

Australian Property Institute Limited

CODE OF PROFESSIONAL CONDUCT

Reference Code of Professional Conduct

Effective 15 June 2015

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Preamble

The Code of Professional Conduct (“the Code”) is a public statement of the principles, values and behaviour expected of Members of the Australian Property Institute Limited (API), as determined by the Board.

The purpose of the Code is to ensure that high standards of corporate and individual behaviour are observed by all Members.

Every Member of the API must comply with the Code. A breach of this Code may constitute Professional Misconduct which may be investigated by the API in accordance with the complaints procedures under the Complaints Policy.

In order to maintain public confidence in the professional standards of Members of the API it is essential that those Members exhibit, and are seen to exhibit, professional standards in carrying out their duties.

This Code does not attempt to provide a detailed or exhaustive list of what to do in every situation. Instead, the Code represents a framework for professional conduct and aims to provide assistance and clarification.

The current Code of Professional Conduct became effective on 15 June 2015.

Rule 1: Relations with Clients

- 1.1 Members must carry out their professional duties ethically, with honesty, competence, and in good faith, without personal bias, and in a manner which upholds the values and reputation of the property and valuation profession
- 1.2 Members must comply with the Professional Rules as amended from time to time.
- 1.3 A Member must act promptly and efficiently in the servicing of the client's instructions.
- 1.4 A Member must, in the case of unavoidable delay, communicate to the client the progress being made in respect of the instructions issued to the Member.
- 1.5 Members must not falsify or misrepresent his or her professional qualifications, grades of membership, experience or prior responsibilities.
- 1.6 A Member must operate within the limits of his or her qualifications and experience and must not accept instructions in a field of practice in which he or she possesses insufficient knowledge and skill to provide competent services to the client, unless the Member obtains fully informed consent from the client to undertake the services in conjunction with a person having the required competence.
- 1.7 A Member must obtain or confirm in writing all instructions and variations of instructions of the client or the client's representatives.
- 1.8 A Member should properly supervise all services carried out for and on the Member's behalf.
- 1.9 A Member must take such steps as are reasonably necessary to maintain and improve his or her knowledge and skill in the fields in which he or she practises.
- 1.10 A Member must not provide any advice or make any statement without reasonable foundation unless it is appropriately qualified or limited.
- 1.11 A Member must complete the work or services required by the Member's retainer, unless
 - (a) the Member and the Member's client have otherwise agreed;
 - (b) the Member is discharged from the retainer by the client; or
 - (c) the Member terminates the retainer for just cause, and on reasonable notice to the client.
- 1.12 A Member must not, during, or after termination of a retainer, disclose to any other person, who is not a partner or employee of the Member's firm, any confidential information provided directly or indirectly by a client or to a client, unless:
 - (a) the client authorises the disclosure;
 - (b) the Member is permitted or compelled by law to disclose;

- (c) the Member discloses information for the sole purpose of avoiding the probable commission or concealment of a felony; or
 - (d) necessary for replying to or defending any charge or complaint as to conduct or professional behaviour brought against the Member or his or her partners, associates or employees.
- 1.13 Fees may be negotiated with a client on an agreed basis, provided however that the fees payable to a Member do not depend upon a client-nominated outcome of any valuation.
- 1.14 Where information critical to the assignment being undertaken is relied upon by a Member, the source of that information must either be disclosed in the relevant report or contained in the working papers supporting the relevant report and be appropriately attributed in either case, unless the information is protected by confidentiality, or the Member is prevented by privacy or other like laws from disclosing or referring to the source.
- 1.15 A Member must not include false or misleading claims in any advertisement for his or her services.
- 1.16 A Member must not directly or indirectly exert undue pressure or influence on any persons, whether by the offer or provision of any payment gift or favour or otherwise, for the purpose of securing instructions for work, or accept instructions from any person where there is reason to believe that undue pressure or influence may have been exerted by a third party in expectation of receiving a reward for the introduction.

Rule 2: Conflict of Interest

- 2.1 A Member must take reasonable steps to identify circumstances that could be construed as a conflict of interest.
- 2.2 A Member must not, in any dealings with a client allow the interests of the Member or an associate of the Member to conflict with those of the client.
- 2.3 Subject to Rule 2.4, a Member must not accept instructions from a client or continue to provide services to a client where accepting the instructions or continuing to provide the services is likely to create either a real or perceived conflict of interest.
- 2.4 Where a conflict of interest arises, or where a Member identifies circumstances that could be construed as a conflict of interest, the Member must:
- (a) inform the client, and any other interested party, of the actual or potential conflict of interest;
 - (b) encourage the client to obtain independent professional advice;

- (c) inform the client that neither the Member or the Member's firm can act or continue to act for the client unless the instructions are confirmed in writing with an acknowledgement of the actual or potential conflict of interest;

AND a Member must only accept the instructions or continue to provide the services if:

- (d) the client provides a written confirmation of their instructions with an acknowledgement of the actual or potential conflict of interest;
- (e) any other interested party provides confirmation that the Member and the Member's firm may accept the instructions or continue to provide the services to the client; and
- (f) the Member discloses the conflict of interest in any relevant document or report prepared for the client relating to that matter.

