

New Salespersons: what they can do and how to supervise them properly

Information Sheet for Agents and Branch Managers

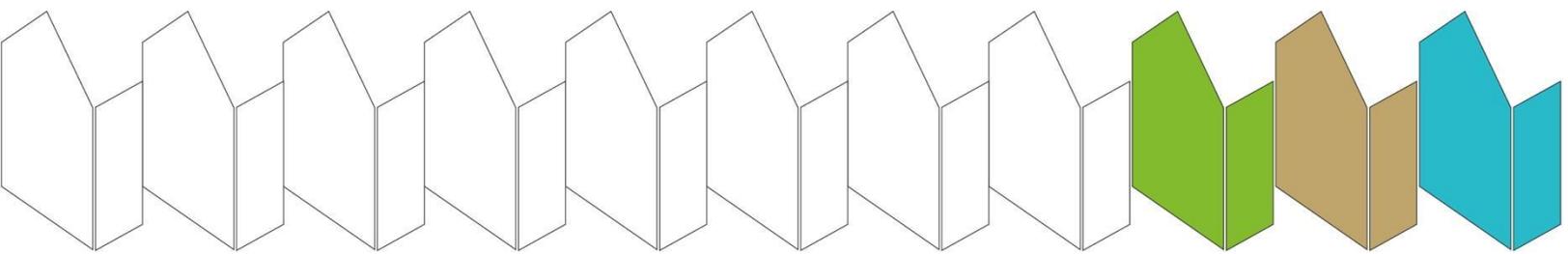
This information sheet provides agents and branch managers with guidance on:

- a) what real estate agency work new salespersons can do during their first six months of being licensed
- b) how your supervision obligations under the Real Estate Agents Act 2008 (the Act) and the Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012 (the Code) are best applied to new salespersons.

New salespersons: real estate agency work in their first six months

Agreements for Sale and Purchase

Under the Lawyers and Conveyancers Act 2006, only lawyers, conveyancers and real estate licensees can prepare agreements for sale and purchase of land and give advice when preparing these agreements (see section 36 of the Lawyers and Conveyancers Act). However, the Lawyers and Conveyancers Act does not allow



licensees who hold a salesperson licence to prepare sale and purchase agreements or give advice about them, unless they have had at least six months experience as a salesperson.

This means that a newly licensed salesperson (who has less than six months real estate agency work experience) cannot prepare sales and purchase agreements or advise either clients or customers about legal rights and obligations that are incidental to the preparing of these agreements. Once they have had six months real estate agency work experience this ban is lifted.

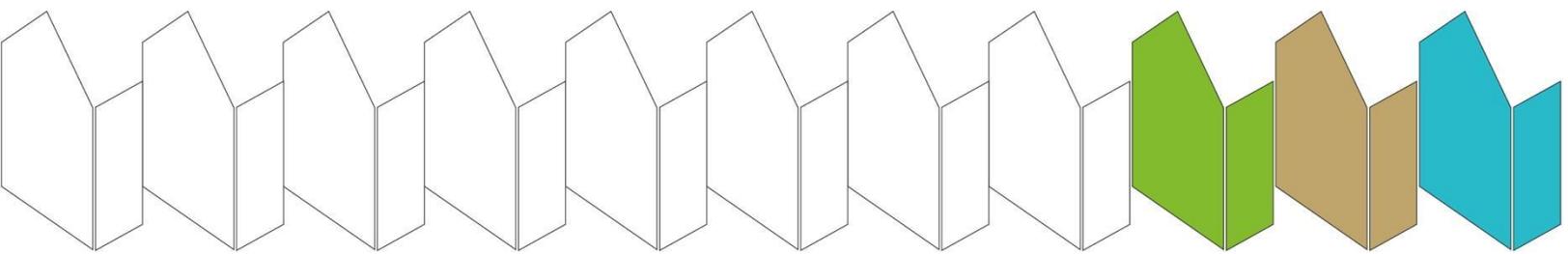
Please note: working as a PA, or a residential property manager etc does not count as real estate agency work. Experience as a salesperson relates to undertaking real estate agency work under the Real Estate Agents Act 2008.

