

NZ Certificate in Real Estate (Salesperson) (Level 4)

MODULE 1 – UNIT STANDARD 26149 (V5)

**Explain licensing and the code of professional
conduct under the Real Estate Act 2008**

(Level 4, Credits 4)

Assessor Guide



TRAINING AND FURTHER EDUCATION



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PURPOSE OF THIS UNIT STANDARD

This unit standard is for people preparing for entry, or who are currently working in, the real estate industry.

People credited with this unit standard are able to:

- explain the standards of professional conduct expected of a real estate licensee.
- explain the requirements to report unsatisfactory conduct and misconduct.
- explain the obligations of a licensee to create awareness of the Act and Regulations.
- explain the rules for client and customer care.
- explain the requirements for licensing; –
- explain of the requirements for supervision of licensees; and
- explain the complaints procedure as they affect individual licensees.

ASSESSMENT INFORMATION FOR THIS UNIT STANDARD

The learner will need to complete **four (4) parts** for this unit standard.

Part 1 – 4 Questions

The learner must answer all the questions in Parts 1 - 4

This is an open book assessment. All answers must be **in the learner's own words** to show that they really understand the meaning of what they are explaining, except when required to quote from official documents such as legislation and codes of practice. Using example's is a good way to demonstrate understanding.

Copying directly from any learning resource is considered plagiarism and will lead to their assessment being invalid. Please use verbal questioning to satisfy yourself of the learner's knowledge and record this on a piece of paper and attach it to their Assessment

The Judgement will show if references to the code and sections of the Act are required to be referenced in their answers unless stipulated. They are also a reference for assessors to use to check the validity of learner answers if required.

This Unit Standard 26149 has 4 parts:

Part 1: The Real Estate Agents ACT and the Code of Professional Conduct and Client Care Rules 2012. (Commonly referred to "the Code" or "the Rules")

Part 2: Licensing Requirements and Supervision

Part 3: Client and Customer Care

Part 4: Duty to Report Unsatisfactory and Misconduct and Complaints

Assessor comments and any discussions held with a student must be recorded on the Marking Sheet.

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PART 1:

The Real Estate Agents Act and The Code of Professional Conduct and Client Care Rules 2012. (Commonly Referred To “The Code” Or “The Rules”)

Section 14 of The Real Estate Agents Act 2008 states the requirement for ‘practice rules. The ‘practice rules’ are “The Real Estate Agents (Code of Professional Conduct and Client Care) Rules 2012.

Question 1:

Explain the purpose of the Act. (PC 1.1)

Example:

The purpose of this Act is to promote and protect the interests of consumers in respect of transactions that relate to real estate and to promote public confidence in the performance of real estate agency work.

Judgement:

Answers may vary from the sample answer but must be consistent with the REA Act 2008

Question 2:

“The Real Estate Agents (Code of Professional Conduct and Client Care) Rules 2012 “have two practice rules that set out the objectives of the Rules and the possible consequences for breaches of these rules.

Explain these 2 rules and include the Rule numbers in your answer. (PC 1.1)

Example:

Rule 3.2 - Practice rules set the standard of conduct and client care that ALL licensees must adhere to when carrying out real estate agency work.

Rule 3.3 They set minimum standards that licensees must observe and are a reference point for discipline.

The consequence of breaching any rule is that a licensee could have a charge of unsatisfactory conduct or misconduct brought against them.

Judgement:

Answers may vary from the sample answer but must identify the 2 rules and a consequence of breaching them.

Question 3:

As a salesperson there are requirements that you must meet in relation to who you must give a copy of The Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012 to.

Explain who this must be given to and include the rule from the “CODE”. (PC 3.1)

Example:

Rule 8.2 requires a licensee to give them to anyone who asks for them

Question 4:

Identify the 2 Guides and explain your obligations as a Licensee, in relation to the Sections 127 and 133 of the [Real Estate Agents Act 2008](#) –

Using bullet points, include in your answer,

- the name of the guide,
- to whom and when you must give it
- what you need from the parties. (PC 3.1)

Section	Explain your obligations in relation to Section 127 and Section 133.
Section 127	<ul style="list-style-type: none">• NZ Residential Property Agency Agreement Guide• Is given to the client before they sign an Agency Agreement• Once given you must obtain a signed acknowledgement that it has been received
Section 133	<ul style="list-style-type: none">• NZ Residential Property Sale and Purchase Agreement Guide• Is given to the client and the customer before they sign a Sale and Purchase Agreement• Once given you must obtain a signed acknowledgement that it has been received

Judgement:

Answers may vary must include all 3 steps for each guide.

The Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012 sets an overarching common law principle of duty and loyalty to the client.

