

LEASING AGENT SERVICES

Reference:	NZPGP 602 Leasing Agent Services
Published Date:	25 June 2021
Effective Date:	1 July 2021
Owner:	Manager Professional Standards

Table of Contents

1.0	Introduction	1
1.1	Scope of this Guidance Paper	1
1.2	Status of Guidance Notes	1
1.3	Client	1
2.0	Professional Conduct	1
2.1	Standards of a Technical Nature	1
2.2	Code of Ethics	1
2.3	Legislation	1
3.0	Client Relationship	2
3.1	Clients Instructions and Best Interests	2
3.2	Confirm Instructions in Writing	2
3.3	Frequent and Regular Communication	2
3.4	Act Promptly and Efficiently	2
3.5	Notice of Illegal or Unethical Concerns	2
4.0	Leasing Agency Appointments	2
4.1	Claim to Act	2
4.2	Methods of Acting	2
4.3	Act for Tenant	2
4.4	Not Claim to Act Unless Appointed	2
4.5	Not Contact Client of Sole Agent	3
4.6	Not Undermine Another Member	3
4.7	Not Claim Agency Where None Exists	3
4.8	Conflict of Interest	3
5.0	Leasing Agency Practice	3
5.1	Seeking to Nominate a Tenant	3
5.2	Accepting Nominations	3
5.3	Written Nominations	3
5.4	Nominations from Agents Exercising Control	3
5.5	Joint Coordinating Agent	3
5.6	Tenant Introductions	3
5.7	Fee Structure	4
5.8	Consent for Inspection	4
5.9	Commercial Viability of Prospective	4
6.0	Marketing	4
6.1	'For Lease' or Other Marketing Board	4

6.2	Not Advertise Lease Without Consent	4
6.3	No Inspection Without Prior Consent	4
6.4	Property Information	4
6.5	Confidentiality	4
7.0	Other	5
7.1	Pay Fees Promptly	5
7.2	Fee on Basis of Written Agreement	5
7.3	Account to Co-ordinating Agent.....	5
8.0	Effective Date	5

Guidance Papers

Objectives

The principal objective of a Guidance Paper (GP) and Resource Pack (if applicable) is to clarify professional and industry processes, best practices, and procedures and to discuss their use and implementation.

A GP is designed to be of assistance to Members and those who use Members' services. They serve as a guide and measure of acceptable professional practice and conduct of Members.

The intention of a GP is to:

- a) provide information on the characteristics of different types of assets that are relevant to the advice.
- b) provide information on appropriate practices and their application.
- c) provide information that assists Members in exercising the judgements they are required to make in specific situations'; and
- d) convey elements of what is considered "competent professional practice" for Australian Property Institute (API) Members and "best practice" for Property Institute of New Zealand (PINZ) Members.

A GP is not intended to provide comprehensive training, instruction or prescriptive practices and procedures, or direct that a process, professional approach, or method should or should not be used in any specific instruction or situation.

Member Obligations

The Member is responsible for choosing the most appropriate approach in a matter based upon the task and instruction. It is a matter for each Member to decide the appropriate practice in any situation, and if they are unclear, seek professional advice from others, or contact the Institute(s). Members have the responsibility of deciding when it is appropriate to depart from the guidance and practices contained in a GP.

The Institute(s) do not warrant that anything contained in this, or any GP is the definitive or final statement on any issue. Members must perform their own work pursuant to their own professional expertise and experience and if required, seek additional advice which might include legal advice.

Court or Tribunal Reliance

A court or tribunal may consider the contents of any relevant GP or other document relating to a recommended professional practice published by Institute(s) in deciding whether the member acted to a standard required by law.

Currency of Publication

Case law and relevant legislation may change over time and whilst the Institutes(s) consider this GP current at the time of publication, Members and those who use Members' services should have regard to legislative changes and new rulings and if necessary, seek further advice prior to having regard to this GP.

Departure or Non-Compliance

Where a Member considers that a circumstance exists that warrants the departure from or non-compliance with any of this GP, the Member's report (or other advice) must include a statement that outlines:

- a) the reasons for the departure or non-compliance with this GP; and
- b) any impact the Members departure or non-compliance may have on the content of the report.

Members are advised to seek legal and/or other advice before departing from practice recommended in a GP.

Enquiries

If any Member considers any information or advice in this GP to not be accurate or up to date, or wish to raise any issue for consideration arising from the contents of this GP, please refer this to

PINZ contact: standards@property.org.nz

1.0 Introduction

1.1 Scope of this Guidance Paper

This GP applies to Members that provide Leasing Agent Services and sets out the matters to be addressed undertaking this activity.

Members providing leasing agent services must do so to the standard of professionalism and skill required and consistent with membership of the Institute(s) and with compliance to law.

This GP should be read in conjunction with other relevant GPs, and any other relevant publications from the Institute(s) that are either over-arching or directly applicable to the issues raised in this GP.

1.2 Status of Guidance Notes

Guidance notes are intended to embody recognised 'good practice' and therefore may (although this should not be assumed) provide some professional support if properly applied. While they are not mandatory, it is likely that they will serve as a comparative measure of the level of performance of a Member. They are an integral part of the Valuation and Property Standards Manual.

1.3 Client

In all cases, 'client' shall mean building owner, landlord, lessee, or their appointed representative.

2.0 Professional Conduct

2.1 Standards of a Technical Nature

Members shall abide by any principles or standards of professional conduct of a technical nature laid down in the By-Laws of the Institute's Constitution.

