

Institute of Professional Auctioneers & Valuers



IPAV's Code of Conduct

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Introductory Notes

This Code of Conduct forms an integral part of the conditions of membership of the Institute. All applicants for membership of the Institute are provided a link to IPAV's current version of the Code available at www.ipav.ie and on their application form agree to abide by it and the Disciplinary Procedure Regulations, and any other investigation deemed necessary by IPAV.

IPAV members must comply with the requirements of the Property Services (Regulation) Act 2011. IPAV valuation members must also comply with TEGoVA's Corporate Governance and Ethical Practice for Property Valuers.

No contractual obligation

This Code relates solely to the way in which the Institute requires members to conduct their activities as Auctioneers and Valuers. They must not be taken by clients, applicants, or others, as in any way affecting the legal relationship between them and any firm, or member.

Definitions

In this Code of Conduct and in the Explanatory Notes which follow them, the term 'member' also denotes - where appropriate - any firm or company practicing as estate agents or valuers of whom its principals, partners, or directors, holding a majority stake in the firm, are members of the Institute. Throughout - where appropriate - the male gender includes the female; the singular includes the plural, and the plural includes the singular.

Responsibility for others

Although this Code relates directly to Auctioneering and Valuation activities, members are advised to note that they are answerable for the acts of members and non-members employed by an IPAV firm of which they are a principal, or partner, whether or not they are personally at fault and they may be penalised accordingly.

Penalties

If in the opinion of the Disciplinary Committee, the Member is found to be guilty of dishonourable, improper, or unprofessional conduct they may; fine the member up to a max of €5,000, censure the Member or suspend them from exercise of all rights and privileges as a Member during such period not exceeding two years as it may think fit or exclude them from membership of the Institute or otherwise deal with such Member as it thinks fit.

Proceedings

Disciplinary proceedings are initiated by a complaint in writing being lodged with the Institute. This complaint will be drawn to the attention of the member and written comments invited thereon. A decision will then be made as to whether there is a prima facie case for an inquiry. If it is decided that no prima facie case exists, the complainant will be so informed in writing and no further action will be taken.

If however the Disciplinary Committee is of the opinion that a prima facie case for an inquiry has been shown it shall fix a date for such an inquiry at which the complainant and the member may attend, either with or without their solicitor.

Suspension

The Disciplinary Committee may at any time following consideration of a complaint and prior to making its decision following an inquiry the Disciplinary Committee may, should it consider it necessary in order to protect the interests of the Institute and of its Members, suspend a Member from the exercise of all rights and privileges as a Member pending such decision.

The right of appeal provision open to a member is as set out in the Articles of Association of the Institute.

Promotion

While the Institute expects its members to avoid misrepresentation, bad presentation, and poor taste in their advertising and other publicity material, it places no restriction on honest advertising, and permits its members to advertise in such ways as they judge appropriate, providing that such advertising meets with Data Protection approval the Property Services Regulatory Authority, TEGoVA and CEPI.

Publication of information

The Institute reserves the right to publish, or otherwise make known, any information concerning a member's conduct which comes into its possession and which in the opinion of the Disciplinary Committee ought to be published or made known.

All correspondence regarding the Code of Conduct should be addressed to:

The Chief Executive

IPAV

129 Lower Baggot Street

Dublin 2, D02 HC84

Duty to maintain separate clients' accounts

All members who receive, or may receive, deposits in transactions to which the Property Services (Regulation) Act 2011 applies, shall open and operate a Clients' Account (or Accounts) - hereinafter described as Statutory Clients' Account(s) - in accordance with the requirements of the 2011 Act and with the Regulations made under them.

General Duty to Abstain from Acts of Dishonesty etc.

A member shall conduct their practice so as to conform with the laws relevant thereto.

Note: A member is responsible for informing themselves as to the requirements of the law and no attempt has been made to write them all into this Code. The Institute is prepared to give such general advice as it can, but where necessary members should seek specific professional advice.

No member shall do any act (whether in the business of estate agency and valuation or otherwise) which

(a) involves dishonesty, dishonorable, or deceitful behavior, or which is unfair to members of the public; or which

(b) in any other way brings the Institute into disrepute.

Note: The purpose of the above is to enable disciplinary action to be taken against certain kinds of dishonorable behavior which may adversely affect the public when dealing with a member, or are seriously detrimental to the Institute, but which is not covered by another more specific Code. It is not intended to differ from the spirit of the Code as a whole, or to limit the freedom of members to conduct their business competitively.

Duty not to Misdescribe Class of Membership

No member shall publish or display the name of a principal, director, or employee, of a firm with letters or description indicating that they are a member of any particular class, if they are not such a member, or is for the time being suspended from membership.

Note: This Code applies to any form of publication, including the heading on a letter. Particularly, it covers three cases:

(a) stating or implying that a member is a member when they are not.

(b) stating or implying that they are a member of one class (e.g., a Fellow) when they in fact belongs to another class (e.g. a Member); and

(c) stating or implying that they are a member when they have been suspended.

Suspension, while it lasts, takes away the privileges of membership. It is most important therefore, however inconvenient it may be, that stationery etc., should not be used which indicates that a suspended person is a member.

