

THE INSTITUTE OF
AUCTIONEERS AND APPRAISERS
IN SCOTLAND

PROFESSIONAL
CODE OF PRACTICE

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INSTITUTE OF AUCTIONEERS AND APPRAISERS IN SCOTLAND

CODE OF PRACTICE

1. Commencement

This code of practice is adopted by resolution of the Institute passed on [DATE] pursuant to Article 15 of the Institute's articles of association and shall come into operation on [DATE].

2. Practice of the Institute

2.1. The Institute of Auctioneers and Appraisers in Scotland ("the **Institute**") is the corporate body of Scotland's auctioneers and appraisers.

2.2. The Institute's aims are:

- (a) to maintain and safeguard high professional standards among its Member auctioneers and appraisers in Scotland;
- (b) to promote the services provided by its Members;
- (c) to represent the interests of its members to government and in industry forums;
- (d) to provide professional education appropriate to the needs of its Members and the profession; and
- (e) to encourage fair competition.

2.3. The conduct and management of the Institute shall be governed by its articles of association, code of practice and all byelaws, rules and regulations of the Institute for the time being in force and directed by the decisions of the general council of the Institute (the "**General Council**").

2.4. The Institute recommends that Members carry and maintain adequate indemnity and public and employers' liability insurance relevant to the type of business undertaken.

3. Standard of Conduct

3.1. Members of the Institute ("**Members**") shall comply with the provisions of this code of practice in addition to such other rules as the General Council may from time to time prescribe (together hereinafter referred to as the "**Code**").

3.2. Members shall take all reasonable steps to ensure that persons working under their authority are both suitably equipped and competent to carry out the tasks assigned to them. Any such Member shall be responsible to the General Council for the actions of their partners or employees in so far as they relate to matters coming within the scope of the Member's practice.

4. Professional Practice

Failure to comply with the Code may be treated as professional misconduct or unsatisfactory professional conduct.

5. Trust and personal integrity

5.1. Members must be trustworthy and act honestly at all times.

5.2. In particular, Members shall not:

- (a) behave, whether in a professional capacity or otherwise, in a way which is fraudulent or deceitful;
- (b) misrepresent, knowingly mislead or conceal, pertinent facts to clients, other Members or third parties;
- (c) offer any financial inducement to secure instructions for sales or lettings; or
- (d) solicit or obtain business by improper means, including but not limited to fraud, misrepresentation or deceit.

6. The interests of the client

Members must act in the best interests of their clients at all times subject to complying with the law, the Code and the principles of good professional conduct.

7. Agent and client relationship

7.1. In the majority of instances, Members shall act as agents for their clients.

7.2. If a Member, in any transaction or instance, acts as a principal (and not as an agent) then that Member must clearly advise the parties involved of their position as principal.

7.3. When acting for a client, Members shall:

- (a) ensure that the client is fully aware of the relevant terms and conditions of business which apply to the relationship between the Member and the client. These terms and conditions must be available for inspection by the client;
- (b) provide vendors with accurate statements of sales and pay promptly in accordance with the auction company's customary procedure; and
- (c) ensure that charges for services undertaken are transparent and declared in full on sales invoices.

7.4. Members are prohibited from trading without financial resources which are sufficient to avoid the risk of prejudice to the interests of clients, other Members or third parties.

8. Competence, diligence and appropriate skills

Members must only act in those matters where they are competent to do so. They must exercise at all times the level of skill appropriate to the matter.

9. Confidentiality

9.1. Member's must maintain confidentiality of information relating to:

- (a) the agent/client relationship; and

(b) other Members.

9.2. Member's must supervise their employees to ensure that they keep such matters referred to at paragraph 9.1 confidential.

