

Australian Property Institute Limited

RULES OF PROFESSIONAL CONDUCT

Reference Rules of Professional Conduct

Effective 28 February 2021

Owner API Board

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Rules of Professional Conduct

Preamble

The Rules of Professional Conduct (Rules) are an interpretation and expansion of the Code of Ethics (Code) of the Australian Property Institute Limited (API), as determined by the Board.

The purpose of the Rules is to ensure that high standards of professional behaviour are observed by all Members.

The Rules do not attempt to provide a detailed or exhaustive list of what to do in every situation. Instead, the Rules represents a framework for professional conduct and aims to provide assistance and clarification to Members and those who interact with and engage the professional services of Members.

Every Member of the API must comply with the Rules. A breach of the Rules may constitute professional misconduct which may be investigated by the API in accordance with the procedures outlined in API Policies.

The Rules of Professional Conduct is effective from 28 February 2021.

1. Professional and Personal Conduct

- 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 relevant Rules as applicable to their relevant Membership category, as amended from time to time.
- 1.3. Members must not falsify or misrepresent their professional qualifications, grades of membership, experience or prior responsibilities.
- 1.4. A Member must operate within the limits of their qualifications and experience and must not accept instructions in a field of practice in which they 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.
- 1.5. A Member must obtain or confirm in writing all instructions and variations of instructions of the client or the client's representatives.
- 1.6. A Member should properly supervise all services carried out for and on the Member's behalf.
- 1.7. A Member must take such steps as are reasonably necessary to maintain and improve their knowledge and skill in the fields in which they practice.
- 1.8. A Member must not provide any advice or make any statement without reasonable foundation unless it is appropriately qualified or limited.

- 1.9. 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 in writing;
 - (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.
- 1.10. 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 in writing;
 - (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.
- 1.11. Fees and terms 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.
- 1.12. 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 likes from disclosing or referring to the source.
- 1.13. A Member must not include false or misleading claims in any advertisement for their services.
- 1.14. 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.
- 1.15. A Member must not accept or proceed with an instruction from any party where there is reason to believe that undue pressure or influence may or will be exerted by either the instructing party or any third party.

2. Relationships with Clients

- 2.1. A Member must act promptly and efficiently in the servicing of the client's instructions.
- 2.2. A Member must, in the case of unavoidable delay, communicate to the client(s) the progress being made in respect of the instructions issued to the Member.
- 2.3. A Member must, in the case of joint instructions, communicate to all clients at the same time.

3. Conflict of Interest

- 3.1. A Member must take reasonable steps to identify circumstances that could be construed as a conflict of interest.
- 3.2. In any dealings with a client, a Member must ensure that any real, perceived, or potential conflict of interest does not arise between the Member, or an associate of the Member, and the client.
- 3.3. Subject to Rule 3.4, a Member must not accept instructions from a client or continue to provide services to a client where the provision of those services is likely to create a real, perceived, or potential conflict of interest.
- 3.4. Where a real, perceived, or potential 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 real, perceived, or potential conflict of interest prior to accepting or completing the professional services;
 - (b) encourage recommend that the client to obtain independent professional advice;
 - (c) decline proceeding with the instruction unless Rule 3.5 is complied with.
- 3.5. A Member may only accept the client's instructions, or continue to act for the client, if the Member informs the client that neither the Member or the Member's firm can act, or continue to act, for the client unless the instructions to proceed, despite the real, perceived or actual conflict of interest, are confirmed in writing. The written instructions must include an acknowledgement and acceptance of the real, perceived, or potential conflict of interest.

A Member must only accept the client's instruction or continue to act for the client if:

 - (a) the client provides a written confirmation of their instructions with an acknowledgement and acceptance of the real, perceived, or potential conflict of interest;
 - (b) any other interested party also provides confirmation that the Member and the Members' firm may accept the instructions or continue to provide the professional services to the client; and
 - (c) the Member discloses the conflict of interest in any relevant document or report prepared for the client relating to that matter.
- 3.6. A Member must not accept a payment or favour from any party if the payment or favour will create a real or perceived conflict between the Member and the client. A payment or favour must only be accepted where the circumstances are fully disclosed to and consented to by all parties.

4. Impartiality

- 4.1. Members must maintain the strictest independence and impartiality when providing professional services 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 person from the same organisation or having the same employer as the Member has acted or is acting as an expert in that matter;

- (d) act as an expert in a matter where another person from the same organisation or having the same employer as the Member has acted or is acting 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.

