

GUYANA REAL ESTATE SERVICES ASSOCIATION CODE OF ETHICS

This code applies to estate agency work in Guyana undertaken by a person or organisation who has agreed or is required to comply with it for the marketing or residential and commercial properties located in Guyana.

1) GENERAL OBLIGATIONS

- 1) As a member of Guyana Real Estate Services Association, it is compulsory that you comply with this Code of Practice. You must comply with all laws (as amended, re-enacted or substituted with or without modification from time to time) relating to residential and commercial estate agency and in particular the Statistics Act 1965. (or any successor legislation), Competition and Fair-Trading Act (CFTA) of 2006, Anti-Money Laundering And Countering the Financing of Terrorism (Amendment) Act 2022, the Consumer Affairs Act 2011) and all other current and relevant primary or secondary legislation.
- 2) You must register with the appropriate authority (Financial Intelligence Unit (FIU) in accordance with the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009
- 3) You must ensure that all staff are fully conversant with all aspects of this Code of Practice and their legal responsibilities. Such staff must observe this Code and their legal responsibilities in all their dealings with consumers. Staff must have a good working knowledge of the law of estate agency work, the law of contract, and all relevant estate agency legislation, and familiarity with the basic conveyancing and mortgage application processes.
- 4) It is your responsibility to verify the identity of customers, the source of funds transacted over financial networks and the close monitoring of suspicious transactions of any kind.
- 5) You should provide a service to both buyers, sellers and tenants consistent with fairness, integrity and best practices within the real estate industry; and you should not seek business by methods that are dishonest, deceitful, manipulative or involve misrepresentation. You must avoid any course of action that can be construed as aggressive behaviour or harassment.
- 6) You must treat your clients equally regardless of their race, religion or belief, sex, sexual orientation, gender recognition, disability, pregnancy or maternity, or nationality. Unlawful discrimination includes giving less favourable treatment because someone is perceived to have one of these personal characteristics or because they are associated with a person with such a characteristic.
- 7) You should take special care when dealing with clients who might be disadvantaged because of factors such as their age, infirmity, lack of knowledge, lack of linguistic or numeracy ability, economic circumstances, bereavement or do not speak English as their first language.

- 8) You must not release or use confidential information for any purpose other than that for which it was given by consumers during the process of selling or buying residential or commercial property without the consumer's permission, unless legally required to do so. Personal data should be processed in line with relevant data protection legislation and your business's privacy notice.
- 9) Save where you are required to delete such records sooner under applicable law, you must keep clear and full written records of all transactions for a period of 6 years and produce them when required by the Ombudsman and/or any enforcement authority, such as the Guyana National Bureau of Standards (GNBS).
- 10) As a member of the Guyana Real Estate Services, you must not take, or be involved in any action which would bring the association into disrepute.
- 11) You must have available, free of charge, copies of this Code of Practice and Consumer Guide to give to consumers in all your offices.

2. Duty of Care and Conflict of Interest

- 1) You must treat all clients involved in the proposed sale or purchase including sellers and buyers fairly and with courtesy.
- 2) When instructed, your duty of care is to the client. You must offer suitable advice to meet the client's aims and needs. Where the law and the interests of the client conflicts, adherence to the law must prevail.
- 3) You must avoid any conflict of interest. You must disclose at the earliest opportunity in writing to consumers or any relevant third party any existing conflict of interest, or any circumstances which might give rise to a conflict of interest.
- 4) If you intend to offer or recommend to consumers surveying, financial, investment, insurance, conveyancing or other services, or those of an associate or connected person, where the service provider rewards you for the referral by way of money, gifts or any other form of benefit, you must disclose this arrangement to consumers without delay.
- 5) Consumer requirements are key, and this applies to the buyer, seller and as well as to the person renting. You should complete a consumer fact find to ensure that any specific requirements are taken into consideration.
- 6) You must tell the seller if you intend to offer buyers surveying, financial, investment, insurance, conveyancing or other services or those of an associate or connected person in connection with that purchase, before the seller has committed any liability to you. Thereafter, you must inform the client in writing or in the memorandum of sale, as soon as reasonably possible after you find out that a buyer, who has made an

offer, has applied to use one or more of these services in connection with that purchase.