Attention is also drawn to Article 28/29 of the Memorandum and Articles of Association as follows:

Arrears of Subscriptions

28. Any member, shall, ipso facto, cease to be a member in the event of their annual subscription or any other sum, or sums payable by them to the Institute being in arrear for three months from the date on which such subscriptions or other sum or sums, respectively, become payable, the member shall, nevertheless, be liable to pay the amount of such year's subscription or other sums due by them to the Institute and shall be liable otherwise on the footing that his membership continued until the date when all such subscriptions, arrears and other sums were fully paid. The Council shall have power, in special cases, to suspend the operation of this Article 28. In the case of a person who has ceased to be a member under this Article or under Article 27 hereof, the Council may, at their discretion, readmit them to membership upon such conditions as they may think fit.

Bankruptcy

29. If any member shall become bankrupt, or shall either individually or as a partner in a firm make or agree to make an assignment for the benefit of their creditors; or shall make any arrangements or composition with their creditors, or execute any similar deed or agreement, or shall take or attempt to take the benefit of any statutory provision for arrangements with their creditors, or if they shall become of unsound mind or shall be convicted of an indictable offence (other than an offence under the Road Traffic Acts); he shall cease to be a member, but at the discretion of the Council he may be reinstated with or without a new entrance fee or subscription. The Council may, on just cause shown, reinstate a former member in any grade.

Duty to Abide by the Aims and Code of the Institute

A member shall not seek business by methods which are forceful, or which involve dishonesty, deceit, or misrepresentation.

Should a member directly canvass for, or seek instructions to transact business on behalf of a vendor, their correspondence either by hard copy or soft copy must include one of the following statements:

- (a) Should you the vendor already have a sales agent in place please disregard this correspondence.
- (b) Should you the vendor already have instructed a PSP/Auctioneer and you further instruct the PSP/Auctioneer mentioned in this correspondence, you should refer to your signed PSRA agreement and satisfy yourself as to whether you may be liable for costs and a second agents sales fee.

Duty to Ensure that Agency Terms are Fair, and that Clients are Aware of Them

The terms under which a member accepts an instruction must be confirmed to the vendor in the format of a PSRA Property Services Agreement. The agent must have a signed Property Services Agreement in place within 7 days of starting to provide a property service. If an agent does not have a Property Services Agreement in place inside 7 days, they must cease to provide the property service.

Duty to Protect and Promote Client's Interests

A member shall use all due diligence in looking after their clients' business and shall take all such reasonable steps to protect and promote the clients' interests as are practicable, without improper conduct, or unfairness to members of the public.

Duty as to Conflicting Interests

A member shall disclose in writing to their client any existing conflict of interest, or any circumstances which might give rise to a conflict of interest.

Even when no conflicts of interest exist at the outset, they may nevertheless arise in a number of ways as the transaction progresses. Members should therefore be alert to this possibility and disclose any conflicts of interest or potential conflicts of interest to the client, and to anyone else affected by them as soon as they themselves become aware of the situation. For the avoidance of doubt and confusion it is recommended that all disclosures should be confirmed in writing to the client and allow them to decide whether or not a conflict exists.

In any case where a member, or their partners, associates, staff, or any of their relatives, are interested in the purchase of a property which the member has been instructed to sell, the client should be advised in writing to obtain independent professional advice.

Duty to Applicants/Vendors and Others

Without detracting from their duty, a member shall treat applicants and other non-clients with fairness and courtesy at all times.

Note: Although there is no contractual duty to applicants, they ought to be treated with proper consideration.

Nobody should be led into contractual commitments without being made aware of their binding nature and invited to seek independent advice. Contracts should not be oppressive or unconscionable in relation to the circumstances.

All offers made on properties for sale by would be purchasers must, (pursuant to section 61 of the Property Services (Regulation) Act 2011), be noted and recorded either in a written (downloadable from the PSRA website) or a computer format, all offers as a matter of good practice should be passed to the member's vendor for their perusal and advises.

Deposits should be returned to applicants upon receipt of a properly authorised Solicitor's request without delay, provided contracts have not been exchanged.

Duty to Assist in Disciplinary and other Investigations

A member shall co-operate with any disciplinary investigation or other investigations. In the case of disciplinary replying to correspondence within 14 days, in accordance with the current Disciplinary Procedure Regulations.

Use of designatory letters, display of Diplomas of Members etc.

Members are obliged to display their Certificate of Membership of the Institute in a prominent position in their business premises.

Members must always use their relevant designatory letters on all details issued, display units, 'For Sale' signs and display size advertising.

Property Services Provider's Licence

The Property Services Regulatory Authority has been established under the Property Services (Regulation) Act 2011 to regulate Property Services Providers (i.e., Auctioneers/Estate Agents, Letting Agents and Management Agents). Under the Act the PSRA is the Licensing Authority for all Property Services Providers (PSPs). It is an offence to provide a Property Service without a licence which is punishable by fine and up to 5 years in prison.

Members must display their Property Services Provider's licence in a prominent place in their public office and their licence number on all paper advertisements, letterheads, and websites etc.

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