Question 5:

Explain the overarching common law principle of duty and loyalty to the **client** which forms the basis of standards of professional conduct. Include the rule that outlines this obligation? (PC 1.2)

Example:

Rule 6.1 - A licensee must comply with their fiduciary obligations to the licensee's client. The two parties to this relationship are the licensee's client and the licensee. which means that the licensee (whether agent, or branch manager, or salesperson (acting on behalf of the agent) is required to conduct themselves with the utmost good faith and trust in their dealings with their client. All dealings must be mutually transparent, and the agent is always accountable to the principal.

Judgement:

Answers may vary from the sample answer but must be consistent with The Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012 and identify Rule 6.1 and the obligation of utmost good faith and trust

PART 2: REAL ESTATE LICENSING REQUIREMENTS and SUPERVISION

Question 6:

Explain the licensing requirements for applying for your Salesperson's licence. (PC 5.1)

Example:

- Is 18 years or older,
- Is not prohibited from holding a licence
- Is a fit and proper person to hold a licence; and
- Has the prescribed qualifications

Judgement:

Must include all 4 criteria.

Question 7:

Explain the process the Real Estate Authority follows to comply with the advertising requirement when they receive an application from a new licensee. (PC 5.1)

Example:

When the Real Estate Agent's Authority receives a new licensee's application, they advertise the details of the applicant on their website for 14 days. This is to allow for any objections from members of the public.

Judgement:

Answers may vary but must state that the REA advertise on their website for 14 days

Question 8:

What restrictions are placed on a newly licensed salesperson?
Include the name of the Act that sets out this restriction. (PC 5.3)

Example:

Under the Lawyers and Conveyancers Act 2006 a new salesperson cannot carrying out any conveyancing work, therefore a new salesperson cannot prepare, negotiate, or offer advice on a sale and purchase agreement until they have six months' experience.

Judgement:

Answers may vary but must state that they a new salesperson cannot offer advice, prepare, or negotiate a sale and purchase agreement for 6 months under the - Lawyers and Conveyancers Act 2006

Question 9:

Sections 48-51 of the Real Estate Agents Act 2008 along with Rules from Sections 5 & 8 of the Code of Conduct outline obligations and authorities of an agent, a branch manager and salesperson's. (PC 5.3 and PC 6.1)

Select all that apply to what each party is authorised to do.				
		Agent	B/Manager	Salesperson
A	Is able to supervise salespeople	X	X	
B	Authorises a licensee to carry out real estate work for or on behalf of an agent.		X	X
C	To sell or to offer to sell land by auction without having to be registered as an auctioneer.	X	X	X
D	Can employ salespeople as independent contractors	X		
E	Is responsible for their education and keeping up to date with legislation	X	X	X
F	Authorises a licensee to carry out real estate work on their own account.	X		
G	Must be supervised			X

Judgement:

Answers must be consistent with the model answer. B can include the Agent

Question 10:

Under Section 36 and Section 44 of the Real Estate Agents Act 2008 a real estate company must meet special provisions to be entitled to hold an Agents licence.

Explain two provisions to be met by a company to hold an Agents Licence. (PC 5.1)

Example:

For a company to remain licensed as an agent, one officer of the company must hold an agent's licence at any given time.

At time of application at least 1 officer of the company must be licensed as an agent.

Judgement:

Answers may vary but must include an officer of the Company must hold an Agents License

Question 11:

An Agent also has responsibilities to supervise their salespeople, so they carry out their role competently.

Explain these as outlined in the Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012 and the Real Estate Agents Act 2008. (PC 1.1 and PC 6.1)

Include the Rule number and the Section of the Act in your answer

Example:

Under Rule 8.3 – an agent must ensure all salespeople are properly supervised and managed

Under Section 50 - the Agent is responsible for any salesperson licensee within his employment or engaged by his agency to be ‘properly managed and supervised’ by either a branch manager or agent licensee, by ‘direction or control’

Judgement:

Answers may vary but must identify Rule 8.3 or 8.4 and Section 50 of the REA Act. The explanation must be valid in explaining the Agents responsibility under the Act and Code of Conduct

Question 12:

A licensee has a responsibility regarding keeping their licence current and available as outlined in the Real Estate Agents Act 2008. (PC 5.2)

Select 3 licensee’s responsibilities regarding keeping their licence current and available

X	A	You must apply to renew your licence before it expires
	B	You can renew your licence after it has expired if you have a good reason
X	C	You are responsible for renewing your licence every year
	D	If you are late renewing your licence, then the registrar can cancel your licence without notifying you
X	E	All licences must be made available for inspection if requested

Judgement:

A, C and E must be identified

PART 3:

CLIENT AND CUSTOMER CARE AS OUTLINED IN THE REAL ESTATE AGENTS ACT AND THE CODE OF PROFESSIONAL CONDUCT AND CLIENT CARE RULES 2012.

