

Effective from 1st February 2025

This Code of Practice is mandatory for all NAPSA Members who are entitled to display the NAPSA logo and who offer sourcing agent (*) or deal packaging (*) services. Copies of this Code of Practice should be made available to consumers. You should prominently display the logos on your website(s), your letterheads (including emails and other digital communications) and your marketing material.

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This Code comprises of two elements:

Best Practice - standards set above the minimum level required by law.

Legal Obligations - standards set by law.

NAPSA Members are required to conduct their business practices in line with both elements of the Code of Practice. In accordance with the NAPSA's Membership Terms and Conditions, NAPSA can consider complaints raised by consumers against NAPSA Members against these obligations.

Note: NAPSA is not authorised to take enforcement action or make decisions on potential breaches of legislation. Where potential breaches or criminal activity is found by NAPSA, we will report the matter to the appropriate authority. Local Trading Standards (and/or appointed lead enforcement authority) are responsible for enforcement of legislation and regulations. The Courts are empowered to determine whether legal obligations have been met. References made to legislation and regulations within this Code are made for information and training purposes.

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All references to 'sellers' include potential sellers.

All references to buyers' include potential buyers and viewers

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General - All Clients

1. General Provisions

Applicability

- 1a This code applies to sourcing agents who are members of NAPSA and provide a sourcing or deal packaging service (*) in the United Kingdom.

Sourcing Agent Definition

- 1b Sourcing Agents either,

*Build relationships with potential investors, understanding their requirements, before assessing potential properties or sites that match the investors criteria (Property Sourcing) or, *Utilise their knowledge of local market trends and available sector data, directly related to one of the strategies currently used in the property investment sector, find a 'Property Deal' and advertise to find an interested investor (Deal Packaging).

For both of the above the Agent will collate all of the relevant information for each deal in a presentation which is forwarded to their client(s)/potential clients for assessment and acceptance or rejection.

The strategies may include but are not restricted to Buy to Let, HMO, Rent to Rent, Rent to Own, Lease Option, Flip, Assisted Sale, Commercial to Residential Conversion, Land to Residential Development, Social Housing or Supported Living.

General Obligations

- 1c Members of NAPSA must comply with this Code of Practice. You must comply with all laws (as amended, re-enacted or substituted with or without modification from time to time) relating to estate agency work such as the Estate Agents Act 1979 and all secondary legislation: the Data Protection Act 2018 (or successor legislation), the Housing Act 2004 and all secondary legislation, the Consumers, Estate Agents and Redress Act 2007, Consumer Protection from Unfair Trading Regulations 2008 (CPR's), Business Protection from Misleading Marketing Regulations 2008 (BPR's) (where applicable), Consumer Contracts (information, Cancellation and Additional Charges) Regulations 2013, Consumer Rights Act 2015, Estate Agents (Accounts) Regulations 1981, The Money Laundering and Terrorist Financing Regulations 2019 and all other current and relevant primary or secondary legislation.
- 1d You must register with one of the two Government approved Property Redress Schemes, The Property Ombudsman (TPO) or Property Redress (PR).
- 1e You must register with HMRC for Anti Money Laundering supervision in accordance with the Money Laundering, Terrorist Financing Regulations 2019.

- 1f You must register with the Information Commissioners Office (ICO) for Data Privacy supervision in accordance with the Data Protection Act 2018.
- 1g You must register with the National Crime Agency (NCA) for the submission of Suspicious Activity Reports (SAR's)
- 1h You must ensure that any insurance cover for your business is 'fit for purpose' and covers all services provided; for your 'Sourcing' services the policy MUST state, 'Property Sourcing' or 'Property Sourcing Services'. Proof of coverage from your insurance provider will be required if the service provision doesn't state this. If you provide a project management/refurbishment management service then adequate insurance cover must be in place and provided for review upon request. You will also be required to provide proof that you have sufficient knowledge or experience in carrying out refurbishments to be able to provide that service.
- 1i You must complete updated training in Data Privacy and Anti-Money Laundering which is fit for purpose for the sector and your position in the company at least annually; or as needed to meet changes in legislation, regulation or interpretation.
- 1j You must keep all required documents up to date and fit for purpose as required to meet current standards in legislation, regulation and interpretation.
- 1k You should provide a service to both buyers and sellers consistent with fairness, integrity and best practice; you should not seek business by methods that are dishonest, deceitful, and manipulative or involve misrepresentation. You must avoid any course of action that can be construed as aggressive behaviour (*) or harassment (*).
- 1l You must treat consumers 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.
- 1m You should take special care when dealing with consumers (*) who might be disadvantaged because of factors such as their age, infirmity, lack of knowledge, lack of linguistic or numeracy ability, economic circumstances, bereavement or do not speak English as their first language
- 1n You must not release or use confidential information for any purpose other than that for which it was given by consumers during the process of selling, buying or leasing property without the consumer's permission, unless legally required to do so. Personal data should be processed in line with data protection legislation and your business's privacy notice.
- 1o Save where you are required to delete such records sooner under applicable law, you must keep clear written (*) records (*) for a period of 6 years and produce them when required by NAPSA, the appropriate Property Redress and/or any enforcement authority, such as Trading Standards.

- 1p As a NAPSA Member (*) you must not take, or be involved in any action, which would bring the scheme into disrepute.

Publicity

- 1r You must use and display such material promoting the Code of Practice as provided by NAPSA. You must prominently display the NAPSA Member logo on your website(s), your letterheads (including emails and other digital communications) and your marketing material (including advertisements).
- 1s You must Provide, free of charge, a copy of this Code of Practice to consumers as a part of your initial information provision; whether face to face or electronically provided.

2. Duty of Care and Conflict of Interest

- 2a You must treat all those involved in the proposed sale, purchase or lease including sellers and buyers fairly and with courtesy.
- 2b When instructed, your duty of care is to the client (*). You must offer suitable advice to meet the client's aims and needs. Where the law and the interests of the client conflicts, adherence to the law must prevail.
- 2c You must avoid any conflict of interest. You must disclose at the earliest opportunity in writing (*) to the Consumers or any relevant third party any existing conflict of interest, or any circumstances which might give rise to conflict of interest.
- 2d If you intend to offer or recommend to consumers surveying, financial, investment, insurance, conveyancing or other services, or those of an associate (*) or connected person (*), where the service provider rewards you for the referral by way of money, gifts or any other form of benefit, you must disclose this arrangement to consumers in accordance with the National Trading Standards Estate and Letting Agency Team's 'Guidance On Transparency of Fees Involving Property Sales'.
- 2e Consumer requirements are key and this applies to the seller as well as the buyer. You should complete a consumer fact find to ensure that any specific requirements are taken into consideration.
- 2f When you give advice to someone buying, selling or leasing a property, that advice must be in the consumer's best interests. The potential benefits and disadvantages of any recommended method of sale, purchase or lease must be explained in clear terms and take into account consumer requirements as outlined in paragraph 2c (Duty of Care and Conflict of Interest).

