



Code of Practice

Introduction

This Code of Practice is not intended to be a step-by-step guide to the letting and management of a property but purely to set down what good practice should be in key areas. Specific processes, procedures, obligations or responsibilities may vary depending on individual management agency agreements and the relevant tenancy agreement.

Where a formal written complaint is made against a Member Firm, any such complaint will be considered with reference to the Code of Practice plus any relevant statutory approved codes, applicable legislation and taking account of lawful obligations and/or responsibilities set out in the management agency agreement or the tenancy agreement.

A Member Firm following these practices, complying with the law and fulfilling contractual obligations is therefore unlikely to be found to have acted without reasonable competence. Where a Member Firm has not complied with this Code of Practice or statutory or contractual obligations mentioned above, it would be expected to justify such departures in the light of any complaint.

Aims of this Code of Practice:

1. To help to ensure that Landlord Clients, customers and staff of Member Firms are aware of the standards of service and business practices that LPMNZ Member Firms strive to provide.
2. To help to maintain and enhance the reputation, standing and good name of LPMNZ and its membership by protecting the public against fraud, misrepresentation and malpractice in the property management industry.
3. To help to ensure that there is a positive differentiation between LPMNZ Member Firms' service standards and other firms offering property management services.

A. General

1. This Code of Practice applies to Residential Letting and/or Property Management services provided by a licensed LPMNZ Member Firm and its staff.
2. Member Firms must take reasonable steps to ensure that all relevant Member Firm staff are conversant with all aspects of this Code of Practice and have an up to date working knowledge of their legal responsibilities and obligations in dealing with Landlord Clients, applicants and Tenants, appropriate to their job role.
3. This Code of Practice is not intended to affect the contractual relationship lawfully and freely negotiated and agreed in the ordinary course of a business between Member Firms and their Landlord Clients, or other third parties insofar as such arrangements do not breach either the Law or this Code.
4. A Member Firm should offer equality of professional service to any person and must not discriminate regardless of race, sex, marital status, sexual orientation, disability, nationality or age. A Member must not knowingly be a party to discrimination by others in the performance or provision of services.
5. A Member Firm must always act both in the best interests of the Landlord Client and within the law. A Member Firm must offer advice considered suitable, in the circumstances, to meet the Landlord Client's aims and needs. Where the law and the interests of the Landlord Client conflict, adherence to the law must prevail.
6. A Member Firm must inform a Landlord Client as soon as is practicable, in writing, about circumstances that give rise to a conflict of interest. This would include where any partner, director or officer of a Member Firm own, or have a financial interest in a business or contractor engaged to provide services to a Landlord Client.
7. If a Member Firm offers a property to let that belongs (wholly or partly) to an employee of that Member Firm (including partners or directors or officers) or a direct associate, the Member Firm must inform an applicant on the property of the relationship prior to their application being accepted.
8. If an application to rent a property being offered by a Member Firm is received from an employee of that Member Firm (including Partners or Directors) or a direct associate, the Landlord Client must be informed of the relationship prior to the application being formally accepted.
9. A Member must not act or behave in a way or manner that knowingly involves dishonesty or deceit.
10. Whilst the duty and obligations of a Member Firm is to their Landlord Client, applicants and Tenants should be regarded as consumers and customers and should therefore be treated appropriately. If there is a conflict with a Member Firm's duty to its Landlord Client, the applicants or Tenants should be advised to seek independent advice.
11. Members who make public their personal views on matters relating to the private rental sector must not claim, or give the impression, that they are representing the official view or policy of LPMNZ unless they have been expressly authorised to do so by a representative of LPMNZ.
12. A Member Firm must assist LPMNZ, or any duly authorized representative or adjudicator, in its enquiries into any alleged breach of this Code.

B. Rental Appraisal

1. When a Member gives advice to someone intending to let their property, any recommended rental figure must be given in good faith, reflecting current market conditions and the perceived needs or circumstances of the Landlord Client. A Member must never deliberately misrepresent the potential rental level of a property in order to gain or retain a Landlord Client. Any figures given should within reason, be supportable by indicators in the market place, preferably by comparables of similar properties in a similar location.
2. A Member Firm must advise a potential Landlord Client of the need to comply with the obligations and requirements of the various safety legislation and regulations that apply to rented property.
3. A Member Firm should, within reason, draw to the attention of the potential Landlord Client any obvious repairs or maintenance issues which the Member Firm might consider necessary in preparation for the intended letting.
4. A Member must draw to a potential Landlord Client's attention the necessity and benefit of a properly prepared property condition report.

