

Overarching Code of Practice for Residential Property Agents

UK, 1st edition



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Terms marked (*) the first time they appear are defined in the Glossary.

Introduction

This Code of Practice sets out the overarching principles that underpin the standards of professionalism that the Regulator and the public expect of residential property agents. The Code has two sections: 'Dealing with consumers' and 'Managing businesses and staff'.

The principles apply to conduct and behaviour relating to agencies (as firms) and staff (as individuals) and provide a framework for ethical and competent practice that applies to estate agents across the UK (see [Estate Agents Act 1979](#)), letting and managing agents in England (see [Enterprise and Regulatory Reform Act 2013](#)) and all others carrying out residential property (*) agency work, even if it is not their largest or traditional core function.

The Code applies to businesses (whether traditional high street, online or hybrid) within the following sectors of the residential property industry:

- Property sales/purchases.
- Property lettings.
- Property management (*).
- Property auctions.
- Property guardians.
- Rent-to-rent arrangements.
- International property agents.

Sector-specific codes

This overarching code for all residential property agents sits above the following sector-specific codes:

- Residential Property Sales – Estate Agents.
- Residential Property Lets – Letting Agents.
- Residential Leasehold Management – Leasehold Management Agents.
- Commonhold Management – Commonhold Management Agents.
- Retirement Housing Management – Retirement Housing Managers.
- Property Auctions – Auctioneers.
- Property Guardian Services – Property Guardian Companies.
- Residential Property Buying Services – Buying Agents.
- Build to Rent.

These sector-specific codes set out, in practical terms, what consumers (*) can expect from agents when they provide a specific service (for example when letting, managing, selling, buying or renting a property).

Application

Agents (*) must exercise their judgement in applying the principles and standards within this Code to the situations they are in and deciding on a course of action. They must bear in mind their role and responsibilities, areas of practice, and the nature of the client (*) and the consumers they are dealing with.

Agents are personally accountable for compliance with this Code – and other regulatory requirements that may apply – and must always be prepared to justify and evidence decisions and actions.

A serious failure to meet these standards or a serious breach of regulatory requirements may result in regulatory or criminal action being taken against an agency and/or staff. A failure or breach may be serious either in isolation or because it comprises a persistent or concerning pattern of behaviour.

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3 Agents must treat all consumers fairly and equally.

Agents:

3a Must treat consumers fairly and equally regardless of their race, religion or belief, sex, sexual orientation, gender recognition, disability, pregnancy or maternity, or nationality. Unlawful discrimination includes giving less favourable treatment because someone is perceived to have one of these personal characteristics or because they are associated with a person with such a characteristic. (See the [Equality and Human Rights Commission](#).)

3b Must take special care when dealing with consumers who might be disadvantaged because of factors such as their age, infirmity, disability (e.g. blind), lack of knowledge, lack of linguistic or numeracy ability, economic circumstances, bereavement or do not speak English as a first language.

4 Agents must comply with all relevant legislation.

4a Agents must conduct their business in a way that complies with all relevant legislation.

4b Agents must ensure that all staff are fully conversant with the aspects of this Code of Practice applicable to their role, the relevant sector code and their legal responsibilities. Such staff must observe the Code and their legal responsibilities in all their dealings with consumers. Staff must have a good working knowledge of relevant legislation and the law of contract.

4c Where the law and the interests of a consumer conflicts, adherence to the law must prevail.

5 Agents must act with due skill, care and diligence.

Agents:

5a Must perform all undertakings with professional diligence (*) (see [The Consumer Protection from Unfair Trading Regulations 2008](#)), care and to the best of their ability. Where matters arise outside of their ability and experience, these matters and their actions and recommendations are clearly communicated.

5b Must ensure their duty of care and skill applies to every aspect of their services and exists throughout the period of the instruction.

5c Must offer suitable, accurate and unbiased advice to meet the client's and consumer's aims and needs.

