



Supervision Guidelines

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Supervision Guidelines

Licensees who run a business have a legal obligation to ensure the proper supervision of their business. Licensees who run a business that is regulated under the Property and Stock Agents Act 2002 (the Act) must ensure that no part of the business is left unsupervised by a Licensee-In-Charge (LIC).

A LIC is an individual who either:

- » carries on business under a Class 1 licence, or
- » is employed to be in charge of a business under section 31 of the Act.

A LIC is responsible for the proper supervision of the business of which they are in charge and must hold a Class 1 licence in the category relevant to the

business. For example, a LIC of a real estate agency will need to hold a Class 1 real estate agent's licence.

It is vital that businesses are properly supervised, particularly as large sums of money and trust accounts may be involved. Poor supervision can cause distress and financial loss for consumers.

A lack of supervision can also lead to claims against an agent for negligence, misleading conduct and fraudulent use of trust money - for which substantial maximum penalties apply from NSW Fair Trading.

Licensees who run a business must ensure proper supervision in accordance with the Secretary's Guidelines for the Proper Supervision of the Business of a Licensee (referred to as the Supervision Guidelines).

The supervision guidelines set out the requirements for proper supervision of a business including the steps they must take to prevent fraud, underquoting and misrepresentation.



These requirements include:

- » supervision of employees engaged in the business
- » establishment of procedures designed to ensure that the provisions of the Act and Regulation and other relevant laws are complied with, and
- » monitoring employees' conduct to ensure that those procedures are being followed.

Corporations or individuals who wish to run a business and only hold a Class 2 licence, will need to employ a Class 1 licence holder to be the Licensee-In-Charge (LIC) of their business.

The failure to comply with a clause of the Supervision Guidelines and its requirements as detailed below, is a contravention of section 32 of the Act, this offence carries a maximum penalty of 200 penalty units (\$22,000) in the case of a corporation, or 100 penalty units (\$11,000) in any other case. Contravention of section 32 can trigger disciplinary action under

section 191(a) of the Act. This section allows NSW Fair Trading to undertake disciplinary action against a person for contravening a provision of the Act, whether or not the person has been prosecuted or convicted of an offence in respect of the contravention.

Systemic failure to properly supervise the conduct of a business may also be relevant to any consideration as to whether a licensee is a fit and proper person to be involved in the conduct of a business under section 191(e) of the Act. NSW Fair Trading may serve a notice to show cause on a person if they have the opinion that there is reasonable cause to believe that there are grounds for taking disciplinary action against the person. Disciplinary action may range from a caution or reprimand to a disqualification from being involved in the direction, management or conduct of the business of a licensee.

CONTINUED >

During COVID, NSW Fair Trading extended the period of time being given to agents to “get their business in order” after the introduction of the legislative reforms on 23rd March 2020. Initially, this education period was for six months, but was extended through until 1st April 2021. Active enforcement by NSW Fair Trading of the new requirements (which includes the Supervision Guidelines) will commence from 2nd April 2021.

To meet these requirements as detailed in the Act and also in the Supervision Guidelines issued by NSW Fair Trading, every business must have written procedures on how their agency will comply with the core requirements of

the Supervision Guidelines. To address this need in the property industry in New South Wales, we at ACOP have developed a set of proforma documents to assist LICs to tailor their procedures to meet the requirements. Check them out by clicking the link below and get your agency in “compliance order” by the end of March.

‘Til next time, wishing you every success in your business ventures,

Rosy Sullivan
Director | College Principal

Supervision Guidelines

Obtain a working document to meet your property agency requirements in NSW

Package includes:

- Customisable Word File
- Excel spreadsheets

acop.edu.au →

UPCOMING WEBINARS

3 HOUR COMPULSORY CPD

Strata Management	TUE 2ND FEB
Sales & Leasing	TUE 16TH FEB
Strata Management	TUE 9TH MAR

3 HOUR ELECTIVE CPD

Property Sales	TUE 9TH FEB
Commercial Sales & Leasing	THU 11TH FEB
Strata Management	TUE 23RD FEB

Please note: All Webinars will be held via Zoom and run from 9am - 12pm unless stated otherwise.