Scenario 1:

Vishal holds a salesperson licence. He is conducting an open home for his client. One of the customers visiting the property asks him to clarify whether the downstairs bedroom in the back corner of the garage is permitted.

When obtaining the agency agreement, Vishal was not aware that the bedroom was an alteration to the property and did not question the client about the legal status of the bedroom.

Question 13:

What must Vishal say to the customer? (PC 4.1)

Example:

As Vishal is unable to competently answer the customer's question, he must admit to the customer that he does not know whether the downstairs flat is permitted and will get back to him. (Rule 6.2)

Judgement:

Answers may vary from the sample answer but must be valid and include that he does not know and will get back to him. Rule number does not have to be included

Question 14:

Explain how Vishal's conduct at the time of obtaining the agency agreement has breached at least 2 Rules from the Code relating to standards of competence, conduct and the disclosure of defects.

Include at least 2 Rules (PC 1.1 and 4.1)

Example:

Rule 5.1 – Vishal must exercise skill care and competence when carrying out real estate work, he did not do this because he did not ask enough questions.

Rule 6.2 – Vishal will not be dealing fairly with all parties if he fails to disclose the bedrooms legal status.

Rule 6.4 - As Vishal is unaware of the legal status, he may be withholding information that in fairness should be given to the customer

Rule 10.7 – Bedrooms are not normally part of the garage therefore Vishal should have asked the Client for proof of its legal status.

Judgement:

Answers may vary from the sample answer but must give valid explanations of how two Rules have been breached.

Question 15:

Explain the process for disclosing possible defects that Vishal should follow? (PC 1.1 and PC 4.1)
Relate your answer to Scenario 1. Include in your answer the relevant steps and the Rule number.

Example:

Rule 10.7 says he will need to clarify any possible defect with his client (Rule 10.7(a)) and ask for evidence that the room is legal, or make sure his customer is informed of any potential risk and recommend they seek independent expert advice if they choose. (Rule 10.7(b))

Judgement:

Answers may vary from the sample answer but must relate to the scenario and have identified Rule 10.7 and the actions required

Question 16:

If the client told Vishal the bedroom was not permitted, and not to tell any prospective customers, what are Vishal's obligations under the Rules (PC1.2 PC 4.1,)

Include the relevant rule number in your answer.

Example:

Under Rule 10.8 Vishal must not continue to act for the client because the client has asked him to with-hold information that he must disclose.

Judgement:

Answers may vary from the sample answer but must relate to Rule 10.8

Scenario 2:

Ming is a salesperson, and she works for Edendale Realty Limited. Mrs. Wood is an elderly lady who wants to sell the family home but has not sold a property for a long time. She met Ming when she was looking in the Office window at properties for sale and told her she was thinking of selling.

Ming asked if she could come and see her house so she could complete a market appraisal. She visited the house and then went away to prepare the appraisal in accordance with the Code. On her return visit, Ming presents the appraisal and gives Mrs. Wood copy of a marketing plan outlining all the options and processes involved in marketing a home. Mrs Wood is keen to start the process as she has been unwell.

The appraisal came in at \$850,000 but Mrs. Wood explains she needs \$920,000 to buy the property she is looking at. Ming explained how she came up with the appraisal.

Question 17:

The Rules set out Ming's obligations when appraising a property?

Identify the Rule relating to appraisal and explain 3 things from the scenario that she has complied with. (PC 1.1 and PC 4.1)

Example:

Rule 10.2 An appraisal of land or a business must—
(a) be provided in writing to a client by a licensee; and
(b) realistically reflect current market conditions; and
(c) be supported by comparable information on sales of similar land in similar locations or businesses

Judgement:

Answers may vary but must include 3 relevant points and have identified Rule 10.2

Question 18:

Explain the **two** requirements outlined in the Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012 regarding how Ming must meet price expectations of Mrs Wood.

Include the Rule numbers. (PC 4.1)

Example:

Rule 10.4 - The advertised price of the property must clearly reflect the pricing expectations agreed with the client
Rule 9.4 - The licensee must not mislead customers as to the price expectation of the client

Judgement:

Answers may vary from the sample answer but must include Rule 9.4 and 10.4

“The Real Estate Agents (Code of Professional Conduct and Client Care) Rules 2012. sets out your obligations for completing an Agency Agreement.