5. Members and the API

- 5.1. Members must not say or do anything that:
 - (a) purport to represent the views of the API unless expressly authorised to do so;
 - (b) is likely to bring the API, the Board, API staff or any other Members into disrepute or impact the public standing of the API.
- 5.2. Members must not maliciously or carelessly say or do anything to injure, directly or indirectly, the reputation, prospects or business of other Members or the API.
- 5.3. When dealing with the API a Member must be frank, respectful, and honest and subject to any express requirement set out in any API Policy.
- 5.4. A Member must fully cooperate with any request for information or any directive from the API where a complaint or disciplinary matter has been raised with the API.
- 5.5. A Member must notify the API of any complaint or professional misconduct matter against the Member in relation to:
 - (a) professional services undertaken by them, or
 - (b) when holding themselves out as a Member.

6. Plagiarism

- 6.1. 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.

7. Disclosure Requirements

- 7.1. 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:
 - (a) the failure to ascertain or verify the facts or information in question qualifies or affects the valuation provided;
 - (b) the degree of reliance (if any) on professional opinion from outside experts; and
 - (c) where the Member is a counter signatory or co-signatory, the extent of their involvement and the capacity in which they are signing.

8. Maintaining Records

- 8.1. Member must retain in a place of safe keeping, adequate records of all reports or advice, all instructions from the client or the client's representative, and all other records and information on which the report or advice was based, for a minimum of 7 years or as per requirements under legislation or statutory regulation in the jurisdiction in which the Member is providing professional services.

9. Departure or Non-Compliance Provisions

- 9.1. Where a Member considers that a circumstance exists that warrants the departure from or non-compliance with any of these Rules, the Member's report (or other advice) must include a statement that outlines:
- (a) the reasons for the departure or non-compliance with the Rules; and
 - (b) any impact the Members departure or non-compliance may have on the content of the report.

10. Appendices

- 10.1. The Board may approve additional Rules to apply to certain membership categories which will be appendices to these Rules.

Appendix 1: API Rules for Valuers

Purpose

To set minimum requirements for valuer Members providing valuation services.

Applicability

All Australian Property Institute (API) valuer Members must comply with the API Rules for Valuers. A breach of any of these Rules may constitute professional misconduct. These Rules are to be read in conjunction with the API Rules of Professional Conduct and API Code of Ethics.

Definitions

The definitions below have been included for interpretation and understanding of certain stated terms used within these Rules. Where a defined term is included in Rules it is identified as a capitalised term.

‘CPV’ means the API’s certification of Certified Practising Valuer.

‘Draft Valuation Report’ means a valuation report prepared by a Primary Valuer, but prior to its release/delivery to the client.

‘Indicative Assessment’ – see ‘Restricted Assessment’

‘Member’ means a member of the API under the Membership Policy which may include

- **Associate** (AAPI)
- **Fellow** (FAPI)
- **Life Fellow** (LFAPI)
- **Provisional Member** (PMAPI)
- **Student Member**

‘Primary Valuer’ in respect of real property or plant, machinery and equipment valuations means an API Member, who inspected the property, undertook the Valuation or Restricted Assessment and prepared the report, and;

1. In the case of a real property valuation, is;

- (a) a Provisional Member of API with RPV - PMAPI RPV, or
- (b) an Associate Member of API with CPV - AAPI CPV, or
- (c) a Fellow Member of API with CPV - FAPI CPV, or
- (d) a Life Fellow Member of API with CPV - LFAPI CPV.

2. In the case of a plant, machinery and equipment valuation, is;

- (a) an Associate Member of API with CPV (P&M) - AAPI CPV (P&M), or
- (b) a Fellow Member of API with CPV (P&M) - FAPI CPV (P&M), or
- (c) a Life Fellow of API with CPV (P&M) - LFAPI CPV (P&M).

‘Residential Property’ means:

- (i) Vacant land on which the construction of a single dwelling is not prohibited by law;
- (ii) Land or a lot on which there is not more than two dwellings (either existing or in the course of construction) and any other improvements incidental thereto;
- (iii) Rural residential land where there is a dwelling entitlement;
- (iv) A unit or lot entitlement (including a proposed unit or entitlement) under a strata scheme or other group title scheme comprising not more than two dwellings (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 block of residential flats/units/apartments held under single ownership;
- (x) The land is held under freehold title; and
- (xi) The land is not within a retirement village, nursing home (or similar).