- 2g You must recognise where a consumer is either 'potentially' vulnerable* or 'actually' vulnerable*. Personal circumstances can cause a consumer to be vulnerable for a period of time even though they may not have been so previously. Some of the key drivers for vulnerability are:

2g (i) Health

- (i.i) Severe or Long-term illness
- (i.ii) Poor mental health
- (i.iii) Low mental capacity

2g (ii) Life Events

- (ii.i) Bereavement
- (ii.ii) Income Shock
- (ii.iii) Relationship breakdown

2g (iii) Resilience

- (iii.i) Low or erratic income
- (iii.ii) Over indebtedness
- (iii.iii) Low savings

2g (iv) Capability

- (iv.ii) Poor literacy or numeracy skills
- (iv.iii) Low English language skills
- (iv.iv) Learning impairments

- 2h You must consider the level of vulnerability of the seller or landlord where an agreement is brokered where the sale or lease price agreed would be considered to be 'below market value' (BMV).

Where a transaction could be deemed as being BMV, where possible, a Declaration of Solvency should be obtained from the Sellers solicitor or where not possible the investor/buyer be informed of the risk and advised to seek such a declaration or instigate an insurance policy to cover any potential losses.

Consideration should also be taken of sections 339, 340, 423-425 of the Insolvency Act 1986, where certain transactions could be unwound by a Trustee in Bankruptcy where the transaction falls foul of those conditions.

- 2i You must by law tell the seller or landlord if you intend to offer buyers surveying, financial, investment, insurance, conveyancing or other services or those of an associate or connected person in connection with the sale, purchase or lease before the seller has committed any liability to you. Thereafter, you must inform the client in writing or, as soon as reasonably possible after you find out that a buyer, who has made an offer, has applied to use one or more of these services in connection with that purchase or lease.

2d - https://www.nationaltradingstandards.uk/site_assets/files/Guidance%20for%20EABs.pdf

2h - <https://www.legislation.gov.uk/ukpga/1986/45/contents>

2j If your company is instructed to sell or lease a property and you, an employee or an associate (or an associate of the employee of your firm) is intending to buy or lease it you must by law, before negotiations begin, give all the relevant facts, in writing, to the seller or landlord; and as soon as possible to their representative.

2k If you, an employee or an associate is intending to buy or lease a property which your firm is instructed to sell or lease, that person must take no further direct part in the sale or lease of that property on behalf of your business.

2l If you are selling or leasing a property that is owned by you, an employee or an associate (on an associate of an employee) or in which you, an employee (or an associate of an employee) has an interest, you must by law, before negotiations begin, immediately make this known, in writing. The person who is selling or leasing should not participate in the direct sale of the property.

3. Advertising for New Business (Canvassing)

3a You must not use unfair methods when seeking new business. Advertising material should be in accordance with the Advertising Standards Authority's (ASA) Codes and must be truthful, not misleading and fully explain who the message is from, its purposes and how the consumer's interest can be followed up.

3b In your canvassing material, if you seek to use a property you have recently acquired, you must seek the owner's prior permission in writing.

3c Fees must be shown inclusive of VAT alongside a statement confirming that VAT is included.

3d You must take decisions on the content of your advertisements independent of your competitors, such as how you advertise your fees, charges or any additional costs, or any special offers, discounts or other value offering.

3e You must not mislead about the type of service you provide, for example saying that you are a buyer of the property when you are not.

3f You must act promptly if a consumer asks you to stop canvassing them.

Signing

3g You must give your client written confirmation of their instruction for you to act in the selling or buying of property on their behalf. You must by law give the client written details of your Terms of Business including your fees and charges before the client is committed or has any liability towards you. This should also include details of commission or referral fees that could be earned through services being offered. You must sign and date your Terms of Business before they are given to your client.

3a - <https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html>

3h - <https://www.legislation.gov.uk/ukpga/2015/15/part/2>

3i - <https://www.legislation.gov.uk/uksi/1991/859/made>

The client must be given sufficient time to read them before signing and agreeing to instruct you. Refers also to paragraph 3p - page 4. The client should be given a copy signed by both parties to retain.

Fair Contracts

3h Your Terms of Business and your contract must be consistent with the provisions of this Code of Practice and comply with Part 2 of the Consumer Rights Act 2015.

3i Your Terms of Business should be written in plain and intelligible language. In particular, with a seller, you use either 'sole agency' or 'sole selling rights' agreement you must include in your Terms of Business the specific definitions in the Estate Agents (Provisions of Information) Regulations 1991 to define and distinguish between 'sole agency' and 'sole selling rights'; and describe a 'ready, willing and able' buyer. You must include the relevant definitions in full, display them prominently and clearly explain the implications of their terms to your client, especially where multiple definitions are used.

Fees and Charges

3j Your Terms of Business should be written in plain and intelligible language. In particular, with a seller, if you use either 'sole agency', 'sole selling rights' or 'purchase option agreement' you must include all fees and additional costs, including any 'up-front' fee or retainer payable, must be included in your Terms of Business. They must be fully explained, clearly and unambiguously stated in writing along with an explanation of the specific circumstances in which those fees and costs will become due, be refundable, deductible or non-refundable, before the client is committed to the contract. In the case of 'Dual Fees', where a fee is payable by both the seller and the buyer, both must be fully aware that such a fee is being taken from each party and how much each fee is. They must both agree to this arrangement in writing.

3k Where the fee is a percentage of the purchase price you must clearly state whether VAT is chargeable and must express it as an actual amount including VAT. The example amount should be based either on the buyers' budget or the asking price, dependent on whom your contracted client is for that deal. However, you must make it clear that, should the buying price be higher or lower than the asking price, your commission fee will be correspondingly higher or lower.

3l Where you charge a fixed fee you must state the actual amount payable including VAT in the contract and ensure that your client understands that the fee will not vary whatever the purchase price.

3m Except for any previously agreed additional costs, sourcing fees will become due and payable on exchange of contracts (in Scotland, conclusion of missives).

- 3n In the circumstances where a buyer or seller may become liable for your fees, this liability must be communicated at the earliest opportunity such that in all forms of media, the property asking price is accompanied by a statement that 'buyers fees apply' and that websites allow for a click through to an information pack and FAQ's. Appropriate arrangements should be made to provide the same information where non-electronic is present. The information task should have 'key features' of the approach as the first page and include a full explanation of all fees and additional costs, the circumstances upon which they become due and advise that by paying your fee, that amount may be considered as part of the chargeable consideration for the property and be included in the calculation for stamp duty land tax liability.
- 3o Where your Terms of Business include options for clients to use associated and/or recommended services (such as conveyancing), client should be presented with the opportunity to actively opt-in to use the service. Requiring clients to actively opt-out of any additional or recommended service should be avoided. Charges made for not using a service must be disclosed in accordance with the National Trading Standards Estate and Letting Agency Team's Guidance on Transparency of Fees Involving Property Sales.'