Question 19:

Identify the Rule or Section of the Act that relates to your obligation when completing an Agency Agreement. (PC 1.1 and PC 4.1)

RULE OR SECTION		
Section 127	A	Giving, explaining, and getting a signed acknowledgement for the Approved Guide
Rule 10.6	B	Explain the marketing budget and the obligation for additional marketing costs
Section 130	C	Tell them they have the right to cancel the Sole Agency Agreement up until 5pm of the next working day
Rule 10.6 Rule 11.2	D	Explain to the client when an Agency Agreement ends
Rule 9.10	E	Explain to the client the risk of paying commission to more than one agent
Rule 10.6 Rule 11.2	F	Explain the conditions under which commission must be paid and how it is calculated
Section 128	G	Explain Disclose discounts, rebates, and commission
Section 131	H	Explain the right to cancel the sole agency agreement 90 days after the agreement is signed.
Rule 10.9	I	They cannot advertise the property on terms different to those authorised by the client
Rule 9.7	J	Recommend they seek legal advice and or technical advice. Allow time for this if required
Rule 9.9	K	An agency agreement must not be submitted for signing before it has been fully completed
Rule 9.3	L	A licensee must communicate regularly and in a timely manner and keep the client well informed of all relevant matters, unless otherwise instructed by the client interest.

Judgement:

Answers must include the relevant Rule or Section of the Act. Only one required for each statement.

Scenario 3

Peter, who used to be a Financial Planner, is the Licensed Agent of Edendale Real Estate Agency and has an exceptionally good customer David, who buys old properties, renovates them, and then gives them back to Peter to resell. He has bought several off Edendale Real Estate Agency over the past two years. Peter helps David by arranging finance for the deals.

Ming one of the salespeople from Edendale Real Estate Agency has listed a property belonging to an elderly lady. Her name is Mrs. Wood, she is a very private person and has not been well, so the family are moving her into a rest home.

David is interested in the property and through Peter writes up an offer and asks Ming to present this to her client. Peter also instructs her to inform the client (Mrs. Wood) that her house needs a lot of expensive renovations because the kitchen and bathrooms are old, and to make sure that Mrs. Wood understands this is the best offer she is likely to get. Peter even suggests putting pressure on her to accept, as his customer will not wait around.

He also tells her if she gets this one done, he will share the listing with her, when the property is relisted with him after renovation.

The offer is well below the advertised price and Ming does not know what to do.

Question 20:

Explain how Peter's involvement with David a breach of the Code of Conduct is. Include in your answer the relevant Rule number (PC 1.1, 1.2 and PC 4.1)

Example:

By Peter arranging the finance for David he is engaging in a business or professional activity other than real estate that compromise the discharge of his obligations to the vendor. (Rule 9.15)

Judgement:

Answers may vary from the sample answer but must include how Rule 9.15 applies to the scenario.

Question 21:

With regard for the rules under Client and customer care, identify and explain two rules Ming would breach if she follows Peter's instructions and why? (PC1.1, 1.2, PC 4.1.)

Example:

If Ming follows Peter's suggestion, she would be engaging in conduct that would put a client under undue or unfair pressure (Rule 9.2) This would also not be acting in the best interest of the client (Rule 9.1)

Judgement:

Answers may vary from the sample answer but must be relevant to the scenario and include Rules from 9 Client and Customer Care (Rules 9.1 – 9.18)

Scenario 4

Jayce holds a branch manager's licence and works for Newtown Realty.

Mary, one of the salespeople in the office, has listed a property that would suit investors. Jayce is interested in this property and wants to buy this property herself.

The owner of the house is Mrs Black, she is elderly and is moving into a retirement home. Jayce wants to offer a low price for this house and does not want to comply with the provisions of the Real Estate Agents Act 2008 regarding contracts for acquisition by a licensee or related person. (Sections 134 to 137) She knows that if she has to get an independent valuation it could mean she will have to pay more.

She decides to get around this by purchasing the property in a Company name that she has just set up.

To deceive the client, she instructs the salesperson to present an offer using the company name and not to mention her name

Questions 22 to 26 relate to Scenario 4

Question 22:

Should Mary present the offer in this situation? Give reasons to support your answer. (PC 1.2 and PC 4.1)

Example:

Mary must not present the offer as it is a breach of her fiduciary duty (Rule 6.1) and her obligation to comply with Sections 134 to 137 of the Act

Judgement:

Answers may vary from the sample answer but must refer to not presenting the offer. Rule numbers and Sections of the Act not required

Question 23:

Explain 2 rules in relation to "Standards of professional conduct" that Mary breaches if she presents the offer to the client. (PC 1.2 and PC 4.1)

Example:

Rule 6.1 – she is not complying with her fiduciary duty to the client – putting the client's best interest first

Rule 6.4 – she must not mislead a customer or client, nor provide false information, nor withhold information that should in fairness be provided to a customer or client.

Judgement:

Answers may vary but must be relevant to the scenario and identify and explain 2 valid rules from section 6 Standards of professional conduct of the Code

Question 24:

Identify 1 Rule under “*Client and Customer Care General*” Mary would have breached if she presented the offer and explain why you think she breached it. (PC 1.1, PC 1.2, and PC 4.1)

Example:

Mary would not be acting in the best interest of the client under Rule 9.1

If Mary had followed Jayce’s instructions, she would also breach Rule 9.3 She must keep the client well informed of matters relevant to the client’s interest.