- 7) If your firm is instructed to sell a property and you, an employee or an associate (or an associate of the employee of your firm) is intending to buy it you must, before negotiations begin, give all the relevant facts, in writing, to the seller; and as soon as possible to the seller's representative.
- 8) If you, an employee or an associate is intending to buy a property which your firm is instructed to sell, that person must take no further direct part in the sale of that property on behalf of your business.
- 9) If you are selling a property that is owned by you, an employee or an associate (or an associate of an employee) or in which you, an employee (or an associate of an employee) has an interest, you must, before negotiations begin, immediately make this known, in writing. The person who is selling should not participate in the direct sale of the property.

3. Advertising for New Business (Canvassing)

- 1) You must not use unfair methods when seeking new business. Advertising material must be truthful, not misleading and fully explain who the message is from, its purposes and how the consumer's interest can be followed up.
- 2) In your canvassing material, if you seek to use a property you have recently sold and where completion has occurred, you must obtain the new owner's prior permission in writing.
- 3) Fees must be shown inclusive of VAT alongside a statement confirming that VAT is included.
- 4) If a consumer is interested in using your services, you must draw to their attention, and explain before they are committed to another contract, the potential of paying fees to more than one agent where another agent has been previously instructed.
- 5) You must take decisions on the content of your advertisements independent of your competitors, such as how you advertise your fees, charges or any additional costs, or any special offers, discounts or other value offering.
- 6) You must act promptly if a consumer asks you to stop canvassing them.

4. Market Appraisal

- 1) When you give advice to someone selling their property, that advice must be in the consumer's best interests and within the law. The potential benefits and disadvantages of any recommended method of sale must be explained in clear terms and take into account consumer requirements.
- 2) Any figure you advise, either as a recommended asking price or as a possible selling price must be given in good faith and must reflect available information about the property and current market conditions and must be supported by comparable evidence. You must never deliberately misrepresent the market value of a property.
- 3) Any evidence relating to comparable of similar properties in a similar location must be retained on file for future reference.
- 4) You must keep your marketing strategy under regular review with your client.
- 5) For the buying or selling of freehold, leasehold, commonhold or managed freehold properties you should make the client aware that they should appoint an independent legal advisor i.e., a Lawyer, to obtain material information required and to provide legal guidance and required services such as agreement of sale and conveyance.

5. Instructions, Terms of Business, Commission and Termination Instruction

- 1) You must, at the point of instruction, inform your client in writing that you are a Member of the Guyana Real Estate Services Association (GRESA) and subscribe to this Code of Practice.
- 2) You must not directly or indirectly harass any person in order to gain instructions, nor must you repeatedly try to gain instructions in a way likely to cause offence.
- 3) You must not instruct other agencies to assist you in selling a property without the seller's permission. If the seller gives permission, as the instructing agent, you are liable at law for the actions of the sub-instructed agent and will be held responsible for any failures to comply with this Code of Practice by that sub-instructed agent even if that sub-agent is not a member of the Guyana Real Estate Services Association (GRESA)
- 4) If you are instructed as a sub-agent or share listings via a website, you must continue to act in accordance with all relevant provisions of this Code of Practice.
- 5) You should take reasonable steps to satisfy yourself that the seller is entitled to instruct you (such as obtaining title information from the Deeds Registry; declaration of trust; deed of variation; power of attorney) and to sign on behalf of all co-sellers

- 6) In accordance with the , Anti-Money Laundering And Countering the Financing of Terrorism (Amendment) Act 2022, you must undertake Customer Due Diligence and anywhere appropriate Enhanced Due Diligence, on the seller before you establish a business relationship. Should you have suspicion, knowledge or reasonable ground to suspect that money laundering is taking place, you must report this in accordance with money laundering policy and procedures. You must keep records of your Customer Due Diligence checks for six years from the date of the transaction.