Duration and Termination

- 3p Your Terms of Business must clearly state the minimum duration of your instruction, and how it can be terminated by either party. When a contract is signed by a client during a visit by you to their home, at their place of work, away from your premises or online, then they must be given a right to cancel that contract within 14 calendar days after the day of signing. The client should be given a 'Notice of Right to Cancel'. Where the client wishes the contract to begin before the end of the 14-day cancellation period you must obtain confirmation of that request in writing. Where you intend to recover costs incurred during this cancellation period you must obtain the client's agreement in writing to those specific costs before work commences.
- 3q If you intend to charge the client a fee or recover costs for terminating the instruction, you must make this clear in your Terms of Business and specify the amount of the fee and additional costs and their purpose. Fees and costs should reasonably reflect the activity undertaken and not include a penalty charge.
- 3r On receipt of the client's instruction, or on your own decision, to terminate your instruction, you must promptly give the client written confirmation that you are no longer acting, confirm the actual date of termination, and give details of any fees or additional costs the client owes you (see 3u -page 4)
- 3s Your contract must allow for the required notice of termination to be given before the end of any term, such that termination by the client can occur at the expiry of the minimum term.

Fee Entitlement and Client Liability

- 3t At the time of receiving instructions from a client, you must:
- (i) Point out and explain clearly in your written Terms of Business that you may be entitled to a commission fee if that client terminates your instruction and goes on to exchange contracts on a property the details of which you previously provided to your client (see definition of effective introduction (*) through another agent within six months of the date your instruction ended. If no other agent is involved this time limit extends to two years.
 - (ii) Advise that the client may be liable to pay more than one fee if they instruct another agent during or after the period of your agency.
 - (iv) Ask to see a copy of the previous agency agreement to ensure that by instructing you, the client will not be in breach of contract (note that if the client is unable or refuses to supply a copy, you must advise, in writing, that you are unable to advise as to whether the client is in breach of their agreement with the previous agent);
 - (v) Specifically advise of the possible liability to pay more than one agent;
 - (vi) Establish if a property has previously been introduced to the client through another agent;
 - (vii) If a property has been previously introduced through another agent and the client makes an offer through you, you must disclose this information and refer the purchase back to that agent as they will be deemed to have introduced the client to the property.
- 3u At the time of the termination of the instruction, you must explain clearly in writing any continuing liability the client may have to pay you a commission fee and any circumstances in which the client may otherwise have to pay more than one sourcing fee. Your explanation must include a list of properties that you have introduced to the client.
- 3v Your action in pursuing a sourcing fee or additional charges must be proportionate and reasonable and not intimidatory.
- 3w Although nothing precludes you taking court action to pursue payment of your commission account, it is generally expected that you will not take court action when a complainant has referred the matter to NAPSA.

If however, you do pursue payment of your commission fee through the courts you must agree to NAPSA considering any outstanding service-related complaints after the court action has been determined.



Subsequent Changes

- 3x Any subsequent changes to the Terms of Business must be:
- (i) Mutually agreed by you and your client.
 - (ii) Promptly confirmed in writing.
 - (iii) Where appropriate, contained in a new Terms of Business signed and dated by your client.

4. Deal Presentation

- 4a Ensure that you relate all Material Information (*) to any potential buyer as briefly outlined in General - All Clients, Section 15 - Glossary of Terms: 15q (page 11) with detailed guidance in (NTSELAT) - National Trading Standards Estate and letting Agency Team (NTSELAT) Material Information
- 4b Ensure that when providing information about any potential future use of the property or land that you include that information which is relevant for that investment strategy and/or as requested by the buyer.
- 4c When providing any calculations, where possible, use a formula provided by your investor or ensure that you include...
- (i) Estimate of Insurance Costs
 - (ii) Estimate for Voids
 - (iii) Estimate for Maintenance
 - (iv) Estimate for any mortgage (worst case scenario-Stress test)
 - (v) Estimate for Management Fees
 - (vi) Estimate for Refurbishment Costs
 - (vii) Details of any Landlord Registration or License Fees
 - (viii) Any other fees applicable to the investment strategy selected by your investor.
- 4d Ensure that you include VAT where applicable.
- 4e When sourcing for a client include any information as requested by them and details of what calculations have been used to provide the buyer to calculate items in 4c (Deal Presentation).

5. Viewings and Access to Premises Viewings

- 5a You must take a seller's or landlords instructions regarding viewings, specifically whether or not they should be conducted by you.
- 5b You must record any viewings that have been arranged for that property, feedback from those viewings and pass this to the seller withing an agreed timescale. If this feedback is an offer, you should refer to Contracted Client - Seller, Section 5 (Offers) -page 15

- 5c Before arranging any viewing, you must tell the buyer if you are aware of an offer that has already been accepted subject to contract by the seller.

- 5d In accordance with paragraph 3t (page 5) when you know the property has been or is being marketed by another agent you establish if your buyer has previously viewed the property through that or any other agent.

Access to Premises

- 5e Unless otherwise instructed by the seller or landlord, if you hold the keys to a property, you must accompany any viewings of that property. If you are arranging for someone to view an occupied property, you must agree the arrangements with the occupier (including any tenants) beforehand, wherever possible.
- 5f You must make sure that all the keys you have are coded and kept secure. You must maintain records of when you issue keys and to whom, and when they are returned. These records must be kept secure and separate from the actual keys. You must only give keys to people providing you with satisfactory identification.
- 5g If access to a property is required by a person on behalf of the buyer (e.g. a surveyor, builder, tradesman etc) and you hold the key but are not able to accompany that person, this must be made clear to the seller beforehand and the seller's express permission obtained before you hand over the key.
- 5h You must exercise reasonable diligence to ensure that, after any visit by you, a property is left secure.

6. Energy Performance Certificates (EPC's)

- 6a The relevant provisions set out in this section should be followed when entering into an agreement with a seller or the supply of an Energy Performance Certificate (EPC) in relation to the property to be marketed.
- 6b You must advise the seller in writing of all charges relating to the supply of an EPC and the terms of payment.
- 6c You must provide adequate information to the seller, landlord and buyer to enable them both to understand the basic legal requirement for the content of the EPC, and its uses in relation to the marketing and any future use of the property or site. Government guidance on EPC's in property sales and lettings.

7. Safety Certificates (Gas & Electricity)

- 7a You must provide adequate information to the seller and buyer to enable them both to understand the basic legal requirement (where applicable) of these certificates and their uses in relation to the marketing and any future use of the property or site.

4a - <https://www.nationaltradingstandards.uk/uploads/Material%20Information%20in%20Property%20Listings%20...>

6c - https://assets.publishing.service.gov.uk/media/5a821a74ed915d74e3401be1/A_guide_to_energy_performanc...

Government Guidance on Electrical Safety Standards in the Private Rented Sector. Gas Safe Register Guidance on landlord Gas Responsibilities

8. Legionella Risk Assessment

- 8a You must provide adequate information to the seller and buyer to enable them both to understand the basic legal requirement (where applicable) of these certificates and their uses in relation to the marketing and any future use of the property or site. Health & safety Executive – Legionella FAQ's

9. Deposits or Reservation Fees

- 9a If you take a pre-contract reservation, registration, deposit, sourcing or deal packaging fee then you must ensure that before such a fee is taken that the circumstances under which it will be held, refunded, deducted, forfeited or used towards the purchase or lease, are clearly stated in your Terms of Business Agreement and brought to your client's attention.
- 9b You must not hold a refundable deposit or reservation fee, or any other monies belonging to a seller or buyer, (e.g. refurbishment funds) unless you hold the funds in a separate client account and have appropriate insurance cover or use an Escrow type account.
- 9c Any client monies held must by law be in a separate client account or accounts, as set out in the Estate Agents (Accounts) Regulations 1981. You must be able to account immediately for all monies you are holding on behalf of a seller or a buyer.
- 9d By law you must not deduct any cost or charges from any monies that you hold, unless your client has given you written authority to do so.