Judgement:

Answers may vary from the sample answer but must refer to either Rule 9.1 or Rule 9.3

Question 25:

Explain **one** action Mary **must** take in this situation in terms of her duty to report misconduct or unsatisfactory conduct. Explain why she must take this action. (PC 2.1)

Example:

Mary must make a report to the Real Estate Agents Authority because she has reasonable grounds to suspect Jayce of being guilty of misconduct by trying to hide the fact that she is Branch Manager and deceiving the client and ignoring her disclosure responsibilities under the Real Estate Agents Act 2008. This could be seen as disgraceful by the public which means Rule 7.2 would apply

Judgement:

Answers may vary from the sample answer but must state Mary must make a report to the Real Estate Agents Authority.

When a client, enters an agency relationship, the licensee gains access to ‘confidential personal information’, the Rules set out your obligations.

Question 26:

When can you disclose “confidential personal information”? (PC 1.1)

Select 4 that apply to when a licensee may disclose “confidential personal information”		
X	A	If the client consents in writing
X	B	If it is necessary to answer or defend any complaint, claim or allegation
X	C	If you are required to by law.
	D	Once a property is sold and the settlement has occurred
X	E	If the disclosure is consistent with the information privacy principles in Section 6 of the Privacy Act 1993.

Judgement:

A, B, C and E must be identified

When a client enters an agency relationship, the licensee has a fiduciary obligation to put the client's interest ahead of the customers.

Scenario 5

Peter lists Mr. and Mrs. Jones's property for sale, he knows they are in financial difficulty and need a quick sale. He immediately informs his investor friend, John, who has bought 7 properties from him over the past 18 months. John carries out minor work on the properties and then gives back to Peter to sell.

Even before the first open home Peter presents an unconditional offer from John. Mr. and Mrs. Jones, although disappointed in the price, reluctantly accept the offer.

Question 27:

Explain the conflict of interest in this scenario and identify 2 rules of the code and 1 Section of the Real Estate Agents Act 2008 that Peter has breached. (PC 4.1)

Example:

There is a conflict of interest as Peter has not disclosed his relationship with the buyer to Mr and Mrs Jones which would be a breach of Rule 6.4

He also did not disclose that he will get the property back to resell, being another benefit from the transaction, a breach of REA Act 2008 Section 136.

He has also used confidential information of the vendor for his own benefit a breach of Rule 9.16

By not marketing the property fully he is also not acting in the best interest of the vendor Rule 9.1

Rule 9.2 using undue and unfair pressure in getting the clients to accept the offer

By his actions Peter breached Rule 6.1 his fiduciary obligation to the client and is likely to bring the industry into disrepute, a breach of 6.3

Judgement:

Answers may vary but must include, that Peter needed to disclose his relationship to the buyer, the breach of Section 136 of the Real Estate Agents Act 2008 and 2 Rules relevant to the scenario that were breached.

PART 4:

COMPLAINTS AND THE COMPLAINT PROCEDURE

Question 28:

Explain the obligations under the Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012 in terms of informing the client and creating an awareness of the provisions regarding complaints. (PC 1.1 and PC1.3)

Example:

- **Must make a copy of the agent's written in-house procedures available to the client (Rule 12.1)**
- **Inform the client of the in-house procedures for dealing with complaints an Agency Agreement (Rule 12.2)**
- **Inform the client that they may access the Authority's complaints process without first using in-house procedures (Rule 12.3)**

Judgement:

Answers may vary but must be consistent with Rules 12.2 and 12.3. Rule numbers not required.

OBLIGATIONS FOR REPORTING UNSATISFACTORY AND MISCONDUCT.

Question 29:

Rule 7.1 explains your duty to report unsatisfactory conduct and is defined in the [Real Estate Agents Act 2008](#) (PC 1.3and PC2.1)

Select 4 that apply to Section 72 - Unsatisfactory conduct		
X	A	falls short of the standard that a reasonable member of the public is entitled to expect from a reasonably competent licensee
X	B	contravenes a provision of this Act or of any regulations or rules made under this Act
	C	consists of a wilful or reckless contravention of this Act
X	D	is incompetent or negligent
X	E	would reasonably be regarded by agents of good standing as being unacceptable
	F	would reasonably be regarded by agents of good standing, or reasonable members of the public, as disgraceful

Judgement:

A, B, D and E must be identified

Question 30:

Rule 7.2 explains your duty to report misconduct and is defined in the [Real Estate Agents Act 2008](#).
(PC 1.3 and PC 2.1)