C. Terms of business, agency agreements, fees and charges

1. A Member Firm must not knowingly offer a property on the market without a written agency agreement signed by the owner/Landlord Client or, alternatively, from the owner/Landlord Client's properly appointed and authorised representative.
2. A Member Firm must give a (potential) Landlord Client written details of their terms of business setting out what different types or levels of service are available and all relevant fees and charges before he/she (the Landlord Client) is committed to or has incurred any liability.
3. The terms of business used by a Member Firm must be clearly presented and written in plain and intelligible language.

D. Termination of agency agreements with Landlord Clients

1. The terms of business of a Member Firm must include clear and accurate information regarding the circumstances under which either party to the agency agreement may cancel or terminate the agreement and what liability for fees or charges may be incurred in those circumstances.
2. A Member Firm must give to a Landlord Client appropriate written notification that it no longer wishes to act for the Landlord Client, including the date of termination, giving details of any liability for fees or charges owed by the Landlord Client to the Member Firm (or any credit or funds owed to the Landlord Client) and confirming any arrangements for the handover of the property, appropriate documentation, keys etc., to the Landlord Client or his appointed representative.
3. Where a Member Firm's agency agreement with its Landlord Client is terminated and the relevant managed property is still tenanted, the Member Firm must promptly tell the Tenants, in writing, of the termination.

E. Marketing and Advertising

1. All reasonable care should be taken when describing a property so that prospective Tenants are not misled as to what fixtures, fittings, furniture or other items are included in the property.
2. All advertisements, marketing or canvassing material used by a Member Firm must be legal, honest and truthful, and in accordance with the requirements of any trade practices or fair trading legislation.
3. A Member Firm may use leaflets, letters and other prospecting methods to generally canvass for new business or promote services but must not deliberately target a property (or the owner of a property) known to be either available to let through, or managed by, another Member Firm.
4. A Member Firm should only erect a "To Let" (or similar) board with the Landlord Client's permission.
5. When putting up a "To Let" (or similar) board a Member Firm must comply with all relevant statutory requirements regarding signage.
6. Any "To Let" (or similar) board should be removed, within 7 days, from a property that has been let or where the Member Firm is no longer authorised to let the property.
7. A Member Firm should not remove another agent's board from a property. In such circumstances a Member Firm should ask the Landlord Client to make arrangements with the other agent for its removal.
8. A Member Firm must not knowingly erect a "To Let" (or similar) board on a property that the Member Firm has neither let, nor been authorised to let.

F. Viewings and Access to Properties

1. A Member Firm must have a written agreement with their Landlord Client regarding the viewing arrangements for the property.
2. Unless agreed otherwise with the Landlord Client, all viewings of vacant properties on which keys are held by the Member Firm, should be accompanied by a representative of the Member Firm.
3. A Member Firm should record any relevant feedback from viewings and pass this on to the Landlord Client within a reasonable time or upon request.
4. When a Member is arranging for an applicant to view a Tenanted property, the existing Tenant must be provided with reasonable notice of the appointment and must fulfill any statutory obligations relating to notice periods.
5. When access to the property is required by the Member Firm, or an authorised third party (contractor, valuer, Landlord Client's representative, etc), for the purpose of viewing the condition, state of repair and/or to fulfill related statutory obligations; the occupying Tenant must be provided with the appropriate minimum notice as prescribed by law.
6. Where any applicant or third party will not be accompanied by the Member Firm, this must be made clear to the occupant of the property beforehand.

7. A Member Firm must exercise due diligence to ensure that a property is left secure after any visit by a Member Firm (or at least as secure as it was prior to the visit).
8. A Member Firm must make sure that all keys held on behalf of Landlord Clients are suitably coded and kept secure. Records of the addresses of such keys must be kept separate from the actual keys and kept safe.
9. A Member Firm must maintain a record or log of when and to whom keys are issued and when they are returned.
10. A Member Firm must take all reasonable steps to ensure that keys are only given to suitably authorised people who have provided satisfactory identification.
11. A Member Firm must take steps to ensure that appropriate office procedures are in place to provide for the well-being of staff when on appointments away from the office.