10. Compliance with legal requirements, rules and principles of the Institute and fair trading practices

Members shall at all times:

- (a) abide by the Code and all other rules and principles of the Institute in all their business dealings;
- (b) avoid involvement and any connection with an occupation or business which, in the opinion of the General Council, is inconsistent with the rules and principles of the Institute from time to time;
- (c) conduct business, maintain premises and handle livestock according to all relevant legal requirements;
- (d) conduct all business and carry out all auctions according to terms and conditions that are compatible with fair trading practices;
- (e) adopt accepted standards of best practice on the operation of markets and adhere to current codes of practice governing the health and welfare of livestock and the health and safety of market staff and users;
- (f) conduct business in a professional manner and not act in any way prejudicial to their professional standing or to the reputation of the Institute, whether or not acting in their capacity as an auctioneer and/or appraiser.

11. Accounts

Members shall ensure that where property or land agency transactions are undertaken a client's money is kept in a separate bank account from the Member's own money and that full and complete records of all transfers are maintained.

12. Disclosure of Interest

12.1. Members must not act in the sale or purchase of property on his own behalf or on behalf of a member of his immediate family without disclosing this fact to the prospective purchaser or seller or his representative.

12.2. Members must not accept an instruction to sell a property, other than by auction, if a bid is to be made by any person, firm, company or any other body corporate having a financial connection with that Member. If a situation is not clear-cut, the matter shall be referred to the General Council for a ruling.

13. Conflict of interest

Members shall check for any actual or potential conflict of interest in the agent/client relationship. Should any conflict exist, the Member must advise their client immediately and manage the conflict to the satisfaction of all affected parties.

14. Complaints procedure

- 14.1. Each corporate Member shall have a formal procedure for handling of client complaints.
- 14.2. Each corporate Member shall make their complaints handling procedure available in writing to clients, potential clients or third parties on request.
- 14.3. Each corporate Member shall either:
 - (a) adopt the standard complaints handling procedure approved by the General Council from time to time ("**Standard Complaints Handling Procedure**"); or
 - (b) (subject to paragraph 14.4) adopt their own bespoke complaints handling procedure.
- 14.4. If a corporate Member opts to adopt a bespoke complaints handling procedure in accordance with paragraph 14.3 (b) then the adopted complaints handling procedure shall, as a minimum, meet the requirements and time periods set out in the Standard Complaints Handling Procedure. The adopted complaints handling procedure may only set out a procedure which includes shorter time periods or more rigorous requirements than those contained within the Standard Complaints Handling Procedure.
- 14.5. If any corporate Member does not have in place a bespoke complaint handling procedure then the Standard Complaints Handling Procedure shall automatically be deemed to apply.

15. Announcements

- 15.1. Members shall ensure that any reference to the Institute, in whatever form or media, does not prejudice the reputation or standing of the Institute and that such reference is made in accordance with such rules as the Institute may from time to time prescribe.
- 15.2. Members shall not make any statements in any form or media which may give the impression that such statement is being made on behalf of or is authorised by the Institute where the making of such statement has not been approved by the General Council in advance.

16. General Disputes Procedure

- 16.1. Notwithstanding any other provision of this paragraph 16, the General Council is entitled to investigate any alleged breach of the Code that comes to its attention.
- 16.2. Members and their clients have the right to make representations to the General Council of the Institute if they consider that a Member has acted unethically or in breach of the Code in their professional conduct.
- 16.3. In general, the General Council will only consider such representations where it is satisfied that:

- (a) the complainant has already exhausted the Member's internal complaints procedure;
and
 - (b) the matter is not the subject of legal proceedings.
- 16.4. It is not the role of the Institute to investigate or determine commercial disputes more appropriately determined in other regulatory forums such as the Courts and generally the Institute will defer investigations of any complaints or representations until any such third party determination has been made.
- 16.5. Representations must be made in writing to the President of the Institute accompanied by payment of £250 which will be refunded if the representation is upheld.
- 16.6. The General Council has the authority to suspend or terminate membership of the Institute, or take such other action in relation to that member as the General Council considers appropriate.

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