



Proactive Visit Checklist

Real Estate Agents

Department of Commerce
Consumer Protection

.....t/a.....

Conducted by:

Date:/...../201.....

* References relate to the Real Estate and Business Agents Act 1978, General Regulations 1979 and Code of Conduct for Agents and Sales Representatives. Other references indicated in each item.

NO	ITEM	REF.	REPORT
1	STAFF & LICENSES	*	
	<p>Check display & currency of License, Triennial Certificate.</p> <p>Is current Business Name recorded on the T/C</p> <p>Check for changes in particulars and body corporate directors. Check number of currently registered directors.</p> <p>Examine employment records and match with CALS register. Agent provided update form Y/N</p> <p>Check currency of sales registrations.</p> <p>Check to see if property manager is registered or if licensed as an agent, whether a TC certificate is held.</p> <p>Identify any unregistered personnel.</p> <p>Check for valid copy of Act, Regs, & Code or access to internet site. (www.slp.wa.gov.au).</p>	<p>s41(1)</p> <p>Reg. 8</p> <p>s51(1)</p> <p>s44</p> <p>s44</p> <p>s41 (1)</p> <p>s27 (1)(d)</p>	
2	BONA FIDE CONTROL		
	<p>Check if BFC is providing substantial time and attendance to agency and is familiar with agency's systems & procedures.</p> <p>Check control & supervision of:</p> <ul style="list-style-type: none"> • licensed/registered personnel • unlicensed assistants • staff in remote location <p>Verify that Sales Representatives are not contractors and are paid in their personal names, not into a company/family trust? Is PAYG tax deducted from all commissions?</p> <p>If branch office, check compliance with s37/41 Does branch manager hold current personal triennial certificate, which is correctly endorsed?</p> <p>Check notices at offices, particulars on correspondence and documents.</p>	<p>s132</p> <p>Art 8</p> <p>s39 (3)</p> <p>s27 (1)(d)</p> <p>s55</p> <p>s37/41</p> <p>s41</p>	

3	CONFLICT OF INTEREST		
	<p>Check for potential or actual conflict of interest.</p> <p>Does agent have an affiliation with a settlement agency or any other significant relationship requiring disclosure If required is disclosure adequate (not on O&A).</p> <p>Does agent receive free title searches from settlement agent?</p>	<p>Art. 18</p> <p>REBA vs Landa SAT (2008)</p> <p>Art. 18</p>	
4	IDENTIFICATION		
	<p>Check that agent undertakes appropriate searches: CT; ASIC; encumbrances. Copy of power of attorney retained on file.</p> <p>Does agent have sufficient procedures to identify clients? YES / NO</p>	<p>Art. 10(1), 10(2), 10(4)(b)</p> <p>Art. 10(4)</p>	
5	ADVERTISING		
	<p>Check that prepaid advertising monies are paid into client trust account.</p> <p>Check that agent complies with marketing charges.</p> <p>Is the agency sufficiently identified in advertising? Especially franchised agents.</p> <p>Check sample that location of properties advertised are correct.</p>	<p>s68</p> <p>Art. 17</p> <p>s62(2)</p> <p>Fair Trading Act 2010 s.152</p>	
6	TRUST ACCOUNTING		
	<p>Check that trust account(s) designated in accordance with the Act and Regulations.</p> <p>Check that the cheque particulars include the same styling as the trust account.</p> <p>Check that trust account(s) receipts conform to the Act and Regulations.</p> <p>Check a sample of receipts to verify banking by the next business day.</p> <p>Check that banking is intact.</p> <p>Does agent conduct strata management? Is a separate trust account open? If so, is the account properly designated?</p> <p>OR are funds held in a separate ledger account in a REBA trust account?</p> <p>Check that the trust account is reconciled on a monthly basis.</p>	<p>s68 (1) Reg. 6D</p> <p>s68.1</p> <p>s 69 (1) Reg. 6.G</p> <p>s68 (1)</p> <p>s68 (1)</p> <p>s4 (3)(a)</p> <p>s4 (3)(a)</p> <p>s68 (6)(d)</p>	