Select 4 that apply to Section 73 – Misconduct		
X	A	constitutes seriously incompetent or seriously negligent real estate agency work
X	B	constitutes an offence for which the licensee has been convicted, being an offence that reflects adversely on the licensee’s fitness to be a licensee
X	C	consists of a wilful or reckless contravention of this Act or other Acts that apply to the conduct of licensees or regulations made under this Act
	D	is incompetent or negligent
	E	would reasonably be regarded by agents of good standing as being unacceptable
X	F	would reasonably be regarded by agents of good standing, or reasonable members of the public, as disgraceful

Judgement:

A, B, C and F must be identified

Question 31:

Identify the Rule that applies and your duty to report these incidents. (PC 1.3, and PC 2.1)

Read the scenario and use the drop-down boxes to identify the Rule, whether it is unsatisfactory conduct or misconduct and your obligation to report it.		
	Scenarios	Select your answer from the drop-down boxes
A	<p>Grace overhears Decan a licensee talking to a potential customer about a property she had listed. The customer mentions the second toilet would come in handy for their family.</p> <p>Decan did not correct the customer because he had not read the Agency Agreement and didn't know the toilet being unconsented.</p>	Rule 7.1
		Unsatisfactory Conduct
		May report to the REA
B	<p>Grace approaches Decan and tells him he should have disclosed that the toilet was non-compliant. Decan says it is no big deal and walks away. Grace then threatens to complain to the REA unless Decan shares some of the commission.</p>	Rule 7.3
		Misconduct
		Must report to the REA
C	<p>A colleague in the office asks you to send him a copy of the rental appraisal for the property you are selling. Once he receives it, you see him alter the address to make it appear that it is for the property he is now selling.</p>	Rule 7.2
		Misconduct
		Must report to the REA
D	<p>John (a licensee) had the same vendor approach him on three separate occasions to sell a property that they had recently purchased. The sale was to a close friend for a profit that was more than it was worth.</p> <p>John did not have to do an appraisal or any marketing, but he did receive a \$12,000 flat fee commission for drawing up the Sale and Purchase Agreement.</p> <p>There was a complaint made against him and the Disciplinary Tribunal heard the case and called it mortgage fraud. The Licensee admitted this was an unusual way to sell a house, but he did not think it was fraud.</p>	Rule 7.2
		Misconduct
		Must report to the REA
E	<p>A licensee misrepresented the property she was selling when she failed to disclose to prospective purchasers that the conservatory was not consented.</p>	Rule 7.1
		Unsatisfactory Conduct
		May report to the REA

Judgement:

Answers must include the relevant Rule and obligation to report to the REA

THE REAA COMPLAINT PROCESS

Question 32:

Explain the 8 functions of the Committee and the process they follow under the [Real Estate Agents Act 2008](#) - Section 78. (PC 7.1)

Once the REA receive a complaint, they must refer it to a committee and at the same time notify the person named in the complaint.

Select 7 functions that the Committee will follow before they publish their decisions:		
X	A	to promote, in appropriate cases, the resolution of complaints by negotiation, conciliation, or mediation
X	B	on its own initiative, to inquire into and investigate allegations about any licensee
	C	to hear and determine any charge against a licensee brought by the Committee
X	D	in appropriate cases, to refer the complaint to another agency
X	E	to inquire into and investigate complaints made under section 74
	F	to conduct any review, of a decision of the Registrar
X	G	to make final determinations in relation to complaints, inquiries, or investigations
X	H	to lay, and prosecute, charges before the Disciplinary Tribunal
X	I	to inform the complainant and the person complained about of its decision, reasons for the decision, and appeal rights

Judgement:

A, B, D, E, G, H, and I must be identified

Question 33:

The Complaints Assessment Committees deals with complaints and allegations about licensees. Each Committee consists of 3 members.

The Authority must designate one of the members as the chairperson of the Committee, and another member as the deputy chairperson.

Explain the knowledge and experience required of CAC members as outlined in Section 76 of the [Real Estate Agents Act 2008](#) – . (PC 7.1)

Example:

The knowledge and experience required by members of the CAC are without limitation, experience, and knowledge of— law, the real estate industry and consumer affairs.

Judgement:

Answers may vary from the sample answer but must include all 3 categories.

Once the committee receives a complaint, they determine whether, or not it alleges unsatisfactory conduct or misconduct. Then, they determine what action if any to take.

Question 34:

Explain when the Committee may direct people to negotiate, conciliate and mediate to resolve the complaint. (PC 7.1 and PC 7.2)

Question 34 a)

Example:

If the committee felt that—

- (a) it would be constructive
- (b) it would be in the public interest; or
- (c) the complaint was not of an urgent nature.

Judgement:

Answers may vary from the sample answer but must include all 3 reasons.