2.5 A Member must not accept a payment or favour from another party which may affect their relationship with a client, unless the circumstances are fully disclosed to, and agreed by all interested parties.

Rule 3: Impartiality

3.1 A Member must maintain the strictest independence and impartiality when making a valuation and/or where the exercise of objective judgement is required. In such circumstances, a Member must not:

- (a) adopt the role of advocate in a case where their duty is to exercise independence and impartiality;
- (b) act as an advocate and as an expert in the same matter;
- (c) act as an advocate in a matter where another member of the same firm as the Member has acted as an expert in that matter;
- (d) act as an expert in a matter where another member of the same firm has acted as an advocate in that matter;
- (e) allow the performance of their professional duties to be improperly influenced by the needs or preferences of a client or other party;
- (f) rely upon critical information supplied by a client without appropriate qualification or confirmation from other sources; or
- (g) act in any way inconsistent with the duties of independence and impartiality.

Rule 4: Members and the API

- 4.1 A Member must not:
- (a) purport to represent the views of the API unless expressly authorised to do so;
 - (b) reflect adversely on the professional integrity of the API or its Members.
- 4.2 A Member must not maliciously or carelessly do anything to injure, directly or indirectly, the reputation, prospects or business of other Members.
- 4.3 When dealing with the API a Member must be frank and honest and subject to any express requirement set out in the API Policies, a Member must fully cooperate with any request for information or directive from the API where a complaint has been lodged or where there is deemed to be a prima facie breach of the Professional Rules.
- 4.4 A Member must notify the API of any complaint against the Member.

Rule 5: Copyright

- 5.1 A Member must not, without appropriate acknowledgement, reproduce, paraphrase or summarise any work, words, ideas or intellectual property of another person which creates the impression that it is their own, and all reports prepared by Members must give appropriate acknowledgement of the ideas, scholarship and intellectual property of others insofar as these have been used.

Rule 6: Property Valuations

- 6.1 When undertaking a valuation, except with the written agreement from the client or the client's representative:
- (a) a Member must personally inspect any property to be valued; and
 - (b) an inspection of the property must be sufficiently comprehensive to enable the Member to complete the valuation in accordance with the accepted valuation practice.
- 6.2 If the property is not inspected or is only partially inspected, in accordance with the written agreement from the client or the client's representative, the Member must disclose this in the valuation report and state the effect that the failure to conduct an inspection or a complete inspection has on the valuation provided.
- 6.3 When undertaking a valuation, a Member must take reasonable steps to:

- (a) gather sufficient relevant data in forming an opinion of value or, in the absence or deficiency of such data, explain in the valuation report the basis on which the opinion of value was formed; and
- (b) ascertain and verify such relevant facts and information as a prudent valuer would have ascertained or verified in order to provide a professional valuation of a property.

6.4 A Member must include in a valuation report:

- (a) confirmation that they have personally inspected the property;
- (b) a statement of all assumptions made in arriving at an opinion of value and all conditions, requirements or limitations arising from the client's instructions or arising due to any other circumstances;
- (c) where all facts or information have not been ascertained or verified, written disclosure of this, together with a statement of the extent, if any, to which the failure to ascertain or verify the facts or information in question qualifies or affects the valuation provided;
- (d) the degree of reliance (if any) on professional opinion from outside experts; and
- (e) where the Member is a co-signatory, the extent of their involvement and the capacity in which they are signing.

6.5 A Member must retain in a place of safe keeping, adequate records of all valuation reports, all instructions from the client or the client's representative, and all other records and information upon which the valuation opinion was based, for a minimum of 6 years.

Rule 7: Student and Provisional Members

- 7.1 Student Members must not undertake valuations in their own right but may assist in undertaking a valuation and may assist in the preparation of the valuation report.
- 7.2 A Provisional Member must not undertake or sign a valuation unless they comply with Rules 7.3, 7.4 or 7.5.
- 7.3 A Provisional Member who holds the designation of Residential Property Valuer may undertake a Residential Property Valuation, provided that the valuation report is co-signed by a Supervising Valuer. This does not apply for Restricted Assessments conducted by a Provisional Member who holds the designation of Residential Property Valuer where the Restricted Assessment is undertaken in accordance with the Australian Property Institute Restricted Assessment Supporting Memorandum.