UPCOMING FACE TO FACE COURSES

COMPULSORY SALES & LEASING AND ELECTIVE CPD - NSW

Property Sales Newcastle	THUR 28TH JAN	Residential Prop Mgmt Castle Hill	MON 22ND FEB
Property Sales Sydney CBD	FRI 29TH JAN	Residential Prop Mgmt Terrigal	TUE 23RD FEB
Residential Prop Mgmt Sydney CBD	FRI 5TH FEB	Property Sales Tweed Heads	MON 1ST MAR
Property Sales Parramatta	THUR 11TH FEB	On-site Property Mgmt Ballina	TUE 2ND MAR
Property Sales Liverpool	TUE 16TH FEB	Residential Prop Mgmt Ballina	TUE 2ND MAR
Property Sales Dee Why	THUR 18TH FEB	Property Sales Orange	TUE 9TH MAR
Property Sales Sydney CBD	MON 22ND FEB	Property Sales Dubbo	WED 10TH MAR

Two 3-hour sessions. 9am - 12pm then 1pm - 4pm unless stated otherwise

COMPULSORY & ELECTIVE STRATA CPD - NSW

Strata Management Sydney CBD	FRI 19TH FEB	Strata Management Sydney CBD	WED 17TH MAR
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Two 3-hour sessions. 9am - 12pm then 1pm - 4pm unless stated otherwise

ASSISTANT AGENT - CERTIFICATE OF REGISTRATION

Real Estate and Stock & Station Sydney CBD	1ST -4TH FEBRUARY
Real Estate and Stock & Station Castle Hill	15TH -18TH FEBRUARY

Units taken from nationally accredited training qualifications from the CPP41419 Certificate IV in Real Estate Practice.

Strata Management Sydney CBD	15TH -18TH FEBRUARY
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Units taken from nationally accredited training qualifications from the CPP40516 Certificate IV in Strata Community Management.



From the office

What a start to a new year – Happy 2021 to all.

The year commenced with lockdown for some parts of Greater Sydney, which affected five of the ACOP team and we've also all been planning for how to best provide our training services to our students in the continuing pandemic. But here we are heading towards the end of January and it's all systems go. We commenced our face-to-face training classes on 11th January with a wonderful group of fresh young faces in the Certificate of Registration program. And when we say young, we had quite a few school leavers, as can be expected at this time of the year. The energy and the enthusiasm for future careers was really exciting for us all to experience. And of course CPD classes have commenced in every form, from face-to-face both here in our CBD office and also in regional and outer metropolitan areas; interactive webinars covering all the Compulsory and the Elective requirements; and naturally the online CPD sessions have continued to operate right through the Christmas/New Year holiday season. It was super pleasing to return to the office on 4th January and find that so many of our students had taken the opportunity over the holiday break

to complete their assessments for their licensing and management programs – it is certainly keeping the trainer/assessors extremely busy in getting these marked and returned to students.

And the team has grown over the holiday break, with two new people joining the team in training administrator roles. Both Tasmiah and Michala join ACOP with extensive experience from international training colleges, and after only 2 weeks, it feels as if they were meant to be here always – so a huge welcome to them both. And naturally, we have had the opportunity for cake, with our youngest team member Brie turning 18 just a few days back into the working year. So in true ACOP style, we had cake on her actual birthday and zoomed her in for the experience and then when she was in the office the next day, we had another cake – just to make sure that she realised that she is now well and truly an adult.

UPCOMING FACE TO FACE COURSES

PROPERTY LICENSING

Commercial Sales & Leasing SYDNEY CBD	11 TH - 12 TH MAR
Property Sales SYDNEY CBD	8 TH - 10 TH FEB
Stock & Station Agency Practices SYDNEY CBD	8 TH - 10 TH MAR
Strata Management Agency Practices SYDNEY CBD	23 RD - 25 TH FEB
Auctioneering SYDNEY CBD	1 ST FEB
Property Mgmt Business Development & NCAT SYDNEY CBD	18 TH - 19 TH MAR

PROPERTY LICENSING

Financial Management (strata) SYDNEY CBD	11 TH - 12 TH MAR
Trust Accounting + Insurance SYDNEY CBD	FRI 26 TH FEB
Trust Accounting SYDNEY CBD	22 ND - 23 RD MAR
Property Management SYDNEY CBD	24 TH - 26 TH MAR
Business Broking SYDNEY CBD	15 TH - 16 TH MAR

Units taken from nationally accredited training qualifications from the CPP41419 Certificate IV Real Estate Practice and CPP40516 Certificate IV in Strata Community Management.

FINANCE & MORTGAGE BROKING COURSES

Certificate IV in Finance & Mortgage Broking SYDNEY CBD	8 TH - 10 TH FEB
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Diploma of Finance & Mortgage Broking Management <i>(Upgrade Program - Must hold Certificate IV in Finance & Mortgage Broking)</i> SYDNEY CBD	11 TH - 12 TH FEB
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Units taken from nationally accredited training qualifications from the FNS Financial Services Training Package.

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