- 5d** Must perform all undertakings within an agreed timescale or, if no timescale has been agreed, within a reasonable amount of time.
 - 5e** Must not accept an instruction that is beyond their field of experience, unless, with their client's permission, they secure the assistance of a specialist in that particular field.
 - 5f** Must not appoint any sub-agent without the written permission of their client and must ensure that any sub-agent complies with this Code.
- 6** Agents must communicate clearly, accurately and transparently to represent correctly their service or product.
- 6a** Agents must provide information in a clear and easily accessible way.
 - 6b** Agents will provide consumers with the [relevant 'How to' guide](#), produced by the Ministry of Housing, Communities & Local Government at the point of their initial interaction with consumers.
 - 6c** Agents must present all fees and charges (including any associated tax) clearly, accurately and transparently to consumers (with the exception of leaseholders and commonholders) before they become liable for the same. Consumers must know the full extent of their financial liability before they are committed to using an agent's service. (See [The Consumer Protection from Unfair Trading Regulations 2008](#).)
 - 6d** In line with [Consumer Contracts Regulations](#), in most cases agents must give consumers 14 calendar days in which to cancel if a contract is signed away from their premises.
 - 6e** Agents' contracts must clearly state the services to be provided, the period of instruction (where applicable) and the manner in which either party can amend or end the contract.
 - 6f** Where an agent intends to instruct other parties to undertake ancillary tasks, the agent must be diligent in the selection of those parties by taking reasonable steps to ensure they hold appropriate professional qualifications and the necessary public and professional liability insurance, and clearly communicate their involvement accurately and transparently to relevant parties.
 - 6g** Where an agent intends to offer or recommend to consumers other services, or those of an associate (*) or connected person (*), where the service provider rewards them for the referral by way of money, gifts or any other form of benefit, the agent must disclose this arrangement to the consumer clearly in writing before they have made a decision to approach that service, in accordance with the [Consumer Protection from Unfair Trading Regulations 2008](#) (the CPRs).

- 6h** Agents must clearly display and communicate their Regulator and redress scheme membership and availability of their complaints procedure at the outset of their dealings with consumers. Where disputes subsequently arise, the complaints procedure must be provided and it must make reference to the consumer's right to escalate their issues to the appropriate redress scheme at the end of that procedure.
- 7** Agents must report breaches of the relevant code(s) to the new Regulator.
- 7a** Agents must have a system in place to identify and deal with possible breaches of the Code by staff, including the obstruction of another in their professional duty. This must include an investigation and escalation process that may lead to referral to the Regulator.
- 7b** Referrals to the Regulator must be done within a reasonable period of time.
- 8** Agents must be open and transparent with the new Regulator about matters that might affect their or others' trust in the profession.
- 8a** Agents must have policies and procedures in place to support a culture of openness and transparency within their business, and ensure that all staff follow them, especially when communicating with the Regulator about matters (such as breaches of the Code) that might affect their or others' trust in the profession.
- 9** Agents must disclose and report any information relating to a property that could threaten a resident's safety or does not conform to relevant mandatory property standards.

Agents:

- 9a** Must report all health and safety issues that they know or ought to know about, and/or can be reasonably observed or be determined through alternative methods, to the person or organisation responsible for the building's safety.
- 9b** Must disclose relevant health and safety issues to consumers at the earliest opportunity, as these issues will be material information (*). (See [The Consumer Protection from Unfair Trading Regulations 2008](#).)
- 9c** Must, where they become aware in the course of their business that a property does not meet relevant mandatory standards, inform the owner (or their appointed representative) and, where appropriate, the resident or consumer.

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Section 2 Managing businesses and staff

10 Agents must manage their businesses and staff effectively.

Agents:

10a Must apply their policies and procedures consistently and reasonably.

10b Must take all reasonable measures to manage their operations and staff effectively and ethically to ensure their business is a compliant business.

11 Agents must make appropriate arrangements to protect consumers' money.

Agents:

11a Must comply with all current requirements in relation to client money and must ensure that documentation is kept current.

