



THIS ONGOING NEGLECT BY LICENSEES NOT ONLY AFFECTS CONSUMERS, WORKERS AND SUPPLIERS, BUT IT ALSO AFFECTS JOBS AND PI INSURANCE COSTS!

SUPERVISION GUIDELINES

It is vital that businesses are properly supervised, particularly as large sums of money and trust accounts may be involved.

Poor supervision can cause distress and financial loss for consumers.

It can also lead to claims of negligence, misleading conduct and fraudulent use of trust money — for which substantial maximum penalties apply.

Licensees who run a business must ensure proper supervision in accordance with the Secretary's Guidelines for the Proper Supervision of the Business of a Licensee (the supervision guidelines).

The supervision guidelines set out the requirements for proper supervision of a business, including the steps they must take to prevent fraud, under quoting and misrepresentation.

These requirements include:

- *supervision of employees engaged in the business
- *establishment of procedures designed to ensure that the provisions of the Act and regulation and other relevant laws are complied with, and monitoring employees' conduct to ensure that those procedures are being followed.

Corporations or individuals who run a business under a Class 2 licence will need to employ a Class 1 licence holder to be the licensee in charge (LIC) of their business.

Visit the licensee in charge page at www.fairtrading.nsw.gov.au for more information about the requirements relating to LICs.

Failure to comply with the Supervision Guidelines carries a penalty of up to 200 penalty units (\$22,000) for a corporation or 100 penalty units (\$11,000) in any other case.



LICENSEES WHO RUN A BUSINESS HAVE A LEGAL OBLIGATION TO ENSURE THE PROPER SUPERVISION OF THEIR BUSINESS.

THE GOOD LICENSEE!!

Prepare and maintain operational procedures for the purposes of providing adequate supervision of business processes and employee conduct across the entirety of their business. For example; workplace health and safety, employment relations, privacy management, tenancy management, CPD training etc.

Ensure that 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.

Ensure that all persons engaged in the business are familiar with and comply with all operational procedures.

Comply with all operational procedures of the business they are engaged in.

Establish and maintain trust account procedures in accordance with the Secretary's Guidelines for the Proper Supervision of a business.

Prepare and maintain written procedures for the identity of a party with whom it is proposed to enter an agency agreement. And in accordance with the Secretary's Guidelines for the Proper Supervision of a business.

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.

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 and other representations.

Prepare and maintain written complaint handling procedures. A licensee must also 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.

Prepare and maintain written procedures outlining the respective roles and responsibilities of licensees and certificate holders.

Check that all people engaged in the business have completed all continuing professional development training, they are required to undertake - including the applicable work experience requirements and the length of time an individual has been engaged by the agency.

Note: A licensee in charge must maintain records showing evidence of regular reviews of operational procedures, and any non-compliance with the operational procedures by persons engaged in the business. They must be able to produce all documentation relevant to clauses 1-10 of the supervision guidelines to an authorised officer in accordance with section 105 of the Act. All records relevant to clauses 1-10 of the Supervision Requirements must be kept for at least 3 years.

LICENSEES WHO DON'T FULFILL THEIR LEGAL OBLIGATION TO ENSURE THE PROPER SUPERVISION OF THEIR BUSINESS. THE BAD LICENSEE!

Appoints other workers to prepare and maintain operational procedures for the business, and takes no responsibility for the monitoring of those procedures.

Continues to carry out the work of a sales agent or property manager.

Won't train staff out of fear of losing business, and doesn't verify all persons engaged in the business have completed all continuing professional development training.

Focused more on the sale of the property, rather than providing the customer with quality service.

Regularly puts up RateMyAgent testimonials to do with properties they have recently sold.

Doesn't do research to stay up to date with real estate laws and regulations.

Posts on social media staff birthdays to show they care for staff - but won't update their wages, employee agreements or WHS policies each year.

Rarely seen in the office supervising persons engaged in the business, while being unavailable to authorise withdrawals of general trust accounts.

Displays poor leadership for developing a safety culture in the workplace.

Unwilling to innovate to improve customer service.

Doesn't ensure all persons engaged in the business are familiar with and comply with all operational procedures.



ALARMING UPDATE : On November 2 2021, a spokeswoman for NSW Fair Trading was reported saying, they had received 1557 complaints for the first nine months of the year relating to property sales across the state, compared with 1546 for the whole of 2020. The main complaint related to the Rules of Conduct, which provide agents with specific guidance on the professional and ethical standards they must adhere to.



TO THE PROPERTY AGENTS SECTOR

To overcome the problem of bodily injury and/or property damage arising from the rendering of professional services, we strongly advise in accordance with clause 2.2 of the Supervision Guidelines to ensure operational procedures are sufficiently robust and they comply with the Work, Health and Safety Laws.

The other solution to mitigating the risk and to avoid personal liability, is to adopt a new technological approach to managing health and safety.

AgentSafe is the no #1 safety management system for properties and workplace laws. This software is designed to make your work life easier to manage safety and to meet legal obligations.



For more Information visit
www.agentsafeforrealestate.com.au
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