6. Signing

- 1) You must give your client written confirmation of their instruction for you to act in the buying or selling of property on their behalf. You must give the client written details of your Terms of Business including your fees and charges before they are committed or have any liability towards you. You must sign and date your Terms of Business before they are given to your client. The client must be given sufficient time to read them before signing and agreeing to instruct you. The client should be given a copy, signed by both parties, to retain.

7. Fair Contracts

- 1) Your Terms of Business and your contract must be consistent with the provisions of this Code of Practice and comply with the Consumer Affairs Act 2011)
- 2) Your Terms of Business should be written in plain and intelligible language. You must take care to ensure your client understands the terms and conditions fully and that the understand the terms and definitions used in the document.

8. Fees and Charges

- 1) All fees and additional costs must be included in your Terms of Business. They must be fully explained, clearly and unambiguously stated in writing, along with an explanation of the specific circumstances in which those fees and costs will become due, before the client is committed to the contract.
- 2) Where the fee is a percentage, it must be quoted inclusive of VAT. The example amount should be based on the asking price. However, you must make it clear that, should the selling price be higher or lower than the asking price, your commission fee will be correspondingly higher or lower.
- 3) Where you charge a fixed fee you must state the actual amount payable inclusive of VAT in the contract and ensure that the client understands that the fee will not vary whatever the sale price.
- 4) Except for any previously agreed additional costs, commission fees will become due on exchange of contracts or agreement of sale.

- 5) Where your Terms of Business include options for sellers to use associated and/or recommended services (such as conveyancing), sellers should be presented with the opportunity to actively opt-in to use the service. Requiring sellers to actively opt-out of any additional or recommended service should be avoided. Charges made for not using a service must be disclosed in accordance with the Guyana National Bureau of Standards' Guidance on Transparency of Fees and cost.
- 6) In the circumstances where a buyer may become liable for your fees, this liability must be communicated at the earliest opportunity such that in all forms of media, the property asking price is accompanied by a statement that 'buyer's fees apply' and that websites allow for a click-through to an information pack and FAQs. Appropriate arrangements should be made to provide the same information where non-electronic access is present. The information pack should have 'key features' of the approach as the first page and include a full explanation of all fees and additional costs, the circumstances upon which they become due and advise that by paying your fee, that amount may be considered as part of the chargeable consideration for the property and be included in the calculation for the Guyana Revenue Authority compliance documents
- 7) At the time of the termination of the instruction, you must explain clearly in writing any continuing liability the client may have to pay you a commission fee and any circumstances in which the client may otherwise have to pay more than one commission fee. Your explanation must include a list of parties that you have introduced to the property
- 8) Your action in pursuing a commission fee or additional charges must be proportionate and reasonable and not intimidatory.
- 9) Although nothing precludes you taking court action to pursue payment of your commission account, it is generally expected that you will not take court action when a complainant has referred the matter to the Ombudsman. If however you do pursue payment of your commission fee through the courts you must agree to the Ombudsman considering any outstanding service-related complaints after the court action has been determined.

9. Subsequent Changes

- 1) Any subsequent changes to the Terms of Business must be:
 - Mutually agreed by you and your client.
 - Promptly confirmed in writing.
 - Where appropriate, contained in a new Terms of Business signed and dated by your client.

10. Marketing and Advertising

- 1) You must not put any property on the market for sale without permission from the seller
- 2) For Sale Boards - You must not erect any form of estate agency board at a property unless you have been instructed to market that property.
- 3) You can only erect an estate agency board with the specific permission of the seller. Where the property is leasehold or commonhold, you should advise the seller to check for any restrictions within their lease or commonhold community statement and obtain their response before erecting the board.