11b Must at all times keep consumers' money in a client money account with a bank or building society authorised by the Financial Conduct Authority. (See [Protecting clients' money if you're a property agent.](#))

11c Must be able to account immediately for all monies being held on behalf of consumers.

11d Must not deduct any cost or charges from any consumer money they hold, unless the relevant consumer (with the exception of leaseholders and commonholders in regard to service charges), i.e. the buyer, has given them written authority to do so. Agents must ensure that authority is obtained at the time of the deduction or that they give sufficient notice prior to the deduction to allow written objections to it. Where objections are received, money must not be deducted until such time as the parties resolve the objections (either between them or via a third party authorised to independently deal with the dispute, such as an appropriate redress scheme).

12 Agents must maintain appropriate accounts and records (*) of their business activities.

12a Save where agents are required to delete such records sooner under applicable law, agents must keep clear and full written records of their business relationships and produce them when required by the new Regulator, the appropriate redress scheme and/or any enforcement authority, such as Trading Standards. (See [Limitation Act 1980.](#))

- 13** Agents must ensure that all staff are qualified and capable to handle responsibilities delegated to them.

Agents:

- 13a** Must be fit and proper persons.
- 13b** Must ensure that all staff have been given proper instructions and training about complying with relevant laws and the requirements of this Code applicable to their role.
- 13c** Must ensure that all staff are trained to deal with consumers and colleagues in a manner that encourages and respects equality, diversity and inclusion. (See the [Equality and Human Rights Commission](#).)
- 13d** Must ensure that staff are qualified to the levels specified by the Regulator, trained and hold the appropriate licence (where applicable) to undertake the responsibilities delegated to them.
- 13e** Must maintain documentary evidence showing the training provided to all staff and individuals' ongoing training required to meet the relevant Continuing Professional Development (CPD) requirements.
- 14** Agents must handle information sensitively and in accordance with data protection legislation.

Agents:

- 14a** Must not release or use confidential information for any purpose other than that for which it was given by consumers without the consumer's permission, unless legally required to do so. (See [Principle \(b\): Purpose limitation](#).)
- 14b** Personal data must be processed in line with data protection legislation and the agent's published privacy notice (*). (See [Create a privacy notice](#).)
- 15** Agents must have effective consumer complaints procedures in place.

Agents:

- 15a** Must maintain and operate an in-house complaints procedure. Such procedures must be in writing; explain how to complain to their business and to the appropriate redress scheme; set out the timescales within which businesses will respond to complaints; be readily available in each office and on their website; and be available for inspection by both the appropriate redress scheme and the new Regulator.
- 15b** Must record all verbal and written complaints at the time they are made.

- 15c** Must agree to deal with any properly appointed representative of a complainant (*).
- 15d** Must not charge for handling a complaint (including requiring consumers to report complaints via chargeable methods, such as premium rate telephone lines).
- 15e** Must not imply that payment of any outstanding commission fee or additional costs is a condition of consideration by the appropriate redress scheme.
- 15f** Must, where a complaint is received from a party that falls outside the definition of a complainant, deal with this under their usual procedures and signpost thereafter to the appropriate regulator or enforcement agency.

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Glossary

Agent(s)	Applies to all businesses and their staff providing services bound by this Code as defined within Chapter 2 of the Regulation of Property Agents Working Group, Final Report , July 2019.
Aggressive behaviour	<p>In each case, the test of aggressive behaviour is whether the average consumer's freedom of choice or conduct is (or would be likely to be) impaired and, as a result, they take (or would be likely to take) a different transactional decision (*). Illustrative examples of aggressive behaviour or practices are listed below. It is not an exhaustive list. When dealing with consumers an agent must not:</p> <ul style="list-style-type: none"> • Impose onerous or disproportionate requirements that prevent a consumer from exercising rights to terminate an agreement or switch to another agency. • Pressure a consumer to use associated services, for example to take out an insurance policy through an associate. • Pressure (for example by persistent and/or aggressive telephone calls/emails) the prospective tenant or buyer to act quickly to put in an offer or finalise an agreement. • In order to make commission quickly, pressure a seller or landlord to accept an offer at a lower rate than is reasonable for their property, for example by telling them that they cannot get a better offer. • Pursue commission or other fees from the consumer to which the agent is not entitled. • Intimidate, pressure or coerce consumers into dropping complaints against the agent, for example by using threatening or abusive language or actions when dealing with complaints.
Associate	Includes family members such as a brother, sister, husband, wife, civil partner, aunt, uncle, nephew, niece, parents, grandparents, children and grandchildren. The definition also includes business associates.
Average consumer	Someone who is reasonably well-informed, and reasonably observant and circumspect. For example, an average consumer would pay some attention to documentation given to them, but not necessarily to the small print unless key points in it are brought to their attention. An average consumer would check