You should ensure that your client's authority is obtained at the time of the deduction or that you give your client sufficient notice prior to the deduction to object to.

10. Between Acceptance and Exchange of Contracts

- 10a After acceptance of the offer by the seller, and until exchange of contracts you have no direct influence on such matters as the conveyancing process or the mortgage lending process. Your obligations to the client are:
- (i) To monitor progress;
 - (ii) To assist where possible, as asked;
 - (iii) To report information deemed helpful to bringing the transaction to fruition;
 - (iv) Where there is a chain, routinely check and communicate information helpful to bringing your client's transaction to fruition.

7a - <https://www.gov.uk/government/publications/electrical-safety-standards-in-the-private-rented-sector-...>

7a - <https://www.hse.gov.uk/gas/landlords/>

8a - <https://www.hse.gov.uk/legionnaires/faqs.htm>

- (v) You must keep written or electronic records of such activity.

- 10b If your client becomes involved in a contract race (where a seller is dealing with more than one potential buyer at the same time), the client should be told promptly of the situation and given such information which comes to your attention.

11. In-house Complaints Handling

- 11a You must maintain and operate an in-house complaints procedure. Such procedures must be in writing; explain how to complain to your business, to the appropriate Property Redress and to NAPSA; be readily available on your website; and for inspection by NAPSA, the TPO or PR. All verbal and written complaints must be recorded by you at the time they are made.
- 11b You must agree to deal with any properly appointed representative of a Complainant (*)
- 11c All written complaints must be acknowledged in writing within three working days and a proper investigation promptly undertaken. A formal written outcome of your investigation must be sent to the Complainant within 15 working days of receipt of the original complaint. A senior member of staff or designated complaint handler not directly involved in the transaction should deal with the complaint. In exceptional cases, where the timescale needs to be extended beyond this limit, the Complainant should be kept fully informed and an explanation provided.
- 11d If the Complainant remains dissatisfied, the Complainant must be told how the complaint can be further pursued within your business. This should provide the opportunity for a speedy, separate and detached review of the complaint by staff not directly involved in the transaction. Such a review must be sent to the Complainant within 14 working days.
- 11e Following the conclusion of your investigation, a written statement of your final view, and including any offer made, must be sent to the Complainant. This letter must also tell the Complainant how the matter can be referred to the appropriate Property Redress, pointing out that any such referral by the Complainant must be made within 12 months of your final view.
- 11f You must not imply that payment of any outstanding commission fee or additional costs is a condition of a review either NAPSA's 'Code of Practice document or the TPO or PR.

12. Referrals to NAPSA

- 12a You must co-operate with any investigations being conducted by NAPSA in accordance with NAPSA's Membership Terms of Use and Disciplinary and Complaints Policy and Procedure.

9c - <https://www.legislation.gov.uk/ukxi/1981/1520/contents/made>

12a - <https://napsa.org.uk/membership-terms-of-use/>

12a - <https://napsa.org.uk/disciplinary-complaints-policy/>

12b You must:

- (i) Comply with any award and/or direction made by NAPSA against you and accepted by the Complainant and which is binding upon you under the Terms of Use and Disciplinary and Complaints Policy and Procedure.

13. Compliance Monitoring

13a You must comply with the requirements of any code compliance monitoring or compliance survey procedure used by NAPSA Limited.

13b You must inform clients that their contact details may be used in any monitoring /survey process in order to ensure compliance with data protection legislation (in particular, the Data Privacy Act 2018 or any successor legislation). You must also inform clients of the lawful basis of such processing, which might be, for example, that the processing is necessary for the purposes of your legitimate business interests.

14. Non-compliance with the code

14a Cases of non-compliance will be dealt with by the Compliance Committee (CC) of the NAPSA Board.

14b The Board of NAPSA will consider cases of non-compliance of the Code of Practice, failure to maintain and assure the integrity of the Code of Practice, where it is considered that the Member has brought the scheme into disrepute or where the Member has seriously failed to comply with their membership obligations in another way.

14c The Board of NAPSA will determine any disciplinary sanction in accordance with the Disciplinary and Complaints Policy.

15. Glossary of Terms

15a **Aggressive Behaviour.** Here are some illustrative examples of when during the sales process aggressive behaviour or practices could occur. It is not an exhaustive list. In each case, the test is whether the average client'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 transitional decision. When you gain new clients and instructions, when you market a property, when you negotiate and make sales.

- (i) Imposing onerous or disproportionate requirements which prevent a client from exercising right to terminate an agreement or switch to another property sales business.
- (ii) Refusing to allow a consumer to cancel their contract with you, where a cancellation period applies and has not expired.

(iii) Pressuring a potential buyer or seller to use associated services, for example to take out a mortgage through mortgage advisor or to use a particular firm of solicitors or licensed conveyancers.

(vi) Pursuing commission to which you are not entitled.

(v) Intimidating, pressuring or coercing clients into dropping complaints against your business, for example by the use of threatening or abusive communication in any form when you deal with complaints.

15b **Associate** – Includes a brother, sister, husband, wife, civil partner, aunt, uncle, nephew, niece, parents, grandparents, children and grandchildren. The definition also includes business associates.

15c **Average Consumer.** The 'average consumer' is 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 out publicly available facts for themselves where this is straightforward to do, although what checks they actually make will be influenced by the information that you have given them.

The CPRs do, however, provide for where a commercial practice is targeted at a particular group of consumers. In these cases, the 'average consumer' will refer to the average member of that group, not the average consumer generally. This will be relevant to you if you are targeting your commercial practice at a particular group of consumers.

15d **Beneficial Owner.** The beneficial owner(s) of the Property or Land who enjoys the benefits of ownership even though legal title to the Property or Land in question is held by another person(s).

15e **Cash Buyer.** A 'cash buyer' can only be described as such if they have realisable cash as assets, that is:

- (i) The buyer has sufficient cash in the bank, building society or other investments, which can be realised in a reasonable time, that is, it will be available by the estimated or proposed exchange of contracts and completion dates; or
- (ii) The buyer has actually sold a property, that has exchanged contracts and is expected to achieve completion before exchange on the purchase and the buyer does not require a mortgage to make up any difference in the purchase price of the new property.

15f **Client** Is either a person who has instructed you to source a property on their behalf or where a person has accepted a pre-found 'Deal Package' that was presented to them, in the United Kingdom (excluding Scotland, the Channel Islands and the Isle of Man.) Where appropriate, this definition includes a client's properly appointed representative.

13b - <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/>

15g Complainant. Someone who is an actual or potential seller or buyer of properties or land making a complaint against a NAPSA Member. Where appropriate, this definition includes a Complainant's properly appointed representative, third parties and other definitions as set out in NAPSA's Terms of Use and Disciplinary and Complaints Policy and Procedure.

15h Connected Person. Includes:

- (i) Your employer or principal.
- (ii) Your employee or agent.
- (iii) Any associate including the term "business associate" as defined within Sections 31 and 32 of the Estate Agents Act 1979.