G. Offers - Landlord Clients and Applicants

1. A Member Firm must not accept, or recommend acceptance by a Landlord Client, an offer to let a property that has not been viewed either by the applicants themselves or by a suitably authorised representative of the applicants, for example, an appointed relocation agent or direct associate.
2. Until such time as a reservation fee has been paid or a tenancy agreement has been entered into, a Member Firm must inform its Landlord Client as soon as is reasonably practicable of any formal offers received on a property unless the Landlord Client has instructed otherwise, or, unless the offer is of an amount or type that the Landlord Client has indicated previously is unacceptable.
3. A Member Firm must provide (other than in exceptional circumstances) an applicant with a reasonable opportunity to see and study the tenancy agreement prior to the applicant signing the agreement and paying initial rent, letting fee and rental bond monies.
4. Any standard documentation that seeks to create a contractual relationship between an applicant and the Member Firm or its Landlord Client should be fair, clearly presented and written in plain and intelligible language.

H. References - Landlord Clients and Applicants

1. In all referencing processes or procedures, a Member Firm should be conscious of the need to be diligent in identifying fraudulent applications. A Member Firm must take relevant references on an applicant appropriate to the circumstances of the applicant and/or in line with arrangements agreed with the Landlord Client.
2. Where references are provided by an applicant, a Member Firm must make reasonable endeavours to validate their authenticity.
3. A Member Firm must take reasonable steps to verify and retain a record of the identity of a successful applicant.
4. Where an applicant fails, in the circumstances, to meet reasonably prudent referencing criteria, a Member Firm should obtain confirmation, preferably in writing, from the Landlord Client should the Landlord Client wish to proceed with that applicant.

I. Letting - Agreements and initial payments

1. A Member Firm must take care to prepare an appropriate tenancy agreement that includes any agreed or specially negotiated clauses or terms particular to the property or the circumstances of the parties to the letting.
2. Efforts should be made to ensure tenancy agreements are clearly presented, written in plain and intelligible language and that any standard terms and clauses or fees or charges are in accordance with legislative requirements.
3. A Member Firm must take reasonable steps to ensure that the Tenant has the opportunity to raise queries in order to clarify and understand their rights and obligations under the tenancy agreement, particularly those relating to rent, the rental bond or ancillary fees and charges.
4. A Member Firm must take care, upon appropriate instructions from the Landlord Client, that at commencement of a tenancy, any Inventory/Property Condition Report prepared for the Landlord Client by the Member Firm, or an appointed subcontractor, is sufficiently detailed and up to date to allow it to be used as a fair measure at the end of the tenancy.
5. A Member Firm must take reasonable and appropriate steps to ensure that Tenants are provided with relevant documentation (statutory or otherwise) prior to their occupation of the property or commencement of the tenancy, whichever is the sooner.

J. Rent Collection

1. A Member Firm must use all reasonable endeavours to induce prompt rental payments from Tenants in line with their tenancy agreement.
2. A Member Firm must have procedures in place to notify both Landlord Client and Tenant, in a timely manner, of rent that has become appreciably overdue.

K. Management

1. A Member Firm must manage a property in accordance with the law, the relevant tenancy agreement and in accordance with the agency agreement signed with the Landlord Client.
2. A Member Firm must respond promptly and suitably in the circumstances, to reasonable communications from Landlord Clients and Tenants or any other authorised or appropriate third party, particularly where these relate to statutory repairs or maintenance obligations or safety regulations.
3. A Member Firm must be prudent in the selection, appointment and use of contractors engaged to carry out work on behalf of, or to provide advice to Landlord Clients.
4. A Member Firm should take reasonable steps to ensure such contractors hold relevant professional indemnity and/or public liability insurance and possess suitable experience or applicable professional or trade qualifications where required.
5. A Member Firm must keep suitable records of repairs, maintenance, etc carried out on behalf of the Landlord Client and should ensure that written instructions to contractors/suppliers indicate both any urgency required in carrying out jobs and within reason, the scope or scale of the works needed.

6. Contractor's quotes or estimates (and then subsequently receipts and invoices) submitted to a Member Firm should be required to provide a sufficiently detailed breakdown to clarify what work is needed, or has been carried out in which areas of the property and at what cost.
7. The frequency (if any) of property inspections to be carried out to the property by the Member Firm during a tenancy must be agreed in writing with the Landlord Client in advance, normally within the Member Firm's usual terms of business.
8. A Member Firm must keep suitable records of when (if any) property inspections are carried out during a tenancy; record any significant findings and take reasonable steps to bring such findings to the attention of both the Landlord Client and the Tenant (where applicable), including any corrective actions suggested or required.
9. A Member Firm must communicate promptly to the Landlord Client and Tenant on any important issues or obligations relating to the use and occupation of the property, including significant breaches of the tenancy agreement that the Member Firm becomes aware of.
10. A Member Firm must have procedures in place to record the Tenant's wishes and the Landlord Client's instructions with regard to any extension/renewal and/or termination of the tenancy agreement.

