

Supervision Guidelines

Property and Stock Agents Act 2002

in force commencing 1 July 2024



Acknowledgement of Country

The NSW Department of Customer Service acknowledges the Traditional Custodians of the lands where we work and live. We celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of NSW.

We pay our respects to Elders past and present and acknowledge the Aboriginal and Torres Strait Islander people working in property and stock agencies and the Aboriginal and Torres Strait Islander communities they serve.

We advise this resource may contain images, or names of deceased persons in photographs or historical content.

Supervision Guidelines

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Part A – Message from the Strata and Property Services Commissioner

Empowered, accountable and trusted

Great consumer outcomes are essential for a successful business. They are also integral to our mission of an empowered, accountable, and trusted property services sector in NSW.

Empowered – We want you to have the capability, autonomy, and support to lead your business effectively. Confidence and pride in your team and great experiences for your clients should follow.

Accountable – Beyond compliance with all aspects of the law and regulation, a culture of accountability comes about when we hold ourselves to higher ethical standards. True accountability is not externally imposed, it is the discipline to consistently meet and exceed minimum standards.

Trusted – this refers to transparency in operations and communications. Property services professionals deal with high value, high emotion transactions, with lots of customer touch points, where the T of trust is at least as important as the L of location.

Leadership for a culture of accountability

Uplift in performance and accountability only happens with robust leadership.

The laws governing property and stock agents recognise the critical role of leadership and supervision in compliant agency businesses. Both the principal licensee and class 1 agents appointed as licensees in charge are legally responsible for the proper supervision of the business. Serious consumer harm can result from failures of supervision, as well as large penalties for those failures.

Leadership comes with rewards and responsibilities. As a leader, you are ultimately responsible for everything that happens in your business. The Supervision Guidelines will help you navigate that responsibility.

Why supervision matters in property and stock agencies

Property services practitioners deal with some of the most important moments in peoples' lives, as well as acting as agents for high value business and investment transactions. The financial and personal well-being of your clients and customers is at stake.

Agents are placed in a position of trust and responsibility, handling trust funds, executing contracts, and managing logistics and services for property, strata and business transactions. This raises the risk of harm to consumers if proper controls on everyone engaged in the business are not implemented and monitored by the principal licensee and any licensees in charge they appoint.

The Supervision Guidelines focus where possible on required outcomes rather than prescribing specific actions. The document identifies your minimum leadership obligations under law, and is your guide to ensuring the proper supervision of your agency business.

Three supervision requirements by law: people leadership, compliance procedures and conduct monitoring

I have issued these guidelines as to what constitutes the proper supervision of the business of a licensee under section 32 of the Property and Stock Agents Act. This function has been delegated to me by the Commissioner for Fair Trading, defined as the Secretary under the Act.

A failure to properly supervise the business of a licensee is an offence, as is a failure to comply with a requirement of the Supervision Guidelines. Accordingly, this document is in fact a mixture of both *guidance* on the proper supervision of the business (risky if not followed), as well as specific

requirements that principal licensees and licensees in charge must meet (potentially a criminal offence if not followed).

I have arranged the document to reflect the three requirements of supervision as set out in the Act:

Supervision Requirement 1 — People leadership

The requirement to properly supervise persons engaged in the business.

Supervision Requirement 2 — Legal compliance

The requirement to establish procedures designed to ensure that the provisions of this Act and any other laws relevant to the conduct of that business are complied with.

Supervision Requirement 3 — Professional conduct

The requirement to monitor the conduct of business in a manner that will ensure as far as practicable that those procedures are complied with.

What do each of those requirements mean, and what are the regulator's expectations of property and stock agency leaders when implementing them? You should find clear answers here. You should also find out whether you need to put in a little bit of work — or a lot — to ensure your business is well supervised and compliant. I encourage you to make use of the quality professional compliance and training services that are available to you in the industry if you need them, as well as any further regulatory guidance issued by NSW Fair Trading.

A failure of supervision can result in a maximum penalty of 200 penalty units (currently, \$22,000) as well as other disciplinary action against principal licensees and licensees in charge, including suspension or cancellation of licence. Building and delivering robust compliance strategies is therefore a key role of leadership.

An empowered, accountable and trusted property services sector is an outcome we should strive for together.