What real estate agency work can a new salesperson do?

Newly licensed salespersons are able to do other real estate agency work during the first six months. This includes:

- a) signing up clients on behalf of their agent (obtaining listing agreements)
- b) marketing activities
- c) undertaking comparative market analysis and providing appraisals for prospective clients
- d) conducting open homes and doing follow-up calls
- e) build a database for prospecting new customers.

In allowing a salesperson to carry out this real estate agency work, you will need to be satisfied that they can carry out this work competently and you will need to ensure that you properly supervise and manage this work.



What do I do when a new salesperson has a deal that needs a sale and purchase agreement prepared?

As the supervisor for a new salesperson you will need to prepare any resulting agreement for sale and purchase and give any advice about legal rights and obligations to clients and customers that is incidental to the preparation of the agreement. Having the new salesperson observe your contractual discussions with their clients and customers is a very good way of demonstrating best practice.

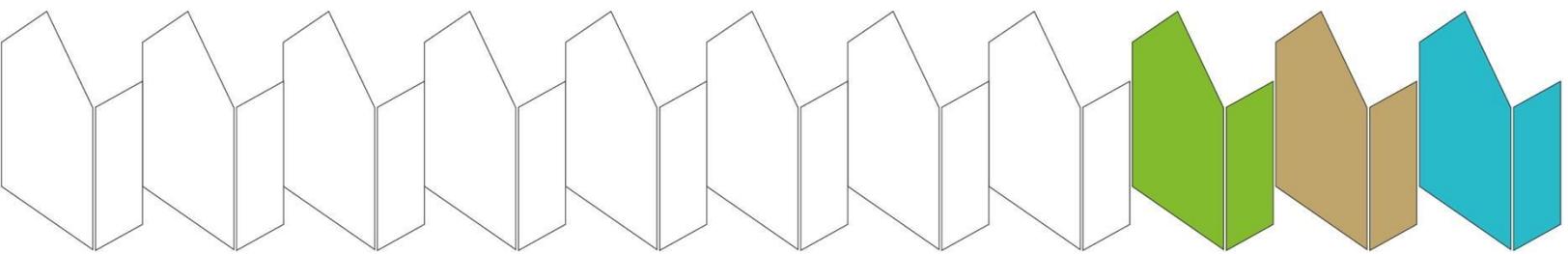
Supervising new salespeople

Under the Act, a salesperson must be properly supervised and managed by an agent or a branch manager when carrying out agency work (see section 50 and Rule 8.3). This means that supervisors have to exercise enough direction and control to ensure that their staff are undertaking real estate agency work that is competent and that complies with the requirements of the Act (see section 50(2)).

Remember that salespersons must be supervised whether or not the salesperson is engaged as an employee or as an independent contractor. Agents who engage a salesperson as an independent contractor are still liable for the acts and omissions of the salesperson in the same manner, and to the same extent, as if they were an employee (see section 51(3) of the Act).

Some other steps that supervisors should take with a new salesperson include:

- a) checking in with them before they run open homes to ensure that they are knowledgeable about the property and have information on hand to assist customers
- b) having regular one-on-one meetings to go through any questions or problems that they may be having
- c) sitting in on phone and face-to-face conversations to observe how they interact with clients and customers
- d) once you, as their supervisor, are satisfied that a new licensee is conducting real estate agency work on your behalf in a competent and legal manner you can provide them more latitude and supervise them in a similar way to your other staff.



Physical supervision

The Act does not require salespersons to be supervised physically at all times. So long as you can properly supervise and manage them, remote management is also possible.

For example, open homes can be conducted by a salesperson without the branch manager or agent being physically present at the open homes. However, you should be available to deal with any tricky situations that may arise from open homes which the salesperson may not be equipped or experienced to deal with.

Also, regular in-house staff training should be provided to ensure that there are sufficient guidance and protocols provided to staff to assist them to deal with difficult situations.

This information has been prepared jointly by the Real Estate Agents Authority (the Authority) and the Real Estate Institute of New Zealand (REINZ). This information is a guide only and is not intended to form professional legal advice or legal opinion on any particular matter. Version 3.0 25 March 2015.

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