L. Termination of a Tenancy

1. Upon receipt of appropriate instructions from a Landlord Client, a Member Firm should take steps to serve a lawful notice upon a Tenant to terminate the tenancy; either in line with the Client's instructions or at the earliest time the law allows, taking account of the landlord's requirements.
2. A Member Firm should inform a Landlord Client, in a timely manner, of the receipt of a termination notice from a Tenant.
3. On giving or receiving notice to bring a tenancy to an end, a Member Firm must provide the Tenant with general written guidance as to what steps need to be taken relating to the preparation of the property for the final inspection, handover of keys, etc. Attention should be drawn to any specific clauses or obligations within the tenancy agreement relating, for example, to specified standards of cleaning, etc.

M. End of a Tenancy - Rental Bonds, Disputes and Damage

1. A Member Firm must arrange for, or carry out, the outgoing property inspection as soon as is reasonably practicable after the Tenants vacate the property. Where practical the outgoing Tenants should be offered the opportunity of being present to observe this inspection.
2. The outgoing inspection should be done thoroughly and a sufficiently detailed report prepared with specific reference back to the ingoing inspection report prepared at the commencement of the tenancy.
3. Where the outgoing inspection has been completed and the parties have agreed there are no intended deductions or any dispute, a Member Firm should forward the bond refund form to the Bond Centre at the Department of Building & Housing as soon as possible.
4. Where there are to be deductions from the Tenant's rental bond by the Member Firm, the Member Firm must communicate promptly, politely and fairly with the Tenant.

5. A Member Firm must ensure that the Tenant is provided with full and complete details of any deductions from the rental bond and that any quotes/invoices for any work to be done (or carried out) at the property are provided to the Tenant.

O. Landlord Client's Funds

1. A Member Firm should not deduct any fees, costs or charges from Landlord Client's fund without having the contractual or lawful authority to do so.
2. A Member Firm must pay or repay money to Landlord Clients (including ex-Landlord Clients), Applicants, Tenants (including ex-Tenants) as soon as is administratively practicable and/or in line with agreed contractual or legal requirements.
3. Except in an emergency, a Member Firm must not authorise expenditure on a property where it is not satisfied that funds either are, or will very shortly be, in place to pay the invoice when it becomes due.

P. Complaint Handling - Members' Internal Procedures

1. A Member Firm must have its own internal documented complaints procedure (appropriate to its size and structure) and any person wishing to make a formal written complaint about the standards of service received must be made aware (in writing) of those procedures upon request.

Q. Complaints Handling - Referrals to LPMNZ

LPMNZ will not normally consider a complaint unless and until it is satisfied that the complainant has exhausted a Member Firm's own internal complaints procedures, nor if the matters are subject to formal legal action.

1. Member Firms must comply promptly and fully with any investigation or assessment of a complaint or dispute carried out by LPMNZ or its appointed adjudicator, expert or arbitrator.
2. Member Firms must, subject to any appeal process, comply with the result, recommendations or requirements of the evaluation of a complaint or dispute carried out by LPMNZ or its appointed adjudicator, expert or arbitrator.
3. Sanctions available to LPMNZ include: -
 - a. To recommend that the Member Firm apologise in writing, to the appropriate person for the relevant conduct, action(s) or omission(s).
 - b. To caution the Member Firm against repeating the conduct, action(s) or omission(s).
 - c. To recommend to the Member Firm that they refund all or some part of fees or charges previously made, in recognition of the conduct, action(s) or omission(s).
 - d. To recommend that the Member Firm change its procedures or documentation arising from the facts disclosed by a complaint, breach or infringement, which has been upheld.
 - e. To recommend that the Member Firm undertake such action as LPMNZ considers appropriate to rectify or redress the conduct, action(s) or omission(s).
 - f. To recommend to the parties other, more appropriate ways of resolving the complaint or dispute including mediation or arbitration.
 - g. To formally reprimand the Member Firm for the conduct, action(s) or omission(s).
 - h. To suspend or expel the Member Firm from membership of the LPMNZ.
 - i. Any combination of the above or any other reasonable action, which LPMNZ feels appropriate in order to support high standards within the industry and amongst its membership.