15i Consumer. Means an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession. In this context, references to a consumer refers to an actual or potential seller or buyer.

15j Client Due Diligence (CDD) . Taking appropriate steps to identify your clients – Sellers and Buyers.

Basic Due Diligence:

Ensure that you can identify and carry out the necessary checks on not just 'Individuals' but also Limited Companies (Ltd), Limited Liability Partnerships (LLP's) and Trusts.

Buyers (Individuals) – Checking

- (i) They are who they say they are
- (ii) They live where they say they live
- (iii) They have the ability, financially to make the purchase and
- (iv) The source of any cash funds (audit trail).

Sellers (Individuals) – Checking

- (i) They are who they say they are
- (ii) They live where they say they live and
- (iii) They have a legal right to sell the property or site.

Landlords (Individuals) – Checking

- (i) They are who they say they are
- (ii) They live where they say they live and
- (iii) They have a legal right to lease the property (where applicable)
- (iv) They have a legal right to sell the property or site (where applicable). (v) they have permission from the mortgage company to sublet (where applicable).

Trusts - Checking

- (i) They have the ability, financially to make the purchase and
- (ii) The source of any cash funds (audit trail)

Limited Companies (Ltd) - Checking

- (i) They have the ability, financially to make the purchase and
- (ii) The source of any cash funds (audit trail)
- (iii) They have a legal right to sell the property or site (where applicable).

Check for:

SIC codes relate to the service as specified - Complex set up structures. ID verification on Main shareholders – ID Main controllers treating all relevant as an 'Individual' for purposes of CDD.

Limited Liability Partnerships (LLP's) - Checking

- (i) They have the ability, financially to make the purchase and
- (ii) The source of any cash funds (audit trail)
- (iii) They have a legal right to sell the property or site (where applicable).

Check for:

Trust is registered as stated & Registration number - Complex set up structures. ID verification on Settlor – Trustee – Beneficiary treating all relevant as an 'Individual' for purposes of CDD.

This is a cumulative process and means obtaining the client's:

Seller Individual:

- (i) Full name
- (ii) Official documentation which confirms their identity (preferably a form of photo ID)
- (iii) Residential Address and date of birth
- (iv) Details of any resulting beneficial owners (*)

Buyer Individual:

- (i) Full name
- (ii) Official documentation which confirms their identity (preferably a form of photo ID)
- (iii) Residential Address and date of birth
- (i) Ability to make purchase financially

- (ii) Audit trail for source of any cash funds
- (iii) Details of any resulting beneficial owners (*)

Landlord Individual:

Whether they are individuals, companies or trusts:

- (i) Full name
- (ii) Official documentation which confirms their identity (preferably a form of photo ID)
- (iii) Residential Address and date of birth
- (iv) Where appropriate, proof of ownership and legal right to lease
- (v) Details of any resulting beneficial owners (*)

Limited:

Limited Company (Ltd)

- (i) Companies House – Registration number, SIC Code, Services, People, complexity
- (ii) Full name All relevant Shareholders, Directors and Controllers
- (iii) Official documentation which confirms their identity (preferably a form of photo ID)
- (iv) Residential Address and date of birth
- (v) Ability to make purchase financially
- (vi) Audit trail for source of any cash funds
- (vii) Details of any resulting beneficial owners (*)
- (viii) Proof of right to sell a property or land (where applicable)

Limited Liability Partnerships (LLP's):

- (i) Companies House – Registration number, Services, People, complexity
- (ii) Full name All relevant Partners
- (iii) Official documentation which confirms their identity (preferably a form of photo ID)
- (iv) Residential Address and date of birth
- (v) Ability to make purchase financially
- (vi) Audit trail for source of any cash funds
- (vii) Details of any resulting beneficial owners (*)
- (viii) Proof of right to sell a property or land (where applicable)
- (i) Registration number, Settlor, Trustees, Beneficiaries, complexity

- (ii) (Full name All relevant Settlor, Trustees, Beneficiaries
- (iii) Official documentation which confirms their identity (preferably a form of photo ID)
- (iv) Residential Address and date of birth
- (v) Ability to make purchase financially
- (vi) Audit trail for source of any cash funds
- (vii) Details of any resulting beneficial owners (*)
- (viii) Proof of right to sell a property or land (where applicable)

Enhanced Due Diligence:

Ensure that you can identify and carry out the necessary checks on not just 'Individuals' but also Limited Companies (Ltd), Limited Liability Partnerships (LLP's) and Trusts.

Applies to situations where there is a higher risk of money laundering, proliferation financing or terrorist financing or tax evasion and MUST be completed when:

- (i) The transaction is complex or unusual
- (ii) A person is a Politically Exposed Person
- (iii) The seller or buyer are not met face to face
- (iv) A seller or buyer are from a high-risk country as identified by the UK Government
- (v) You are notified that a situation is high risk
- (vi) Your risk assessment has identified that there is a high risk
- (vii) A seller or buyer ownership or buying structure are overly complex

HMRC - Guide for estate agency businesses – Money Laundering Supervision

Deal:

15k Effective Introduction. An effective introduction must evidence that the agent carried out an act that initiated the buyer's or seller's reaction to the property. As such, there is a need for a defined transaction event to occur. This can be most clearly evidenced by an agent arranging a viewing.

15l Event Fees. Fees include "Transfer", "contingency", "deferred-management" and "selling-service" fees and are triggered by an event (such as resale or sub-letting). Leases of retirement flats and bungalows often include a fee triggered by certain events, such as when the owner sells or sub-lets their property. (Refer to page 14 - Published Materials and Information about Property or Site - Clause 3a)

Trusts:

15m Deal Packager. Things done by any person in the course of business (including a business in which you are employed):

- (i) Utilise their knowledge of local market trends and available sector data, directly related to one of the strategies currently used in the property investment sector in the United Kingdom, find a 'Property Deal' and advertise to find an interested investor.
- (ii) For the purpose of, or with a view to, affecting the introduction to the client of a third person who wishes to buy or lease such a property or land; and
- (iii) After such an introduction has been affected in the course of that business for the purpose of securing the purchase or lease, a copy of the agreement is provided to those parties; and
- (iv) In each circumstance the beneficiary of any deposit or reservation fee must be clearly defined in the agreement.

15n Ground Rent. The rent payable to the landlord by the lessee as required by the lease.

15o Harass/Harassment. Unwanted conduct which has the purpose or effect of:

- (i) Violating a person's dignity;
- (ii) Creating an intimidating, hostile, degrading, humiliating or offensive environment for a person.

15p Lessee. A person who holds a/the lease at a property.

15q Material Information. Whether a sale or a lease you have a duty of care to provide the 'material information' that the average consumer would need, to make an informed transaction decision. Material information would be any information which would impact the decision to view, make an offer or proceed in any other aspect of the purchase process. Do not mislead or omit relevant information. National Trading Standards Estate and Letting Agency Team Guidance – Material Information

Part A - All Circumstances

- (i) Council Tax
- (ii) Asking/Purchase Price
- (iii) Tenure: Freehold, Leasehold (length), Shared, Commonhold, Non-traditional
- (iv) Any Fee payable
- (v) Anything relevant to the specific investment strategy to be used for

Part B - All Circumstances

Where cost to maintain or repair affects mortgage availability, insurance or use and enjoyment.