John Minns

John Minns

NSW Strata and Property Services Commissioner

3 May 2024

Part B – Definitions

In this document:

agent means an assistant agent, a class 2 licensee or a class 1 licensee under the Act

certificate holder means a person who hold a current certificate of registration under the Act

certified copy means a copy of an original document that has on it an endorsement by a person who is authorised as a witness for statutory declarations under *Statutory Declarations Regulations 2018* (Cth) – Schedule 2 that it is a true copy of the original document

Supervision Guidelines means guidelines as to what constitutes the proper supervision of the business of a licensee issued and notified to licensees from time to time by the Secretary under section 32(4) of the Act (being this document)

licensee means the holder of a licence under the Act

licensee in charge means:

- (a) the holder of a class 1 licence who is employed by a principal licensee to supervise the business of the principal licensee, and
- (b) a principal licensee who carries on business as a class 1 individual licence and does not employ a licensee in charge

operational procedures means the procedures required to be prepared and maintained under section 32(3)(b) of the Act

persons engaged in the business means any person who performs real estate agent functions, or strata managing agent functions, or acts as a stock and station agent for or on behalf of the business

principal licensee means a licensee (corporation or individual) who carries on business as an agent, whether or not that person employs a separate licensee in charge to supervise the business

property means real property or a business

Requirements are those things that constitute proper supervision of the business of a licensee, and a failure to comply with those things is a failure to properly supervise the business

Supervision Requirement 1 means the requirement set out in section 32(3)(a) of the Act to properly supervise persons engaged in the business

Supervision Requirement 2 means the requirement set out in section 32(3)(b) of the Act to establish procedures designed to ensure that the provisions of this Act and any other laws relevant to the conduct of that business are complied with

Supervision Requirement 3 means the requirement set out in section 32(3)(c) of the Act to monitor the conduct of business in a manner that will ensure as far as practicable that those procedures are complied with

the Act means the *Property and Stock Agents Act 2002*

the regulations means the *Property and Stock Agents Regulation 2022*

owner means the person/s with both the legal ownership of the property and authority to sell the property.

NB. Words and expressions used in these guidelines that are defined in the Act have the meanings set out in the Act.

Part C – The Supervision Guidelines

1

Supervision Requirement 1: People leadership

1.1 All parts of the business must be under the supervision of a licensee in charge

1.1.1 Guidance

Amendments to the Property and Stock Agents Act commenced in March 2020 that no longer require each place of business of a licensee to be supervised by a different licensee in charge. That previous requirement can continue in practice if it suits the leadership and management setup of the licensee's business, but the law is now more flexible.

A single licensee in charge can supervise multiple places of business, as well as multiple streams of the business, or just one.

An example would be in a real estate agency where one person is licensee in charge of property sales, while another is in charge of the agency's property management division.

1.1.2 Requirements

- a. Principal licensees must ensure that all parts of the licensee's business are supervised by a licensee in charge.
- b. No part of the business is to be left without supervision by a licensee in charge.

1.2 Persons engaged in the business and the basics of proper supervision

1.2.1 Guidance

Supervision Requirement 1 is a requirement to properly supervise persons engaged in the business.

The nature of supervision differs between the types of people engaged in the business, but the goals are the same — ensuring that legal compliance, governance controls and accountability are maintained.

Persons engaged in the business includes any person who performs real estate agent functions, or strata managing agent functions, or acts as a stock and station agent for or on behalf of the business.

Supervision Requirement 1 includes:

- monitoring progress of assistant agents and class 2 agents towards either a class 2 or a class 1 licence, in terms of qualifications and work experience requirements,
- ensuring persons engaged in the business receive induction and training in operational procedures used in the business, including the operational procedures maintained under Supervision Requirement 2, and
- providing those persons with means of reporting operational misconduct, including breaches of laws governing property and stock agents and the Supervision Guidelines.

1.2.2 Requirements

- a. Principal licensees and licensees in charge must properly supervise persons engaged in the business.

- b. Licensees in charge must assist persons engaged in the business by verifying completion of work experience requirements set out in the *Property and Stock Agents (Qualifications) Order 2019*.

2

Supervision Requirement 2: Operational procedures for legal compliance

2.1 Operational procedures to ensure compliance with all laws that govern property and stock agencies

2.1.1 Requirements

- a. Principal licensees must establish procedures that ensure the provisions of the Act and any other laws relevant to the conduct of the business are complied with.

2.1.2 Guidance

Supervision Requirement 2 is a requirement to establish procedures designed to ensure that the provisions of the Act and any other laws relevant to the conduct of that business are complied with.

A failure to prepare and maintain operational procedures for this purpose is an offence.

Operational procedures should be reviewed and appropriately revised at least every 12 months to ensure they remain current and emerging risks are addressed. In drafting their operational procedures, licensees in charge should identify key risks to non-compliance with laws applicable to the business, in four critical areas:

- financial
- licensing
- qualifications, education and training
- professional conduct within the business

The remainder of chapter 2 of the Supervision Guidelines addresses each of those risks in turn and sets out guidelines and requirements for how they are to be dealt with in the business's operational procedures.