11. Duration and Termination

- 1) Your Terms of Business must clearly state the minimum duration of your instruction, and how it can be terminated by either party. When a contract is signed by a client during a visit by you to their home, at their place of work, away from your premises or online, then they must be given a right to cancel that contract within 14 calendar days after the day of signing.
- 2) The client should be given a 'Notice of Right to Cancel'. Where the client wishes the contract to begin before the end of the 14-day cancellation period you must obtain confirmation of that request in writing. Where you intend to recover costs incurred during this cancellation period you must obtain the client's agreement in writing to those specific costs before work commences.
- 3) If you intend to charge the client a fee or recover costs for terminating the instruction, you must make this clear in your Terms of Business and specify the amount of the fee and additional costs and their purpose. Fees and costs should reasonably reflect the activity undertaken and not include a penalty charge.
- 4) On receipt of the client's instruction (includes executor, trustee, person holding power of attorney), or on your own decision, to terminate your instruction, you must promptly give the client written confirmation that you are no longer acting for them, confirm the actual date of termination, and give details of any fees or additional costs the client owes you.
- 5) Your contract must allow for the required notice of termination to be given before the end of the term, such that termination by the client can occur at the expiry of the minimum term.

12. Fee Entitlement and Client Liability

- 1) At the time of receiving instructions from a seller you must:
 - a) Point out and explain clearly in your written Terms of Business that you may be entitled to a commission fee if that seller terminates your instruction and a memorandum of sale is issued by another agent to a buyer that you have introduced within 6 months of the date your instruction ended and where a subsequent exchange of contracts takes place. If no other estate agent is involved this time limit extends to 2 years.
 - b) Advise that the seller may be liable to pay more than one fee if they instruct another agent during or after the period of your agency.
 - c) Ask the seller if they have previously instructed another agent in respect of the property, and if advised yes:
 - d) ask to see a copy of the previous agency agreement to ensure that by instructing you, the seller will not be in breach of contract (note that if the seller is unable or refuses to supply a copy, you must advise, in writing, that you are unable to advise as to whether the seller is in breach of their agreement with the previous agent) here again you must specifically advise of the possible liability to pay more than one agent
 - e) Establish if an interested party has previously viewed through another agent
 - f) If an interested party has previously viewed through another agent and makes an offer through you, you must disclose this information and refer the sale back to that agent as they will be deemed to have introduced the buyer

13. Viewing and Access to Premises Viewings

- 1) You must take a seller's instructions regarding viewings, specifically whether or not they should be conducted by you.
- 2) You must record any viewings that have been arranged for that property, feedback from those viewings and pass this to the seller within an agreed timescale.
- 3) Before arranging any viewing, you must tell the buyer if you are aware of an offer that has already been accepted subject to contract by the seller.
- 4) When you know the property has been or is being marketed by another agent you should establish if your buyer has previously viewed the property through that or any other agent.

14. Access to Premises

- 1) Unless otherwise instructed by the seller, if you hold the keys to a property, you must accompany any viewings of that property. If you are arranging for someone to view an occupied property, you must agree the arrangements with the occupier (including any tenants) beforehand, wherever possible.
- 2) You must make sure that all the keys you have are coded and kept secure. You must maintain records of when you issue keys and to whom, and when they are returned. These records must be kept secure and separate from the actual keys. You must only give keys to people providing you with satisfactory identification. If access to a property is required by a person on behalf of the buyer (e.g., a surveyor, builder, tradesman etc) and you hold the key but are not able to accompany that person, this must be made clear to the seller beforehand and the seller's express permission obtained before you hand over the key.
- 3) You must exercise reasonable diligence to ensure that, after any visit by you, a property is left secure.