- (i) Property type: Terraced, Semi-detached, Bungalow, Flat etc
- (ii) Number and types of rooms: Lounge, bedroom, bathroom etc
- (iii) Utilities: water, gas, electricity, sewerage, heating, internet/broadband
- (iv) Building materials: Thatched roof, prefabricated, timber framed windows, cladding
- (v) Mobile signal/coverage
- (vi) Parking: on road, off road, private driveway, garage
- (vii) Garden - Front/Rear

Part C - Dependent on whether the property or site is affected

- (i) Building safety
- (ii) Restrictions and rights
- (iii) Structural defects
- (iv) Listed Building
- (v) Flood and erosion risk
- (vi) Planning permission or development proposals
- (vii) Accessibility or adaption
- (viii) Coalfield or mining
- (viii) Conservation area
- (ix) Locality concerns (obtaining finance)

15r New or Approved Members. A Sourcing Agent or Deal Packager who joins NAPSA are initially known as 'New Members', when they complete and pass the 'Registration' Process, they become an 'Approved Member'. Any level of Member of NAPSA has undertaken to abide by all provisions of the NAPSA Code of Practice.

15s Privacy Policy. A published notice to consumers explaining how collected personal data will be used and the lawful basis for processing it.

15t Property or Land. Means property (land and/or buildings) used, last used, or to be used for commercial purposes (Bought and rented out).

15u Property Redress. All NAPSA Members must be registered with one of the two government approved Property Redresses. Both The Property Ombudsman and Property Redress are approved by:

- * The National Trading Standards' Estate and Lettings Agency Team (NTSELAT) for sales and lettings agency work; and

- * The Department for Levelling Up, Housing and Communities for lettings and property management work; and
- * The Chartered Trading Standards Institute under the ADR Regulations 2015

When you join either as a Sourcing Agent member, any complaint received against you, would be assessed using the NAPSA Code of Practice.

- 15v **The Property Ombudsman (TPO)** provide a redress scheme for property professionals and will deal with complaints from any client, consumer, business or small business with a provable turnover of less than £3m per year, when you join TPO as a Sourcing Agent member, and complaint received against you, would be assessed using the NAPSA Code of Practice.
- 15w **Property Redress (PR)** a consumer redress scheme authorised by Government since 2014 an independent organisation dedicated to resolving disputes between consumers and property agents in the UK.
- 15x **Records.** Means all written correspondence, file notes, contracts and agreements in hard and digital copy or electronic communications including emails, texts and other forms of digital messages or faxes.
- 15y **Reserve Fund.** Used interchangeably with the term 'sinking fund reserve'. A fund collected from the lessee which allows the build-up of monies to pay for repairs and the replacement of major items (such as lifts) or to equalise cyclical expenditure (such as external decoration), avoiding excessive peaks in the Service Charge. Reference to Reserve Fund includes and sinking fund or replacement fund.
- 15z **Service Charge.** The amount payable by a lessee as a contribution to the costs of services, repairs, maintenance, insurance, improvements or costs of management etc. as set out in the lease. The amount payable may vary according to the costs incurred or to be incurred.

Sourcing Agency Services. Things done by any person in the course of business (including a business in which you are employed):

- 15zz (i) Pursuant to instructions received from a client who wishes to sell, buy or lease a property or land in the United Kingdom.
- (ii) For the purpose of, or with a view to, affecting the introduction to the client of a third person who wishes to sell, buy or lease such a property or land; and
- (iii) After such an introduction has been affected in the course of that business for the purpose of securing the sale, purchase or lease, a copy of the agreement is provided to those parties; and
- (iv) In each circumstance the beneficiary of any deposit or reservation fee must be clearly defined in the agreement.

15z1 **Vulnerable consumer.** A vulnerable or potentially vulnerable consumer is someone who, due to their personal circumstances is especially susceptible to detriment when a service provider is not acting with appropriate levels of care in place allowing the service provider to recognise key markers for vulnerability.

15z2 **Transactional Decision.** Informed decisions made by consumers, which include, but are not limited to:

- (i) A decision to find out more about your services, or to rule out using the services of one of your competitors.
- (ii) A client's decision whether and on what terms to sign or renew an agreement with you, or their decision to end an agreement.
- (iii) A seller's decision whether to put their property up for sale or take it off the market, to accept or turn down an offer, or to exchange on the sale or not.
- (iv) A buyer's decision whether to view an advertised property, or whether and on what terms to make an offer on a property, instruct a solicitor or licensed conveyancer, commission a survey, apply for a mortgage, or exchange on the purchase.

15z3 **Written, in Writing.** Includes typed or hand-written letters, records or notes, emails, texts, other forms of digital messages and faxes. Electronic signatures are acceptable.

15z4 **You.** Applies to all those Sourcing Agents and their staff providing services bound by this Code.

Contracted Client - Buyer

1. Terms of Business, Commission and Termination

- 1a You must, at the point of instruction, inform your client in writing that you are a Member of NAPSA and subscribe to this Code of Practice.
- 1b You must not instruct other agencies to assist you in buying a property without your client's permission. If the client gives permission, as the instructing agent, you are liable at law for the actions of the sub-instructed agent and will be held responsible for any failures to comply with this Code of Practice by that sub-instructed agent even if that sub-agent is not a NAPSA Member.
- 1c Notwithstanding 1b above if you are instructed as sub-agent, you must continue to act in accordance with relevant provisions of the Code of Practice.
- 1d In accordance with the Money Laundering, Terrorist Financing Regulations 2019, you must undertake Client Due Diligence (*) and, where appropriate Enhanced Due Diligence (*), on the buyer before you establish a business relationship.

1d - <https://www.gov.uk/government/publications/money-laundering-and-terrorist-financing-amendment-regulations-2019>

1d Should you have suspicion, knowledge or reasonable ground to suspect that money laundering is taking place, you must report this in accordance with your money laundering policy and procedures. You must keep records of your Client Due Diligence checks for five years from the date of the transaction.

1e You must clarify the instructions received from your client in writing and clearly outline the service that you will provide, explaining that you will in good faith and based upon the criteria supplied and set by your client, select properties or land from those available, that fulfil your clients' criteria and present to them for their consideration. You must clearly explain the limits to such instructions; in particular that you will not offer financial or investment advice in connection with the purchase and that you have not carried out a survey on the subject properties or land or the facilities they provide.

1f You must, at the point of instruction, inform your client in writing that you are a Member of NAPSA and subscribe to this Code of Practice.

1g You must not directly or indirectly harass (*) any person in order to gain instructions. Nor must you repeatedly try to gain instructions in a way likely to cause offence.

2. Advertising for New Business (Canvassing)

2a If a consumer is interested in your selling services, you must draw their attention to the possibility, and explain before they are committed to another contract, the potential of paying fees to more than one agent where another agent has been previously instructed.

3. Offers

3a You must make clear that any figure you advise to put forward as an offer is given in good faith but is not based on your formal valuation of the property. You must never deliberately misrepresent the value of a property.

3b You should keep a written or electronic contemporaneous records of all offers you make on behalf of your client including the date and time of such offers and the seller's (or appointed representative's) response.