‘Residential Property Valuation’ means a valuation of a ‘Residential Property’ including but not limited to the following:

- (i) A valuation for potential marketing purposes;
- (ii) A rental valuation of a Residential Property;
- (iii) A valuation for rating and/or tax assessment purposes;
- (iv) A costing estimate/report for insurance purposes of a single dwelling (also see (viii) below)
- (v) A mortgage or loan security valuation;
- (vi) A valuation of individual entitlements under a Strata Title or similar;

BUT a Residential Property Valuation DOES NOT include:

- (vii) A valuation of residential Property for compensation or resumption purposes;
- (viii) A costing estimate/report for insurance purposes on behalf of an owner’s corporation for a strata scheme (or similar);
- (ix) Common property within a residential strata scheme (or similar);
- (x) A valuation of a Residential Property for the purposes of providing any expert evidence to a Court or Tribunal (or similar) or Family Law Court related valuations; or
- (xi) A valuation of residential timeshare interests.

‘Restricted Assessment’ means an assessment where the scope of work is limited or restricted such that the valuer does not complete a site/physical inspection and procedures in accordance with full valuation practice and provides a qualified opinion in the form of a Restricted Assessment or an Indicative Assessment only as to the value of the asset.

‘Review’ means the process where the Supervising Member has:

- reviewed the draft valuation report and working papers from the file; and
- based upon the Review and appropriate questioning of the Primary Valuer who undertook the valuation, is satisfied that there is a reasonable basis for the valuation process undertaken and the valuation methodology adopted by the Primary Valuer.

‘RPV’ means the API’s certification of Residential Property Valuer.

‘Supervising Member’ means an API Member who holds CPV and has been appointed by the firm to undertake the Review of, and countersign, the valuation report.

‘Valuation’ means an established, evidence based process for assessing the monetary value of an asset as at a specified date following a site/physical inspection of the asset in accordance with accepted valuation practice.

Rules for Valuers

Rule 1: Property Valuations

- 1.1 Members undertaking valuations must comply with the International Valuation Standards (IVS) published by the International Valuations Standards Council (IVSC) applicable as at the date of valuation. The API has adopted the IVS in full.
- 1.2 Members must also comply with all applicable legislative requirements and any professional member obligations as published or adopted by the API and applicable at the date of valuation.
- 1.3 There are two (2) types of real property and plant, machinery and equipment valuation engagements:
 - (a) A Valuation, which is defined as an engagement where the valuer completes site/physical inspections and procedures in accordance with Rule 2 and provides a professional opinion as to the market value (or other basis of value as defined in the IVS) of the asset; or
 - (b) A Restricted Assessment, which is defined as an engagement where the scope of work is limited or restricted such that the valuer does not complete site/physical inspections and procedures in accordance with Rule 2 and provides a professional opinion in the form of an 'Indicative Assessment' as to the market value (or other basis of value as defined in the IVS) of the asset.
- 1.4 When signing a Valuation or a Restricted Assessment a Member must state their API membership category and certification held.
- 1.5 Where a Member is a counter signatory or a co-signatory of a Valuation or a Restricted Assessment, the extent of their involvement and the capacity in which they are signing must be disclosed.

Rule 2: Undertaking Valuations

- 2.2 This Rule is applicable to members undertaking Valuations of assets including real property, and plant, machinery and equipment valuations.
- 2.3 When undertaking a Valuation, unless otherwise instructed in writing by the client, a Member, who is the Primary Valuer, must:
 - (a) complete inspections or other investigations to enable the Member to satisfy themselves as to all material valuation considerations; and
 - (b) conduct inspections or other investigations to enable the Member to complete the Valuation in accordance with accepted valuation practice.
- 2.4 When undertaking a Valuation, the member must take reasonable steps/have in place appropriate procedures 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 was formed; and
 - (b) ascertain relevant facts and information as a prudent valuer would have ascertained or verified in order to provide a professional Valuation.

- 2.5 A Member, who is the Primary Valuer, must include in the 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;
 - (c) Any requirements or limitations arising from the client's instructions;
 - (d) Any requirements or limitations arising due to any other circumstances;
 - (e) 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; and
 - (f) The degree of reliance, if any, on information and/or professional opinion from others.
- 2.6 A Member must retain, for a minimum of seven (7) years or as per requirements under legislation or statutory regulation in the jurisdiction in which the Member is undertaking Valuations the following:
- (a) Adequate records of all valuation reports;
 - (b) All instructions from the client or the client's representative; and
 - (c) All other records and information upon which the valuation opinion was based.

