



Real Estate News Issue 6: Important reminders

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Deceased Estates

Following an article on the property of a deceased estate in Real Estate News Issue 6, the Department has been made aware that some agents may be breaching Article 6 of the Code of Conduct for Agents and Sales Representatives (the Code).

The Real Estate News article advised agents to sight legal documentation to confirm a person's right to administer a deceased estate, before entering into an Appointment to Act. A person should be able to produce the grant of Probate or the Letters of Administration issued by the Supreme Court as evidence they are a properly authorised person.

An Executor's authority to deal with the deceased person's property is not authorised until Probate or Letters of Administration are granted by the Supreme Court. An agent must wait for the Court's determination as the sighting of a will may not determine who holds the authority to deal with the estate (for example, there may be multiple wills).

Article 6.3 of the Code provides that an agent must not advertise any real estate or business as being for sale or lease without written authority.

Agents are therefore reminded they can only enter into an appointment to act to market a deceased estate after the Executor has been granted Probate or an Administrator has been appointed. Agents entering into a contract without written authority (ie prior to the Court's determination) may breach the Code.

Banks and other financial institutions, Landgate and share registries may refuse to allow any dealings in relation to a deceased person's property until the Court has determined who holds the authority to deal with the estate.

Advertising and Certificate of Titles

Following the publication of an article on compliance issues regarding advertising in [Real Estate News Issue 6](#), the Department received several enquiries regarding Certificate of Title searches and advertising costs.

Agents are reminded that Title searches **cannot** be included in the advertising costs agreed upon in the written authority.

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Agents may only charge for Title searches if they are explicitly included in the contract (eg Management Authority for Residential Agreements)

Correction

On page 6 of hard-copy editions of Real Estate News Issue 6, the Department inadvertently used the old Code of Conduct for Agents and Sales Representatives to identify the relevant Articles.

Under the heading "Title searches", Article 8(3) should read Article 10(3).

Under the heading "Listing suburbs", Article 5(1) and 5(2) should read Article 7(1) and 7(2).

An amended version of Real Estate News Issue 6 can be found on the Department's [website](#).