15. Offers

- 1) You must tell sellers as soon as is reasonably possible about all offers that you receive at any time until contracts have been exchanged unless the offer is an amount or type which the seller has specifically instructed you, in writing, not to pass on. You must confirm each offer in writing to the seller, and to the buyer who made it, within two working days.
- 2) In accordance with the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2022, you must undertake Customer Due Diligence and, where appropriate Enhanced Due Diligence, on the buyer before a binding contract has been entered into (for example, exchange of contracts). Should you have suspicion, knowledge or reasonable ground to suspect that money laundering is taking place, you must report this in accordance with your money laundering policy and procedures.
- 3) You must keep records of your Customer Due Diligence checks for five years from the date of the transaction.
- 4) You must keep a written or electronic contemporaneous record of all offers you receive including the date and time of such offers and the seller's response.
- 5) You cannot make it a condition of passing on offers to the seller that the buyer must use services offered by you or another party. You must not discriminate, or threaten to discriminate, against a buyer because that person declines to accept that you will (directly or indirectly) provide related services to them. Discrimination includes but is not limited to the following:
 - a) Failing to tell the seller of an offer to buy the property.

- b) Telling the seller of an offer less quickly than other offers you have received.
- c) Misrepresenting the nature of the offer or that of rival offers.
- d) Giving details of properties for sale first to buyers who have indicated they are prepared to let you provide services to them.

16. Continuation of Marketing

- 1) When an offer has been accepted subject to contract you must take and confirm the seller's instructions as to whether the property should be withdrawn from the market or continue to be marketed. In the latter case, you must advise the buyer in writing and ensure your marketing clearly explains that an offer has been accepted subject to contract. The buyer must also be informed in writing should the seller later decide to put the property back on the market. You remain under the legal obligation to pass on offers.
- 2) You must keep all buyers who have recently made offers through you, and which have not already been rejected, informed of the existence of other offers you have submitted to the seller.
- 3) You must be fair and not misleading when disclosing the amount of any offers made to other buyers. Before disclosing the amount of an offer, you must advise the seller of such intention and get the seller's agreement; and you must warn all buyers who make offers that it is your practice to do so. If you do disclose any offer to one buyer, then all offers must be immediately disclosed to all buyers with a current interest in negotiations for the property.
- 4) After an offer has been accepted subject to contract, you must promptly tell that buyer if the seller accepts another offer.
- 5) By law you must not misrepresent or invent the existence, or any details, of any other offer made or the status of any other person who has made an offer. If you know that the seller has instructed a legal representative to send a contract to an alternative buyer, you must then tell your buyer in writing.

17. Financial Evaluation

- 1) At the time that an offer has been made and is being considered by the seller, you must take reasonable steps to find out from the buyer the source and availability of their funds for buying the property and pass this information to the seller.
- 2) Such information will include whether the buyer needs to sell a property, requires a mortgage, claims to be a cash buyer or any combination of these. Such relevant information that is available should be included in the memorandum of sale having regard to data protection laws.
- 3) You must put all offers to your seller client even if the buyer has not been financially qualified at that stage.

- 4) These reasonable steps must continue after acceptance of the offer until exchange of contracts and must include regular monitoring of the buyer's progress in achieving the funds required and reporting such progress to the seller.

18. Deposits

- 1) You should not generally facilitate pre-contract deposits. However, if you are instructed to do so, you must ensure that before a deposit is taken, the circumstances under which the deposit is to be held, refunded, forfeited or used towards the purchase, are clearly stated in writing, agreed by the relevant parties and a copy of the agreement provided to those parties. In each circumstance the beneficiary of the deposit (and any interest accrued) must be clearly defined.
- 2) You must not hold a deposit, or any other money belonging to a seller, buyer or person renting property, unless you are covered by adequate insurance
- 3) You must be able to account immediately for all money you are holding on behalf of a seller, renter or buyer.
- 4) You must not deduct any cost or charges from any money you hold, unless your client has given you written authority to do so. You should ensure that your client's authority is obtained at the time of the deduction or that you give your client sufficient notice prior to the deduction to object to it.

19. Between Acceptance and Exchange of Contracts

- 1) Acceptance of the offer by the seller, and until exchange of contracts you have no direct influence on such matters as the conveyancing process or the mortgage lending process. Your obligations to the client are:
 - a) to monitor progress
 - b) to assist where possible, as asked
 - c) to report information deemed helpful to bringing the transaction to fruition.
 - d) where there is a chain, routinely check the immediate transactions and communicate information helpful to bringing your client's transaction to fruition. You must keep written or electronic records of such activity.
- 2) If a buyer becomes involved in a contract race, the buyer should be told promptly of the situation and given such information which comes to your attention as is consistent with your duty to the seller and the buyer.

