

Professional conduct

This bulletin explains the professional conduct expectations of brokerages and real estate agents, under the Code of Ethics regulation.

Summary

All agents play a role in supporting the reputation of the sector generally, and in maintaining public confidence in the regulation of the sector.

The Code of Ethics regulation is principle-based. Professional conduct expectations include:

- Acting with integrity, honesty, good faith, and courtesy,
- Providing conscientious, courteous, and responsive service to clients,
- Promoting and protecting the best interests of clients,
- Avoiding conflicts of interest, and disclosing conflicts if they arise,
- Maintaining the confidentiality of client information,
- Dealing appropriately with self-represented parties, and
- Respecting other agent's client relationships.

Agents are expected to conduct themselves in a professional manner in fulfilling their duties and obligations under the legislation and in fulfilling their obligations to clients.

Integrity, honesty, good faith, etc.

Agents are expected to act with courtesy, honesty, good faith, and integrity in relation to every person the agent deals with in the course of carrying on business.

What does that mean?

Honesty: Acting honestly is more than being technically accurate in a statement. It also means not omitting or failing to share relevant information. Acting honestly is being candid and forthright.

Integrity: Acting with integrity means engaging in conduct that is consistent with ethical principles. Acting with integrity is what keeps someone from compromising values, even when that makes things more difficult. Integrity aligns behaviour with beliefs and values.

Good faith: Acting in good faith involves acting reasonably, refraining from actions that could cause harm to any party, and avoiding abusive and arbitrary behaviour. Acting in good faith is exemplified through an agent's commitment to fulfill their duties and obligations with honesty and integrity.

Courtesy: Acting with courtesy is demonstrated by showing respect for others, being polite, and avoiding rude or provocative behavior in all interactions.

RECO Bulletins are a series of publications developed to provide helpful information to brokerages and real estate agents about their duties and obligations under the *Trust in Real Estate Services Act, 2002 (TRESA)* and its regulations. Bulletins may be updated as required. Please check the RECO website to ensure you are referencing the most current version.

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Conscientious and competent service

In carrying on business, agents must provide conscientious, courteous, and responsive service to their clients. They must also demonstrate reasonable knowledge, skill, judgment, and competence in providing those services and in providing any opinions or advice.

Conscientious service means exercising care in doing what you are supposed to do and doing it thoroughly and correctly. It includes being reliable, setting and meeting high standards, holding yourself accountable, and demonstrating your attention to every aspect of the services you provide to your client.

Competence is the ability to do something well or effectively. Competence starts with completing the registration education program and is established and enhanced through mandatory continuing education courses, other ongoing professional development, and practical experience gained over time. Knowledge, skill, judgment, and competence are strengthened through a combination of ongoing learning and practical experience.

Competence also requires an appreciation of one's strengths, including areas of expertise, and one's limitations, including a lack of expertise in particular subject matter.

If an agent is not able to provide competent service, the agent has an ethical obligation to advise the client or potential client to obtain services from another person. This might arise, for example, if a buyer is interested in a property type or geographic area, and the agent lacks the necessary knowledge and skill to deal with the matter.

Promoting and protecting the best interests of clients

Agents have an obligation to promote and protect the best interests of their client. A client relies on their agent to guide them through decisions on what is, for many, the most significant financial transaction of their life. When it is personal real estate, it is about a "home," something more than just a property or real estate asset.

The client's interests — not the agent's — must come first.

When promoting and protecting a client's best interests, it is not enough to simply provide information, opinions, or advice. Agents must also take steps to satisfy themselves that the client understands the information being provided and how it might impact their decisions. To help in verifying a client's understanding, an agent might ask the client to explain in their own words, the advice the agent is giving them.

Promoting and protecting a client's best interests is also relevant when providing required disclosures. It's important to have a discussion with the client to explain the information being disclosed, why it matters to them, and how it might affect their decisions. This is the basis of informed decision-making.

If there is any reason to believe that the client does not understand the information or how it might affect their decisions, an agent should consider recommending to the client that they seek independent advice. In some cases, a client may benefit from receiving help through an interpreter, or from their lawyer or a family member.

Avoiding and disclosing conflicts of interest

Promoting and protecting the best interests of a client includes avoiding any conflict or potential conflict of interest. A conflict or potential conflict impacts the agent's ability to represent the client and puts the client at risk.

In the event a conflict or potential conflict does arise, no further services can be provided until the required disclosure is made, the client has been advised to seek independent professional advice, the agent has taken steps to ensure the client has demonstrated a reasonable understanding of the conflict, and, if the client agrees to continue receiving services, the necessary consent is obtained.

While representation and services may be permitted if consent is obtained, an agent should exercise caution in continuing to act for a client where there is an acknowledged conflict of interest.

Confidentiality

Maintaining confidentiality is a key component of a client relationship and the duty of confidentiality continues after the client relationship ends.

Brokerages and agents must protect the confidentiality of client information. Confidential client information cannot be disclosed unless the client has provided written consent, or the disclosure is required by law.

Personal information is also protected under federal privacy legislation. Agents must generally obtain a person's consent when they collect, use, or disclose a person's personal information. Personal information can only be used for the purpose for which it was collected and the person to whom the information relates must have consented to the information being used for that purpose.

Dealings with self-represented parties

Agents are not permitted to provide services, opinions, or advice to a self-represented party in respect of a trade. Agents must be cautious not to encourage a self-represented party to rely on their knowledge, skill, or judgment in respect of a trade. This includes not encouraging or advising a person to be a self-represented party.

Before engaging with someone who is self-represented in a transaction, an agent must explain to the self-represented party that they or their brokerage represents another person involved in the transaction. A self-represented party should also be cautioned that any information they share, including confidential information, will be shared with the client.

The *RECO Information Guide* and the *Information and Disclosure to Self-represented Party* form must be provided before an agent provides any assistance to a self-represented party.

Dealing with clients of other agents

As professionals, agents are expected to respect the relationship between other agents and their clients. An agent must not communicate directly with another agent's client unless they have the written consent of the agent representing that client to do so. This applies when an agent knows or ought to know that the person is a client of another agent.

Prohibited conduct

UNPROFESSIONAL CONDUCT

Agents are prohibited from engaging in any act or omission that could reasonably be regarded as being disgraceful, dishonourable, unprofessional, or unbecoming an agent.

Agents are also prohibited from engaging in any conduct that is likely to bring the sector into disrepute or undermine public confidence in the regulation of brokerages and agents.

Many regulated professions are subject to similar prohibitions.

NO COUNSELING CONTRAVENTIONS

Agents are prohibited from counseling, advising, or knowingly assisting a person to contravene the legislation or any other law applicable to a trade in real estate or relevant to carrying on business as a brokerage or agent.

MISREPRESENTATION, ETC.

Agents must make best efforts to ensure that any representations are accurate and are not misleading. Agents must not engage in or be a party to misrepresentation or any unethical practice.

FRAUD

Agents must not engage in or be a party to fraud.

INTIMIDATION, ETC.

Agents must not engage in conduct that is intimidating, coercive, abusive, or that constitutes undue pressure or harassment.

NO DISCRIMINATION, ETC.

Agents must not treat any person in a manner that would contravene the *Ontario Human Rights Code*. The *Ontario Human Rights Code* is a provincial law that gives everybody equal rights and opportunities without discrimination in areas such as jobs, housing, and services. One of the Code's goals is to prevent discrimination.

Related information

Bulletin No. 1.2 Duty to comply with legislation

Bulletin No. 2.4 Dealing with a self-represented party

Bulletin No. 2.5 Confidentiality

Bulletin No. 3.5 Conflicts of interest