2.1.3 Requirements

Operational procedures prepared and maintained in accordance with Supervision Requirement 2 must:

- a. exist separately from the Supervision Guidelines and identify the agency business or group of agency businesses to which they apply,
- b. identify the licensee in charge with responsibility for the procedures, and
- c. identify the laws that are relevant to the conduct of the agency business (or businesses) that are covered by the procedures, by considering the following Acts and Regulations/subordinate instruments made under those Acts, at a minimum:
 - *Property and Stock Agents Act 2002*
 - *Strata Schemes Management Act 2015*
 - *Strata Schemes Development Act 2015*
 - *Community Land Management Act 2021*
 - *Community Land Development Act 2021*
 - *Residential Tenancies Act 2010*
 - *Conveyancing Act 1919*

- Real Property Act 1900
- Retail Leases Act 1994
- Swimming Pools Act 1992
- Electronic Transactions Act 2000
- Uncollected Goods Act 1995
- Work Health and Safety Act 2011
- Environmental Planning and Assessment Act 1979
- Design and Building Practitioners Act 2020
- Australian Consumer Law, under the *Competition and Consumer Act 2010* (Commonwealth)
- Fair Trading Act 1987
- Anti-Discrimination Act 1977
- Privacy Act 1988 (Cth)
- Prevention of Cruelty to Animals Act 1979
- Biosecurity Act 2015 (NSW and Commonwealth)
- Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Commonwealth)

2.2 Financial governance

2.2.1 Requirements

Operational procedures prepared under Supervision Requirement 2 must address financial risks in the business and how they will be mitigated, at a minimum ensuring:

- a. each trust account maintained as part of the agency business has only one licensee in charge who can authorise withdrawals from that account (noting a single licensee in charge can be responsible for multiple trust accounts),
- b. a procedure is in place for obtaining and documenting authorisation from the relevant licensee in charge for the withdrawal of funds from a trust account, in accordance with the restrictions on licensees' functions in the regulations,
- c. security measures for operation of trust accounts, including each person with access has a separate login and passcode,
- d. daily or next day banking practices for trust moneys,
- e. verification of amounts deposited into and withdrawn from trust accounts, using the relevant financial institution's records as source document,
- f. procedures for the receipt, lodgement, claims and disbursement of rental bonds,
- g. a procedure for the monthly review of trust accounts, which includes ensuring that any adjustments shown at the end of month reconciliation can be explained with evidence,
- h. procedures for handling cash transactions, having regard to any reporting obligations of large cash transactions under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, and including records of:
 - the cash amount received,

- the name of the person who received the cash from the payer,
 - the name of the person who prepared the daily banking of those funds,
 - the name of the person who deposited the funds in trust at the financial institution, and
 - the trust account details and
- i. procedures for notifying the Commissioner for Fair Trading of a failure to account under section 39 of the Property and Stock Agents Act.
-

2.3 Licensing

2.3.1 Requirements

Operational procedures prepared in accordance with Supervision Requirement 2 must address licensing compliance, including at a minimum:

- a. identifying roles in the agency business that require either a certificate of registration as an assistant agent or a licence under the Act, having regard to functions set out in sections 3A and 3B of the Act,
 - b. documenting all persons engaged in the agency business who are exercising those functions and details of their current certificate of registration, class 2 licence, class 1 licence, appointment as a class 1 licensee in charge, or accreditation as an auctioneer,
 - c. ensuring that any licensee in charge who is permanently or temporarily unable to properly supervise the business due to illness, leave or other reason, is replaced by an appropriate class 1 licence holder such that there remains a licensee in charge appointed at all times,
 - d. preparing and maintaining a document as part of the operational procedures that clearly identifies each licensee in charge relating to the business, the dates on which they were the licensee in charge and, if the licensee has appointed more than one licensee in charge, the part of the business that each person supervises, including which trust accounts the person is responsible for, and
 - e. ensuring that details of every licensee in charge employed by the principal licensee, including the dates they commenced and finished being a licensee in charge, are notified to the Secretary in accordance with section 31(3) of the Act. This includes notifying the Secretary of address of each place of business at which the person discharges their duties as a licensee in charge of the business.
-

2.4 Qualifications, education and training

2.4.1 Guidance

Proper supervision of the business of a licensee includes ensuring persons engaged in the business are adequately trained and competent to perform the functions they are assigned, beyond any minimum licensing requirements that apply under the Act.

2.4.2 Requirements

Operational procedures prepared in accordance Supervision Requirement 2 must address qualifications, education and training compliance, including at a minimum:

- a. preparation and maintenance of an annual training plan that is aligned with the continuing professional development (CPD) year, detailing the training that class 1 and 2 licensed agents and assistant agents engaged in the business will complete under:

- compulsory CPD set by the Strata and Property Services Commissioner, with an approved provider, and
 - other training to ensure the licensee in charge and all licensees and certificate holders under their supervision maintain their knowledge of legislation relevant to the agency business, in compliance with Rule 1 (Knowledge of Act and regulations), Schedule 1 to the regulations.
- b. a procedure for monitoring and recording in the training plan the licensed agents and certificate holders who have completed their CPD, including by obtaining and reviewing records, and
 - c. a procedure for tracking assistant agents' and class 2 agents' completion of the NSW Fair Trading logbook, if required, to verify completion of the work experience requirements set out in the *Property and Stock Agents (Qualifications) Order 2019*.
-

2.5 Professional conduct

The final set of requirements under Supervision Requirement 2 address risks related to professional conduct in an agency business and the minimum steps required to mitigate or eliminate those risks.