3c By law you cannot make it a condition of passing on offers to the seller that the buyer must use services offered by you or another party. You must not discriminate, or threaten to discriminate, against a buyer because that person declines to accept that you will (directly or indirectly) provide related services to them. Discrimination includes but is not limited to the following:

- (i) Failing to tell the seller of an offer to buy the property.
- (ii) Telling the seller of an offer less quickly than other offers you have received.

(iii) Misrepresenting the nature of the offer or that of rival offers.

(iv) Giving details of properties for sale first to buyers who have indicated they are prepared to let you provide services to them.

In Scotland

3d If you have received a Note of Interest from your client (preferably in writing and where possible, from the client's solicitor) intending to make an offer, you must:

- (i) According to your client's instructions tell the seller (or appointed representative) about the Note of Interest and confirm the details in writing, whenever this is practicable.
- (ii) Do everything reasonably possible to tell your client intending to make an offer about any formal closing date for offers.

4. Advising your client

4a You must by law comply with the Consumer Protection from Unfair Trading Regulations 2008 (or the Business Protection from Misleading Marketing Regulations 2008 where applicable). The Consumer Protection from Unfair Trading Regulations 2008 require you to disclose any information of which you are aware or should be aware of in relation to the property in a clear, intelligible and timely fashion and to take all reasonable steps to ensure that all statements that you make about a property, whether oral or written, are accurate and are not misleading. All material information (*) must be disclosed and there must be no material omissions which may impact on the average consumer's (*) transactional decision (*). Where information is given to consumers and/or their representatives, it must be accurate and not misleading.

5. Financial Evaluation

5a When relevant, you should assist the selling agent by obtaining reasonable information about your client required by the seller.

Contracted Client – Seller or Landlord

1. Instructions, Terms of Business, Commission and Termination

1a You must, at the point of instruction, inform your client in writing that you are a Member of NAPSA and subscribe to this Code of Practice.

1b You must not directly or indirectly harass (*) any person in order to gain instructions, nor must you repeatedly try to gain instructions in a way likely to cause offence.

1c You must not instruct other agencies to assist you in selling a property without the seller's permission.

4a - <https://www.legislation.gov.uk/uksi/2008/1277/contents>

4a - <https://www.legislation.gov.uk/uksi/2008/1276/contents>

- 1c You must not instruct other agencies to assist you in selling a property without the seller's permission. If the seller gives permission, as the instructing agent, you are liable at law for the actions of the sub-instructed agent and will be held responsible for any failures to comply with this Code of Practice by that sub-instructed agent even if that sub-agent is not a NAPSA Member.
- 1d Notwithstanding paragraph 1c (above) if you are instructed as a subagent or share listings via a website, you must continue to act in accordance with all relevant provisions of this Code of Practice.
- 1e You should take reasonable steps to satisfy yourself that the seller is entitled to instruct you, has a legal right to sell the property or land (such as obtaining title information from the Land Registry; declaration of trust; deed of variation; power of attorney) and to sign any agreement on behalf of all co-sellers
- 1f If you have received a Note of Interest from your client (preferably in writing and where possible, from the client's solicitor) intending to make an offer, you must:
- (i) According to your client's instructions tell the seller (or appointed representative) about the Note of Interest and confirm the details in writing, whenever this is practicable.
 - (ii) Do everything reasonably possible to tell your client intending to make an offer about any formal closing date for offers.

2. Marketing and Advertising

- 2a You must not erect any form of estate agency board at a property unless you have been instructed to market that property.
- 2b You can only erect an estate agency board with the specific permission of the seller. Where the property is leasehold or commonhold, you should advise the seller to check for any restrictions within their lease or commonhold community statement and obtain their response before erecting the board.
- 2c Any board you do erect must be appropriate.
- 2d When you put up a board you must by law comply with the appropriate regulations. You must accept liability for any claim arising under these regulations in connection with the board.
- 2e If your board relates to part of a building in multiple occupation, it should indicate the part of the building to which it relates.
- 2f You must not replace another agent's board with your own, hide it or remove it from a property, without the seller's permission or without notifying the other agent.

- 2g You must comply with local legislation in relation to erecting boards.

3. Published Materials and Information About a Property or Site

- 3a You must by law comply with the Consumer Protection from Unfair Trading Regulations 2008 (or the Business Protection from Misleading Marketing Regulations 2008 where applicable). The Consumer Protection from Unfair Trading Regulations 2008 require you to disclose any information of which you are aware or should be aware of in relation to the property in a clear, intelligible and timely fashion and to take all reasonable steps to ensure that all statements that you make about a property, whether oral, pictorial or written, are accurate and are not misleading. All material information (*) must be disclosed and there must be no material omissions which may impact on the average consumer's (*) transactional decision (*). Where information is given to consumers and/or their representatives, it must be accurate and not misleading.
- 3b Prior to commencement of marketing, the written details of a property (Deal Presentation) must be agreed with the seller to confirm that the details are accurate. Sales particulars that have not been agreed by the seller must be marked as 'draft', 'subject to approval' or similar to ensure buyers are aware that the property details could be subject to change.
- 3c In accordance with paragraph 1e (Contracted Client Seller – Section 1), where the title is registered at HM Land Registry, you should seek to obtain title information to verify the tenure of the property.
- (i) In regard to leasehold properties, in accordance with paragraph 4d (Page 15), you must provide material information to the consumer so they can make an informed transactional decision. Material information in respect of the lease includes, but is not limited to, the following:
 - (ii) Number of years remaining on the lease;
 - (iii) Amount of ground rent (*) and when payable, together with details of how this will increase over time, if applicable;
 - (iv) Rent payable in the case of a shared ownership arrangement;
- 3d For leasehold, commonhold and freehold properties where the owner has a legal obligation to contribute towards the maintenance costs of a shared amenity, material information would include, but is not limited to the following:
- (i) Amount of service charge (*), and when payable;
 - (ii) Amount of any event fees (*), and when payable;
 - (iii) Amount of reserve fund (*) contribution and when Payable (if not already included in other charges);
 - (iv) Approximate total amount of reserve fund;

(v) Details of any event-related fees and charges payable under the lease that are triggered by certain circumstances or events;

(vi) Details of any other fees / charges contained in the lease, commonhold community statement or title deeds.

For all properties, material information would include, but is not limited to the following:

Details of any unusual restrictions on covenants affecting the use and enjoyment of the property. You must take all reasonable precautions and exercise all due diligence by asking the seller to declare such information in writing (see paragraph 3d- page 14 and/or via completion of a property information questionnaire signed by the seller). Where you have doubt or information missing you should ask further relevant questions of the seller. If all reasonable inquiries with the seller have been carried out and certain information is still unavailable, the fact that the information is still unknown should be clearly disclosed to the buyers, to enable them to make an informed transactional decision.

3e In regard to properties being re-sold with existing building warranties, you should ask the seller to declare in writing (for example via the completion of a property information questionnaire signed by the seller) the remaining length of the warranty and whether any claim has been made against the policy. This information should be made available to buyers to enable them to make an informed transactional decision.

3f You will be liable if you include anything in the sales particulars which you have reason to doubt is correct.