20. Exchange and Completion

- 1) After exchange of contracts, you must not give the buyer the keys to the property without the specific permission of the seller or the seller's legal representative.
- 2) Where you become aware that the seller must contractually vacate the property by a specific time on the day of completion, this should be conveyed to the seller at the earliest possible opportunity.
- 3) At completion, you should offer to assist with the handover of keys during your office working hours and maintain a record of what has been agreed. If the seller so requests, you must assist.

21. In-house Complaints Handling

- 1) You must maintain and operate an in-house complaints procedure. Such procedures must be in writing; explain how to complain to your business and to the Ombudsman; be readily available in each office and on your website; and be available for inspection by the Ombudsman and/or Guyana Real Estate Services Association
- 2) All verbal and written complaints must be recorded by you at the time they are made.
- 3) You must agree to deal with any properly appointed representative of a Complainant
- 4) All written complaints must be acknowledged in writing within 3 working days and a proper investigation promptly undertaken. A formal written outcome of your investigation must be sent to the Complainant within 15 working days of receipt of the original complaint. A senior member of staff, or designated complaint handler, not directly involved in the transaction should deal with the complaint. In exceptional cases, where the timescale needs to be extended beyond this limit, the Complainant should be kept fully informed, and an explanation provided.
- 5) If the Complainant remains dissatisfied, the Complainant must be told how the complaint can be further pursued within your business. This should provide the opportunity for a speedy, separate and detached review of the complaint by staff not directly involved in the transaction. Such a review must be sent to the Complainant within 15 working days.
- 6) Following the conclusion of your investigation, a written statement of your final view, and including any offer made, must be sent to the Complainant. This letter must also tell the Complainant how the matter can be referred to the Ombudsman, pointing out that any such referral by the Complainant must be made within 12 months of your final view.
- 7) You must not imply that payment of any outstanding commission fee or additional costs is a condition of a review by the Ombudsman.

22. Referrals to the Ombudsman

- 1) You must co-operate with any investigations by the Ombudsman being conducted in accordance with the Ombudsman's Terms of Reference.
- 2) You must:
 - a. comply with any award and/or direction made by the Ombudsman against you and accepted by the Complainant and which is binding upon you under the Terms of Reference; and
 - b. pay the Complainant the amount of any such award if accepted by the Complainant within the period for payment required by the Ombudsman.

23. Compliance Monitoring

- 1) You must comply with the requirements of any code compliance monitoring or compliance survey procedure used by Guyana Real Estate Services Association.
- 2) You must inform consumers that their contact details may be used in any monitoring/survey process in order to ensure compliance with data protection legislation (in particular, the General Data Protection Regulation or any successor legislation). You must also inform consumers of the lawful basis of such processing, which might be, for example, that the processing is necessary for the purposes of your legitimate business interests.

24. Non-Compliance with the Code

- 1) Cases of non-compliance will be dealt with by the Compliance Committee (CC) of the GRESA Board.
- 2) The CC will consider those cases brought to its attention by the Ombudsman, acting within the Ombudsman's Terms of Reference, where the Ombudsman considers there has been any single flagrant breach and/or any persistent breaches of the Code by any Member Agent. When considering such cases the CC will also consider whether the conduct is such that it raises issues concerning the Member's continuing registration under the Consumers, Estate Agents and Redress Act 2007.
- 3) The CC will also consider cases of non-compliance where there may have been a single flagrant breach and/or any persistent breaches of the Code, failure to complete compliance monitoring, where it is considered that the Member has brought the scheme into disrepute or where the Member has seriously failed to comply with their membership obligations in another way.
- 4) The CC will determine any disciplinary sanction in accordance with its terms of reference as defined from time to time.

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