Rule 3: Undertaking Restricted Assessments

- 3.1 A Restricted Assessment is where the Member, who is the Primary Valuer, has written instructions from the client, or the client's representative, to undertake a Restricted Assessment.
- 3.2 When undertaking a Restricted Assessment, a Member, who is the Primary Valuer, must take reasonable steps/have in place appropriate procedures to:
- (a) gather sufficient relevant data in forming an opinion of value; or in the absence or deficiency of such data, explain in the report the basis on which the opinion was formed; and
 - (b) ascertain relevant facts and information as a prudent Valuer would have ascertained or verified in order to provide a qualified opinion in the form of an Indicative Assessment of the value of the asset.
- 3.3 When undertaking a Restricted Assessment, the Member, who is the Primary Valuer, must include in the report (or advice):
- (a) the extent of the restricted or limited inspection undertaken; and
 - (b) that the property was not inspected or only partially inspected in accordance with the written instructions from the client or the client's representative; and
 - (c) the effect that non-inspection or an incomplete inspection may have on the Restricted or Indicative Assessment provided; and
 - (d) statement of all assumptions made in arriving at an opinion of value and all limitations or conditions; and
 - (e) the degree of reliance, if any, on information and/or professional opinions from others.

- 3.4 A Member, who is the Primary Valuer, must
- (a) describe the output report (or advice) as a Restricted Assessment or an Indicative Assessment; and
 - (b) include the following qualifying statement (or similar) in the report (or advice):

“A Restricted Assessment is one for which we have undertaken procedures which fall short of those which we would apply if we were to conduct a Valuation. It provides an indicative assessment that the market value of the asset is likely to fall within, should a fully researched Valuation be undertaken. In accordance with your specific instructions we have abbreviated our procedures because you have indicated that you do not require the additional assurance that these further procedures would afford. We note however that were we to undertake these procedures it may cause us to alter our opinion.”

- 3.5 A Member must retain, for a minimum of seven (7) years or as per requirements under legislation or statutory regulation in the jurisdiction in which the Member is undertaking valuations, the following:
- (a) Adequate records of all Restricted Assessment reports (or advice);
 - (b) All instructions from the client or the client’s representative; and
 - (c) All other records and information upon which the Restricted Assessment/Indicative Assessment opinion was based.

Rule 4: Plant, Machinery and Equipment Valuations

- 4.1 When undertaking a Valuation or a Restricted (or Indicative) Assessment of plant, machinery and equipment a Member must comply with Rules 2, and 3 as applicable for the professional services undertaking.
- 4.2 Appropriate procedures may include:
- (a) Inspection of a representative sample of the assets where:
 - (i) the Valuation or Indicative Assessment includes a large population or similar assets or asset types;
 - (ii) the assets that are not inspected are relatively immaterial in the context of the overall engagement; and
 - (b) The review and comparison of various data sources that include but are not limited to:
 - (i) fixed asset registers;
 - (ii) maintenance databases and records;
 - (iii) lease/rental documents; and
 - (iv) purchase invoices.

Rule 5: Student and Provisional Members

- 5.1 Student Members may assist in undertaking a Valuation or Restricted Assessment and may assist in the preparation of the report, but they must not undertake a Valuation or Restricted Assessment in their own right.
- 5.1 A Student Member must not sign a report in any way that identifies them as a valuer.
- 5.2 A Provisional Member (PMAPI) who does not hold the certification of RPV may assist in undertaking a Valuation. This could include co-inspecting with a Primary Valuer.
- 5.3 A PMAPI who does not hold the certification of RPV must not sign a report in any way that identifies them as a valuer.
- 5.4 A PMAPI who holds the certification of RPV (PMAPI RPV) may undertake a Residential Property Valuation, provided they comply with Rules 2 and 3, and that the report is counter signed by a Supervising Member.
- 5.5 The Supervising Member must not counter sign a Valuation of Residential Property undertaken by a PMAPI RPV unless the Supervising Valuer:
 - (a) is a CPV; and
 - (b) has undertaken a Review of the Draft Valuation Report and working papers from the file; and based upon the Review and appropriate questioning of the Primary Valuer who undertook the valuation, is satisfied that there is a reasonable basis for the valuation process undertaken and the valuation methodology adopted by the Primary Valuer.
- 5.6 Rules 5.5 does not apply for Restricted Assessments conducted by a PMAPI RPV where the Restricted Assessment is undertaken in accordance with the API Restricted Assessment Supporting Memorandum.

Rule 6: Statutory Valuations

- 6.1 Members undertaking Valuations and Restricted Assessments for/or on behalf of a statutory body, must comply with the requirements of the statutory body that they have undertaken the professional services for.
- 6.2 Statutory valuations of property must be undertaken in accordance with Rules 2, 3 and 4 unless the specific instructions of the statutory body require otherwise.

Rule 7: Departure or Non-Compliance with the Rules

- 7.1 Where a Member considers that a circumstance exists that warrants the departure from or non-compliance with any of these Rules, the Member's report (or other advice) must include a statement that outlines:
 - (a) the reasons for the departure or non-compliance with the Rules; and
 - (b) any impact the Members departure or non-compliance may have on the content of the report.