2.2 Code of Ethics

Members must always conduct themselves in accordance with the standards set out in the Institute's Code of Ethics.

2.3 Legislation

Members shall act in accordance with relevant legislation.

3.0 Client Relationship

3.1 Clients Instructions and Best Interests

Members shall always act in the best interests of the client and in accordance with the client's instructions.

3.2 Confirm Instructions in Writing

Upon appointment to act for the client, the Member shall immediately confirm in writing to the client the basis of the appointment, the scope of services the Member will provide to the client, and the basis of the fee structure for those services unless covered under a previous agreement.

3.3 Frequent and Regular Communication

The Member shall on a frequent and regular basis, or as agreed between Member and client, communicate to the client the progress being made in respect of the instructions issued to the Member.

3.4 Act Promptly and Efficiently

The Member shall at all times act promptly and efficiently in the servicing of the client's instructions.

3.5 Notice of Illegal or Unethical Concerns

If receiving an instruction from the client, which the Member believes to be illegal or unethical, the Member shall communicate such concerns to the client in writing as soon as possible.

4.0 Leasing Agency Appointments

4.1 Claim to Act

No Member shall claim to act for a client unless appointed in writing to do so.

4.2 Methods of Acting

The Member, when accepting an appointment to act as Leasing Agent for the client shall act generally by one of the following methods:

- a) Sole agency or exclusive agency appointment
- b) Co-ordinating or Joint Agency
- c) General or open agency appointment

4.3 Act for Tenant

Where the Member is appointed to act for a tenant, their client shall be deemed to be the tenant and the Member shall not seek a fee from anyone other than the tenant and shall disclose to all parties that they act for the tenant.

4.4 Not Claim to Act Unless Appointed

No Member shall claim to act for a tenant unless appointed in writing to do so.

4.5 Not Contact Client of Sole Agent

No Member shall directly contact the client of another agent where that agent has been appointed to act based on either a sole or exclusive or a co-ordinating agency (unless they are also the joint coordinating agent) or have unequivocal consent from the appointed agent to do so.

4.6 Not Undermine Another Member

No Member shall seek to undermine the reputation or the ability of another Member.

4.7 Not Claim Agency Where None Exists

No Member shall claim to have an agency appointment in the knowledge that no such appointment exists.

4.8 Conflict of Interest

The Member must disclose to their client any actual or potential conflict of interest that may arise because of their appointment.

5.0 Leasing Agency Practice**5.1 Seeking to Nominate a Tenant**

Any Member seeking to nominate a tenant for a property shall do so to the appointed agent unless the property is available by way of an 'open' or 'general' agency and then the nomination shall be to the client.

5.2 Accepting Nominations

Members as sole or coordinating agents may accept nominations from outside agents at their discretion, but generally shall accept nominations of tenants with whom they have had no prior contact.

5.3 Written Nominations

Members shall require all nominations in writing. Upon receipt of written nomination from an Introducing Agent, Members shall immediately confirm acceptance to the Introducing Agent in writing.

5.4 Nominations from Agents Exercising Control

In general, Members shall accept nominations only from those agents that can demonstrate, or exercise control over the nominated tenant, by way of a physical inspection of the property.

5.5 Joint Coordinating Agent

Where appointed as a joint coordinating agent, the Member will confer with their joint agent prior to accepting any nominations from outside agents.

5.6 Tenant Introductions

Where a Member has introduced a tenant to one or more properties by way of nominations or direct introduction, and is not appointed to act for the tenant, that Member

must act in the best interest of the lessor and must not advise the tenant or proffer any advice that may be contrary to the lessor's best financial or other interests.

5.7 Fee Structure

When nominating or accepting nominations, Members shall confirm the basis of the fee structure applicable for the nomination if successful.

5.8 Consent for Inspection

No Member shall inspect a property with a tenant without the consent of the client or the appointed agent.

5.9 Commercial Viability of Prospective

Lessees Where a Member has reasonable grounds for questioning the solvency or commercial viability of any party introduced as a prospective lessee of the property, the client should be so advised.

6.0 Marketing

6.1 'For Lease' or Other Marketing Board

No Member shall place a 'For Lease' or other marketing board on a property without client consent, or where another agent has been appointed as sole or co-ordinating agent.

6.2 Not Advertise Lease Without Consent

No Member shall advertise a property as being for lease without client consent.

6.3 No Inspection Without Prior Consent

No member shall conduct an inspection of a tenancy without the prior consent of the tenant in occupation.

6.4 Property Information

Members shall present property information based on fact and not on assumption and shall endeavour to provide full details of the premises to be leased and the lease terms.

6.5 Confidentiality

Despite the absence of any specific confidentiality provision within the Agency Agreement, a Member shall not issue any press release without the client's written agreement. Any agreement so granted is a specific agreement to the form of words or content that has been submitted to the client for approval.

7.0 Other

7.1 Pay Fees Promptly

Members shall pay fees to nominating agents promptly following payment of their own fees by the client.

7.2 Fee on Basis of Written Agreement

Members must base their fees based on the written agreement with their client and must not seek to knowingly overcharge or take false profits.

7.3 Account to Co-ordinating Agent

When acting as the nominating agent, unless instructed otherwise by the sole or co-ordinating agent, Members must account to the sole or co-ordinating agents for their fees and not to the client direct.

8.0 Effective Date

This GP is applicable from 1 July 2021. Earlier adoption is permitted and encouraged.

This GP replaces *ANRPGN 10* which was in effect from 1 October 2009 and was withdrawn on 30 June 2021.