	publicly available facts for themselves where this is straightforward to do, although what checks they actually make will be influenced by the information that the agent has given them. Where a commercial practice is targeted at a particular group of consumers, the 'average consumer' will refer to the average member of that group, not the average consumer generally.
Client	A person who has instructed an agent to provide a service. Where appropriate, this definition includes a client's properly appointed representative.
Clients' money	Money held or collected for and on behalf of clients, including ex-clients, is considered as client money and this will include deposits or money held for and on behalf of actual, potential or former buyers, sellers, landlords, tenants, leaseholders, freeholders or lessees.
Client money protection	Provides compensation to landlords, tenants and other consumers should an agent misappropriate the rent, deposit or other client funds.
Complainant	Someone who is an actual or potential or former buyer, seller, landlord, leaseholder, freeholder, lessee or tenant making a complaint against an agent. Where appropriate, this definition includes a Complainant's properly appointed representative, third parties (*) and small business, charity or trust (*).
Connected person	Includes: <ul style="list-style-type: none"> • the agent's employer or principal; • the agent's employee or agent; • any associate including the term 'business associate' as defined within Sections 31 and 32 of the Estate Agents Act 1979.
Consumer	Refers to an actual, potential or previous buyer, seller, tenant, landlord, leaseholder, freeholder or lessee.
Harassment	Unwanted conduct that has the purpose or effect of: <ul style="list-style-type: none"> • violating a person's dignity; • creating an intimidating, hostile, degrading, humiliating or offensive environment for a person.
Material information	Required by consumers to make informed 'transactional decisions'.
Privacy notice	A published notice to consumers explaining how collected personal data will be used and the lawful basis for processing it.
Professional diligence	The standard of special skill and care that an agent may reasonably be expected to exercise towards consumers which is commensurate with either <ol style="list-style-type: none"> a. honest market practice in the agent's field of activity; or

	b. the general principle of good faith in the agent's field of activity.
Property management	Arises where a landlord instructs an agent to manage a house let to a tenant in the private rented sector. It would also arise where one person instructs another to manage a block of flats (often with responsibility for the common areas, corridors, stairwells, etc.) that contains flats let under a long lease or let to assured or protected tenants.
Records	Means all written correspondence, file notes, contracts and agreements in hard or digital copy or electronic communications including emails, texts and other forms of digital messages or faxes.
Residential property	Means property (land and/or buildings or part thereof) used, last used, or to be used for residential purposes. Excluding holiday lets.
Small business, charities and trusts	A small business (or group of companies) with an annual turnover of less than £3 million. A charity with an annual income of less than £3 million. A trust with a net asset value of less than £3 million.
Third parties	Parties that have been directly impacted by the actions or inactions of the agent. This could include neighbours to the property that the agent is undertaking an instruction on.
Transactional decision	Informed decisions made by consumers, which include but are not limited to: <ul style="list-style-type: none"> • A decision to find out more about the agent's services, or to rule out using the services of a competitor. • A client's decision whether and on what terms to sign or renew an agreement with an agent, or their decision to end an agreement. • A prospective tenant's decision whether to view an advertised property, or whether and on what terms to make an offer on a property or renew a tenancy.
Written, in writing	Includes typed or handwritten letters, records or notes, emails, texts, other forms of digital messages and faxes (including electronic signatures).