



Proactive Compliance visits identify common issues

Looking to improve practices at your agency? Considering these common issues identified during recent proactive compliance visits by the Department of Commerce (the Department) may help.

The proactive compliance program is designed to help agencies to better understand and comply with their legal obligations, as well as identifying and remedying areas of risk through guidance, best practice and education. During the 2014/2015 financial year, the Department undertook 108 visits to settlement agents.

The common areas of concern the Department has identified are:

- Trust accounting: trust accounts are not being reconciled at the end of the month; incorrect agent details stated on trust receipts; and trust cheques did not contain the prescribed designation.
- Failure to undertake searches required under the Settlement Agents' Code of Conduct 1982 when appointed to act.
- Conflict of interest not notified to client via prescribed form.
- Failure to obtain elected consent from clients when acting for both parties to a transaction.
- Inadequate controls to secure the agency's internet banking passwords.
- The agent did not advise the Department of a change to the directorship of the company.
- Licence and Triennial Certificate, stating registered business name, were not displayed within the business premises.
- Agency documents and correspondence did not contain all prescribed information required to identify the licensed agent.

To assist you in determining your agency's compliance with the legislative requirements for some of the above issues you may wish to refer to the following resources:

- the Department's settlement agents proactive compliance [webpage](#)
- trust accounts – the [Settlement Agents' Trust Account Handbook](#) provides extensive information relating to trust accounts
- [Settlement News June 2015](#) articles: *Prescribed forms and required disclosures*, *Acting for both parties to a settlement transaction*, and *Correctly titling documents*
- anti-fraud advice: [e-Bulletin issue 37](#), Broome real estate agency a cyber-fraud target

Settlement agents should consider their obligation to render the contracted services with due care and skill under the Australian Consumer Law.

The Department will continue to focus on the above mentioned issues.

To find out more about the proactive compliance program, agents are encouraged to visit the Department's [website](#).

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