3g All advertisements must be legal, decent, honest and truthful in accordance with the ASA Codes. Manipulating internet portals (and other channels of marketing) to give the impression a property is new to the market, when it is not; inflating your market share by listing properties multiple times; listing properties that are not currently available to buy or lease; or claiming to have sold a property which was sold by another agent, is misleading.

3h If you intend to include material produced by a third party, you must obtain that party's permission to do so prior to the commencement of marketing.

4. Market Appraisal

4a Any figure you advise, either as a recommended asking price or as a possible selling price must be given in good faith and must reflect available information about the property and current market conditions and must be supported by comparable evidence. You must never deliberately misrepresent the market value of a property.

4b Any evidence relating to comparable of similar properties in a similar location must be retained on file for future reference.

4c You must keep your marketing strategy under regular review with your client.

4d For leasehold, commonhold or managed freehold properties you should make the seller aware that they should contact their lease administrator, commonhold association, or free hold manager to obtain material information required by potential buyers.

4e When an offer has been accepted subject to contract you must take and confirm the seller's instructions as to whether the property should be withdrawn from the market or continue to be marketed. In the latter case, you must advise the buyer in writing and ensure your marketing clearly explains that an offer has been accepted subject to contract. The buyer must also be informed in writing should the seller later decide to put the property back on the market. You remain under the legal obligation to pass on offers, as defined in 4a -Page 15

4f You must keep all buyers who have recently made offers through you, and which have not already been rejected, informed of the existence of other offers you have submitted to the seller.

4g You must be fair and not misleading when disclosing the amount of any offers made to other buyers. Before disclosing the amount of an offer, you must advise the seller of such intention and get the seller's agreement; and you must warn all buyers who make offers that it is your practice to do so. If you do disclose any offer to one buyer, then all offers must be immediately disclosed to all buyers with a current interest in negotiations for the property.

4h After an offer has been accepted subject to contract, you must promptly tell that buyer if the seller accepts another offer.

5. Offers

5a By law, you must tell sellers as soon as is reasonably possible about all offers that you receive at any time until contracts have been exchanged unless the offer is an amount or type which the seller has specifically instructed you, in writing, not to pass on. You must confirm each offer in writing to the seller, and to the buyer who made it, within two working days.

5b You must keep written or electric contemporaneous record of all offers you make or receive including the date and time of such offers and the seller's, landlord's or buyer's response.

5c In accordance with the Money Laundering, Terrorist Financing Regulations 2019, you must undertake Client Due Diligence and, where appropriate Enhanced Due Diligence, on the buyer before a binding contract has been entered into (for example, Terms of Business Agreement). Should you have suspicion, knowledge or reasonable ground to suspect that money laundering is taking place, you must report this in accordance with your money laundering policy and procedures.

3g - <https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html>

5c - <https://www.gov.uk/government/publications/money-laundering-and-terrorist-financing-amendment-regulations-2019>

- 5c You must keep records of your Client Due Diligence checks for five years from the date of the transaction. You must keep written or electric contemporaneous record of all offers you make or receive including the date and time of such offers and the seller's, landlord's or buyer's response.

6. Financial Evaluation

- 6a At the time that an offer has been made and is being considered by the seller, you must take reasonable steps to find out from the buyer the source and availability of their funds for buying the property and pass this information to the seller. Such information will include whether the buyer needs to sell a property, requires a mortgage, claims to be a cash buyer (*) or any combination of these. Such relevant information that is available should be included in the memorandum of sale having regard to data protection laws.
- 6b You must put all offers to your seller client even if the buyer has not been financially qualified at that stage.
- 6c These reasonable steps must continue after acceptance of the offer until exchange of contracts and must include regular monitoring of the buyer's progress in achieving the funds required and reporting such progress to the seller.

7. Exchange and Completion

- 7a After exchange of contracts you must not give the buyer the keys to the property without the specific permission of the seller or the seller's legal representative.
- 7b Where you become aware that the seller must contractually vacate the property by a specific time on the day of completion, this should be conveyed to the seller at the earliest possible opportunity.
- 7c At completion, you should offer to assist with the handover of keys during your office working hours and maintain a record of what has been agreed. If the seller so requests, you must assist.

8. Miscellaneous

8a. Rent to Rent

- (i) Consent MUST be obtained to 'Let' or 'Sub-Let' from the current mortgage provider, Freeholder and Management Company (where appropriate.)
- (ii) Ensure that any contract used is 'fit for purpose.'
- (iii) Any seller/landlord/owner/buyer engaging in such a contract should be encouraged to seek independent legal advice or representation before signing.
- (iv) Once a 'Heads of Terms Agreement' or 'Purchase Option Agreement' has been signed a 'cooling off' period of no less than 14 days should be commenced. (**)

- (v) A record of ALL documentation and communication MUST be kept and available for inspection.

8b. Lease Options

- (i) Consent MUST be obtained to 'Let' or 'Sub-Let' from the current mortgage provider, Freeholder and Management Company (where appropriate).
- (ii) Ensure that any contract used is 'fit for purpose.'
- (iii) Any seller/landlord/owner/buyer engaging in such a contract should be encouraged to seek independent legal advice or representation before signing.
- (iv) Once a 'Heads of Terms Agreement' or 'Lease Option Agreement' has been signed a 'cooling off' period of no less than 14 days should commence. (**)
- (v) A record of ALL documentation and communication MUST be kept and available for inspection.

8c. Rent to Own

- (i) Consent MUST be obtained to 'let' or 'Sub-Let' from the current mortgage provider, Freeholder and Management Company (where appropriate).
- (ii) (i)Acceptable contracts for Rent to Own Deals would be:

Tenant Buyer & Landlord: Option Agreement

Landlord and letting/Management agent: Management Agreement

Letting/management Agent & Tenant Buyer: AST

- (iii) Any 'Top up Fee' should be held in a secure 'client account' and not touched or included in any 'cashflow' calculation. The 'Rent-To-Own' should be provided with a 'Key Facts' document, which makes clear any relevant information about the contract being entered into.
- (iv) Ensure any contract used is fit 'for Purpose'.
- (v) Any seller / Landlord / Owner / Rent-to-Own client engaging in such a contract should be encouraged to seek independent legal advice or representation before signing.
- (vi) Once 'Heads of Terms Agreement' or 'Lease Option Agreement' has been signed a 'cooling off' period of no less than 14 days should commence. (**)
- (vii) A record of ALL documentation and communication MUST be kept and available for inspection.

8d. Assisted Sales

- (i) A 'Heads of Terms Agreement' should be drawn up to outline the general agreement
- (ii) (Reference to 'Profit Share' must not be used in any agreement and the wording of the agreement should be simple, easy to understand and clear.

(**) The exception to this would be in the case of seller facing repossession or another life event where a cooling off period would be detrimental to the seller/owner



- (ii) Making clear reference to both potential risks as well as benefits.
- (iii) Each party must be clear as to what they can expect to receive upon completion of the 'Assisted Sale' process.
- (iv) Ensure any contract used is fit 'for purpose'.
- (v) Once a 'Heads of Terms Agreement' has been signed a 'cooling off' period of no less than 14 days should commence. (**)
- (vi) (i) Any seller/landlord/owner engaging in such a contract should be encouraged to seek independent legal advice or representation before signing.
- (vii) All documentation and communication **MUST** be kept and available for inspection.