9.19** A licensee must not act in a capacity that would attract a commission from both a client and customer in the same transaction.

**9.20** A licensee must not engage in business or professional activity other than real estate agency work where the business or activity would, or could reasonably be expected to, compromise the discharge of the licensee's obligations.

### **Confidentiality**

**9.21** A licensee must not disclose confidential personal information relating to a client, unless:

- (a) The client consents in writing; or
- (b) The licensee is required by law to disclose the information; or
- (c) Disclosure is necessary to answer or defend any complaint, claim, allegation, or proceedings against the licensee by the client.

**9.22** Where a licensee discloses information under rule 9.21(b) or (c), it may be only to the appropriate person or entity and only to the extent necessary for the permitted purpose.

**9.23** A licensee must not use information that is confidential to a client, for the benefit of any other person or of the licensee.

You can download a copy of these rules from the Authority's [website](#).

## FAQ's



## Diary Dates

The following are the industry's most frequently asked questions. These and other frequently asked questions are available on the Authority's [website](#).

### **1 July 2010:**

Three new prescribed qualifications come into effect, ending the transition

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**Q - When do the new prescribed qualifications come into effect?**

The new prescribed qualifications come into effect on 1 July 2010.

period that has been in place since 17 November 2009.

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**Q - What are the three new prescribed qualifications?**

The prescribed qualifications (set out in regulation 12 of the Real Estate Agents (Licensing) Regulations 2009) are:

- National Certificate in Real Estate (Salesperson) Level 4;
- National Certificate in Real Estate (Branch Manager) Level 5, version 3 or later;
- National Diploma in Real Estate (Agent) Level 5.

From 1 July 2010, anyone wishing to apply for an agent, branch manager or salesperson's licence will need to have the relevant prescribed qualification.

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**Q - What happens to the transition period?**

On 1 July 2010 the transition period that has been in place since 17 November 2009 will end. Anyone wishing to apply for an agent, branch manager or salesperson's licence will need to have the relevant prescribed qualification.

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**Q - I am currently studying for a real estate qualification - what do I do?**

If you are currently studying for a real estate qualification it is important that you check with your course provider to see if the introduction of the new prescribed qualifications affects you.

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**Q - I currently have the qualifications to get an agent, branch managers or salesperson's licence - what do I do?**

If you have a qualification that you believe makes you eligible to obtain an agent, branch manager or salesperson licence, and you wish to apply for that class of licence, please call the Authority. If the Authority receives your licence application before 1 July 2010, the prescribed qualifications set out in regulation 11 of the Real Estate Agents (Licensing) Regulations 2009 will apply - not the new prescribed qualifications.

Further information on qualifications can be found on the Authority's [website](#)

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**Please do not reply to this newsletter. If you wish to contact us please call us on 0800for REAA (0800 367 7322) or email us at [info@reaa.govt.nz](mailto:info@reaa.govt.nz).**

visit: [reaa.govt.nz](http://reaa.govt.nz)