- 7.4 A Provisional Member who holds the designation of Residential Property Valuer may undertake a Non-Residential Property Valuation, provided that the property is co-inspected and co-signed by a Supervising Valuer.
- 7.5 A Provisional Member who has completed an API approved valuation qualification, but does not hold the designation of Residential Property Valuer, may assist in undertaking a Residential Property Valuation or a Non-Residential Property Valuation, provided that the property is co-inspected and co-signed by a Supervising Valuer.
- 7.6 A Supervising Valuer must not sign or co-sign a valuation prepared by a Provisional Member, unless the Supervising Valuer:
- (a) holds the certification of Certified Practising Valuer
 - (b) has formed an independent opinion as to value;
 - (c) is the primary signatory; and
 - (d) has co-inspected the subject property.
- 7.7 A Supervising Valuer must not counter-sign a valuation of Residential Property, as defined in this Code of Professional Conduct, undertaken by a Provisional Member, who holds the designation of Residential Property Valuer, unless the Supervising Valuer:
- (a) holds the certification of Certified Practising Valuer
 - (b) has reviewed the valuation and working papers prepared by the Provisional Member holding the designation of Residential Property Valuer;
 - (c) has, based upon such review and appropriate questioning of the Provisional Member, obtained reasonable satisfaction that the value opinion contained in the valuation has been reached by the Provisional Member, based on reasonable grounds.
- 7.8 When signing a valuation report, a Provisional Member must state that they are a Provisional Member of the Australian Property Institute and (if relevant) a Residential Property Valuer.

Rule 8: Non-Compliance

- 8.1 Where a Member considers circumstances exist that warrant departure from or non-compliance with any rule herein, the Member's report must include a statement that outlines the reasons for the departure or non-compliance and any impact on the content of the report.

Definitions

In this Code:

- (a) Any expressions, words or phrases defined in the Constitution, the Policies or the former By-Laws of the API shall have the same meaning in the Code unless otherwise defined by these definitions;
- (b) “Certified Practising Valuer” means a person who has been certified as a Certified Practising Valuer by the API under the Membership Policy;
- (c) “Non-Residential Property Valuation” means a valuation of land which is not a Residential Property Valuation;
- (d) “Provisional Member” means a person admitted as a Provisional Member of the API under the Membership Policy;
- (e) “Residential Property” means
 - (i) Vacant land on which the construction of a dwelling is not prohibited by law;
 - (ii) Land or a lot on which there is not more than 2 dwellings (either existing or in the course of construction) and any other improvements incidental thereto;
 - (iii) Rural residential land;
 - (iv) A unit or entitlement (including a proposed unit or entitlement) under a Strata Scheme or other group title scheme comprising not more than one dwelling (either existing or in the course of construction) and other improvements incidental thereto;
 - (v) A single residential “company title” apartment which is covered under the exemption provided to the API by ASIC;

PROVIDED however that:

- (vi) The highest and best permitted use of the land must be residential use;
 - (vii) The land or lot must not be used wholly or predominantly for non-residential purposes;
 - (viii) The land or lot is not capable of being subdivided into more than two parcels;
 - (ix) The land does not contain a residential strata development under single ownership; and
 - (x) The land is not within a retirement village.
- (f) “Residential Property Valuation” means a valuation of a Residential Property, including but not limited to:
 - (i) A valuation for potential marketing purposes;

- (ii) A rental valuation for a Residential Property;
- (iii) A valuation of land that is not freehold;
- (iv) A valuation for rates, tax or insurance purposes (see viii below);
- (v) A mortgage security valuation; and
- (vi) A valuation of individual entitlements under Strata Title or similar;

BUT does not include:

- (vii) A valuation of Residential Property for compensation or resumption purposes;
 - (viii) An insurance valuation on behalf of an owners corporation for a strata scheme;
 - (ix) Common property within a residential strata scheme;
 - (x) A valuation of Residential Property for the purposes of providing any expert evidence or Family Law Court related valuations; or
 - (xi) A valuation of residential timeshare interests.
- (g) “Residential Property Valuer” means a person designated as a Residential Property Valuer by the API under the Membership Policy;
- (h) “Student Member” means a person admitted as a Student Member of the API under the Membership Policy;
- (i) “Supervising Valuer” means a current Member of the API who is a Certified Practising Valuer.