	<p>Check bank statement to verify bank fees are not debited to trust account.</p> <p>Check Trust Client Ledgers for “holding account” or “buffer accounts”.</p> <p>Check system of accounting – manual or computerized program in use. Note type of software.</p> <p>Check that agent in bona fide control is proficient in performing bank reconciliations.</p> <p>Check that agent includes IBT accounts in monthly reconciliations.</p>	<p>s68 (4)</p> <p>s68 (6)</p> <p>s68 (6)(a)</p> <p>s27 (1)(d) s68 (6)(d)</p> <p>s68 (6)(d)</p>	
7	SETTLED SALES FILES (randomly selected)		
	<p><u>Appointment to act.</u> <i>Check compliance with elements of a valid appointment:</i></p> <ul style="list-style-type: none"> • Is agent licensed & holds a current triennial • Is the appointment in writing & signed by person/s for whom the services are being provided or his lawfully authorised agent • Appointment contained in a document • Clearly sets out the services to be rendered • How does agent prove provision of appointment to client/s <p><i>Contains prescribed information:</i></p> <ul style="list-style-type: none"> • % fee, shows clear basis of calculation • periodic fee maximum specified • before commission shown, a statement that fees are not fixed by law • fee disputes to Commissioner for Consumer Protection • marketing expenses specified, agreed & initialled <p>Note period of agency and if applicable is appointment properly extended?</p> <p>Check that deposit is received into agent’s trust account.</p> <p>If any IBT’s held by agency, was a written request obtained.</p> <p>Check timing of transmission of deposit less commission to settlement agent.</p> <p>Check for potential conflicts of interest. Where potential conflict of interest exists check sufficiency of Disclosure and Consents.</p> <p>Check when commissions drawn from trust account/s</p>	<p>s60 (1)(a)</p> <p>s60 (1)(b)</p> <p>s60 (2)(b)</p> <p>s60(2)(a)</p> <p>s60 (2)(c)</p> <p>Reg. 6BA (1)(a)</p> <p>Reg. 6BA (2)</p> <p>Reg. 6BA (3)</p> <p>Reg. 6BA(1)(d) & Art. 17</p> <p>s60</p> <p>s68(1)</p> <p>s68A (2)</p> <p>s68 (3)</p> <p>s64 (1) Art. 18</p> <p>s61 (4)</p>	

	PROPERTY MANAGEMENT FILES (randomly selected) both Tenant & Owner		
	<p>Check validity of appointment to act.</p> <p>Check agency's procedures for identifying property owner/s.</p> <p>Does agency have adequate procedures to verify changes in owner/s' details eg has a security question been set up to confirm the owner/s identity.</p> <p>Check for potential conflicts of interest.</p> <p>Check rewards for referral, rebates.</p> <p>Check bond lodgement details and signed lodgement form retained on file.</p> <p>Verify that funds paid by tenant at commencement of lease paid into trust account. (Residential Tenancies Act)</p> <p>Check that actual costs/disbursements only are recouped.</p> <p>Check that owner statement information matches terms of appointment to act.</p>	<p>s60 (1) & (2)</p> <p>Art. 4 & 9</p> <p>Art. 4 & 9</p> <p>s64</p> <p>Art. 15</p> <p>Art. 9</p> <p>s27</p> <p>Art. 17 (1)</p> <p>Art. 9</p>	
9	TENANCY BONDS		
	<p>Verify where residential tenancy bonds lodged.</p> <p>Check that Tenancy Bond Trust Account is reconciled.</p>	s68 (6)	
10	COMMERCIAL & BUSINESS SALES/MANAGEMENT		
	<p>Check if bonds are held, if so where.</p> <p>That written instructions are retained for IBTA.</p> <p>That title searches and company searches obtained.</p>	<p>s68</p> <p>s68A</p> <p>Art. 10(1) & 10(3)</p>	
11	AUDIT		
	<p>Check if management letter issued by Auditor.</p> <p>Consider the contents in relation to current operational matters at agency.</p>	s79, s80, s81	
12	TRAINING		
	<p>Any Required?</p>	s31 (3)(b) Reg. 4AA	

Issue

**Response To
Issues Raised**

**Estimated
Completion Date**

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Proactive Officer's Signature:

Agent's Signature:

Date: ___/___/___

Date: ___/___/___