Question 34 b)

If the parties can agree on a resolution for the complaint explain 2 steps the Real Estate Authority may take. (PC 7.1 and PC 7.2)

Example:

If the parties reach an agreed settlement in relation to the complaint or any issue involved in the complaint, the Committee may record the terms of the settlement and with consent of the parties, declare all or some of the terms of the settlement to be all or part of a final determination of the complaint by the Committee.

Judgement:

Answers may vary from the sample answer but must include record the terms of settlement as full and final determination. Section 87 (3) not required.

Question 35:

According to the Act, if you wanted to complain to the Authority about the conduct of a licensee, how may you do this?

Include the process outlined in [Real Estate Agents Act 2008 - Section 74](#). (PC 2.2 and PC 7.2)

Example:

In accordance with regulations under the Act you may lodge a complaint in writing

- a) refer the complaint to the Registrar of the register of licensees, who must consider whether to deal with the complaint under Section 74 (2); and
- b) if the Registrar decides not to deal with the complaint under that subsection, refer the complaint to a committee for determination and notify the person complained about of the reference

Judgement:

Answers may vary but must include - lodge a complaint in writing and “refer the complaint to the Registrar of the register of licensees for determination”. Sections of the Act not required

Question 36:

The Committee has powers to discipline licensees when a complaint is upheld. (PC 7.1 PC 7.2)

Select 4 that apply to the orders the committee has the power to make.		
X	A	make an order censuring or reprimanding the licensee
	B	order that the licensee to pay fine, not exceeding \$20,000
X	C	order that the licensee apologise to the complainant
X	D	order that the licensee undergo training or education
	E	issue a warning to the licensee not to do this again
X	F	order the licensee to reduce, cancel, or refund fees charged for work where that work is the subject of the complaint

Judgement:

A, C, D and F must be identified

Question 37:

Identify the functions of the Tribunal?

Select 4 functions of the Tribunal:		
	A	the production of papers, documents, records, or things to the Committee
X	B	to hear any appeal against a determination by the Committee (including a determination to take no action):
	C	the giving of evidence to, or the answering of questions put by, the Committee
X	D	to hear and determine any application made by a Complaints Assessment Committee for the suspension of the licence of a licensee pending the determination of a charge that the Committee has laid against the licensee:
X	E	to hear and determine any charge against a licensee brought by the Committee:
X	F	to conduct any review, of a decision of the Registrar:

Judgement:

B, D, E and F must be identified

When the Disciplinary Tribunal, after hearing any charge against a licensee, is satisfied that it has been proved on the balance of probabilities that the licensee has been guilty of misconduct.

Question 38:

The Real Estate Agents Act 2008 sets out the charges and orders the Disciplinary Tribunal can make. (PC 7.3, and PC 7.4)

Select 7 that may apply for the determination of charges and orders that may be ordered by the Disciplinary Tribunal:		
X	A	cancel the licence of the licensee
X	B	cancel the licence of any officer of the company
	C	suspend the licence of the licensee for 5 years
X	D	order that a licensee who is an individual pay a fine not exceeding \$15,000
X	E	suspend the licence of a company/officer of that company for a period not exceeding 24 months
X	F	order that a licensee not perform any supervisory functions
X	G	order that the licensee pay to that person a sum by way of compensation, being a sum not exceeding \$100,000
X	H	order a licensee that is a company pay a fine not exceeding \$30,000
	I	in the case of a licensee who is an employee or independent contractor, be terminated from their employment and not be able to engage in any real estate work. They can work for a different real estate company though

Judgement:

A, B, D, E, F, G and H must be identified

“The Real Estate Agents (Code of Professional Conduct and Client Care) Rules 2012.” sets out your obligations for acting both competently and ethically, including keeping accurate records, while performing real estate agency work

Question 39:

Identify a Rule that relates to your obligation when completing or performing real estate agency work (PC 1.1 PC 1.2, PC 2.1, and PC 4.1)

RULE		
Rule 9.3	A	Informing the client of the number of people through open homes
Rule 5.2	B	A licensee must keep up to date with changes to legislation relating to real estate
Rule 6.2	C	A licensee must act impartially when presenting offers to the client
Rule 10.10 Rule 11.4	D	A licensee must present all written offers to the client
Rule 5.1	E	A licensee must exercise competence by answering all customers questions or following up once information has been obtained and verified.
Rule 10.11 Rule 11.5	F	A licensee must provide the Agent with a copy of all offers submitted to the client
Rule 12.4	G	A licensee must inform the Agent employing them within 10 working days of any complaint against them made to the REA
Rule 7.2	H	A licensee must report a licensee they suspect to be guilty of misconduct
Rule 8.5	I	Licensees must undertake continuing education required by the Authority
Rule 9.11	J	When an Agency ends a licensee must give the client a list of all customers for whom they would seek to claim a commission if they were to conclude a transaction with the client.

Judgement:

Answers must include the relevant Rule as identified in Module answer. Only 1 required for each statement.

Title	Explain licensing and the code of professional conduct under the Real Estate Agents Act 2008		
Level	4	Credits	4
Purpose	<p>This unit standard is for people preparing for entry into, or who are currently working in, the real estate industry.</p> <p>People credited with this unit standard are able to:</p> <ul style="list-style-type: none"> – explain the standards of professional conduct expected of a real estate licensee; – explain the requirements to report unsatisfactory conduct and misconduct; – explain the obligations of a licensee to create awareness of the Act and Regulations; – explain the rules for client and customer care; – explain the requirements for licensing; – explain of the requirements for supervision of licensees; and – explain the complaints procedure as they affect individual licensees. 		
Classification	Real Estate > Real Estate Practice and Law		
Available grade	Achieved		

Guidance Information

1 Legislation

Real Estate Agents Act 2008.

Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012.

Real Estate Agents (Licensing) Regulations 2009.

and all subsequent amendments and replacements.

2 Definitions

The Act refers to the Real Estate Agents Act 2008.

Agent refers to a real estate agent who holds, or is deemed to hold, a current licence as an agent under the Real Estate Agents Act 2008.

Approved guides refer the two approved guides developed by the Real Estate Authority covering an agency agreement and a sale and purchase agreement.

CAC refers to the Complaints Assessment Committee.

Client refers to the person on whose behalf an agent carries out real estate agency work.

The Code refers to the Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012. Within the real estate industry, this may also be referred to as the Code of Conduct

Customer refers to a person who is a party or potential party to a transaction and excludes a prospective client and client.

Licensee refers to an agent, branch manager, or salesperson.

Regulations refers to the Real Estate Agents (Licensing) Regulations 2009.

Outcomes and performance criteria

Outcome 1

Explain the standards of professional conduct expected of a real estate licensee.

Performance criteria

- 1.1 Explain the standards of professional conduct in accordance with the Code.
- 1.2 Explain how ethical principles apply to the standards of professional conduct in accordance with the Code.
- Range ethical principles may include but is not limited to – fiduciary duty, duty of care, fairness, personal conduct, disclosure, recordkeeping, impartiality.
- 1.3 Explain unsatisfactory conduct and misconduct as defined in the Act.

Outcome 2

Explain the requirements to report unsatisfactory conduct and misconduct of a real estate licensee.

Performance criteria

- 2.1 Explain the duty of a licensee to report unsatisfactory conduct and misconduct in accordance with the Code.
- 2.2 Explain the reporting process for unsatisfactory conduct and misconduct.

Outcome 3

Explain the obligations of a licensee to create awareness of the Act and Regulations.

Performance criteria

- 3.1 Explain the obligations of a licensee to create awareness of the provisions of the Act and Regulations.
- Range explanation must in reference of, but is not limited to – approved guides, the Code.

Outcome 4

Explain the rules for client and customer care.

Performance criteria

- 4.1 Explain the rules for client care and customer care in accordance with the Code.

Outcome 5

Explain the requirements for licensing.

Range salesperson, branch manager, agent.

Performance criteria

- 5.1 Explain licensing requirements in terms of the entitlement to be licensed, in accordance with the Act.
- 5.2 Explain licensing requirements in terms of the application renewal process for a licence, in accordance with the Act.

- 5.3 Explain how each class of licence determines the work of a licensee, in accordance with the Act.

Outcome 6

Explain the requirements for supervision of licensees.

Performance criteria

- 6.1 Explain the agent's and/or branch manager's responsibilities in terms of supervision and management of licensees in accordance with the Act and the Code.

Outcome 7

Explain the complaints procedure as they affect individual licensees.

Performance criteria

- 7.1 Explain the functions of the CAC in accordance with the Act.
- 7.2 Explain the provisions for complaint resolution in accordance with the Act.
- 7.3 Explain the functions of the Disciplinary Tribunal in accordance with the Act.
- 7.4 Explain the possible actions that may be taken by the Disciplinary Tribunal in accordance with the Act.

Replacement information	This unit standard replaced unit standard 23133.
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Planned review date	31 December 2025
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Status information and last date for assessment for superseded versions

Process	Version	Date	Last Date for Assessment
Registration	1	12 February 2010	31 December 2013
Rollover and Revision	2	16 August 2012	31 December 2019
Review	3	16 February 2017	31 December 2022
Review	4	28 January 2021	31 December 2022
Revision	5	28 October 2021	N/A

Consent and Moderation Requirements (CMR) reference	0003
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This CMR can be accessed at <http://www.nzqa.govt.nz/framework/search/index.do>.

Comments on this unit standard

Please contact The Skills Organisation reviewcomments@skills.org.nz if you wish to suggest changes to the content of this unit standard.