2.5.1 Complaint handling

2.5.1.1 Requirements

The operational procedures must include a procedure for handling formal written complaints against the business and include:

- a. a register of complaints including actions taken to resolve complaints and the outcomes,
- b. a procedure for notifying complainants how to pursue their complaint with the appropriate regulator, if they wish to do so – for example, a complaint to NSW Fair Trading, and
- c. a requirement that allegations of financial misconduct must be reported to principal licensee or a licensee in charge.

2.5.2 Gifts and benefits and other conflicts of interest

2.5.2.1 Guidance

The Act and the Strata Schemes Management Act prohibit an agent or assistant agent from requesting or accepting a gift or benefit for themselves or another person in the exercise of their functions as an agent, with certain exceptions. The Act narrows the prohibition to circumstances that may reasonably be considered to give rise to a conflict of interest.

Best practice governance of potential conflicts of interest would be to add to the requirements for operational procedures below so that they also:

- include an explanation of the current law with respect to gifts, benefits and conflicts of interest and where more information on the current law can be found,
- explain the types of circumstances in which agents may be faced with possible breaches of the law, including where those circumstances may reasonably be considered to give rise to a conflict of interest, and
- reference the agency's procedure for reporting of misconduct.

2.5.2.2 Requirements

Operational procedures maintained in accordance with Supervision Requirement 2 must include:

- a register of gifts and benefits accepted or declined while carrying out functions as a licensee or certificate holder, as well as details of the nature and value of the gift or benefit and who made and received the offer, and
- a procedure for how to comply with any disclosure obligations related to conflicts of interest that apply under the Act or the *Strata Schemes Management Act 2015*, including but not limited to Division 3, Part 4 of the Act (Conflicts of interest), Rule 12, Schedule 1 to the regulations (Referral to service provider) and section 60 of the *Strata Schemes Management Act* (Disclosure of commissions and training services).

2.5.3 Information security and privacy procedures

2.5.3.1 Guidance

Proper supervision of an agency business includes operational procedures that address information security, including cyber security, to protect the personal information collected, held and used by the agency. Robust information security procedures are also vital to protect a business from financial and reputational loss resulting from successful cyber-attacks.

In preparing the agency's operational procedures, principal licensees and licensees in charge establish whether and how the *Privacy Act 1988* (Commonwealth) applies to the agency business and the reporting obligations on the business if a breach of that Act is detected.

Any guidance issued by the Office of the Australian Information Commissioner and the Australian Cyber Security Centre should also be considered in the preparation of operational procedures.

The NSW Commissioner for Fair Trading has issued guidelines to real estate agents for dealing with personal information of residential tenants and prospective tenants, which should also be considered in preparation of operational procedures:

<https://www.fairtrading.nsw.gov.au/housing-and-property/renting/personal-information-and-tenancy-applications>

Information security and privacy considerations in the use of any third-party platforms in the agency business should also be addressed in the operational procedures.

2.5.3.2 Requirements

Operational procedures maintained in accordance with Supervision Requirement 2 must include information security procedures, which include:

- a procedure for complying with reporting obligations under the *Privacy Act 1998*, if applicable,
- a procedure to ensure the agency's use of third-party platforms does not contravene the laws that govern the conduct of property and stock agents, or the rights under law of the customers of the agency who engage with the platforms (for example, residential tenants).

2.5.4 Proof of identity and establishing authority to act for the sale or ongoing dealings in property or livestock

2.5.4.1 Guidance

The prevention of fraud by property and stock agents is vitally important to:

- protect the assets of property and livestock owners,
- minimise the risk of civil action due to negligence, and
- maintain the integrity of the NSW property and livestock markets.

2.5.4.2 Requirements

Operational procedures maintained in accordance with Supervision Requirement 2 must include a procedure for the verification of the identity of property and livestock vendors and residential landlords before entering into an agency agreement with that person.

Identity verification procedure – general requirements

The procedure for verification of identity must include:

- a process to verify that the person entering into an agency agreement is the owner of the property that is subject to the agreement or, the person otherwise has the legal right to act on behalf of the owner,
- a process to ensure that in the case of a person who has the legal right to act on behalf of the owner — where that person is not listed on title, the original, an electronic copy of the original or a certified copy of the document which confers the power of sale or management on that person must be produced (including by electronic means and excluding by audio-visual means), and a copy of the document must be retained,
- a process to ensure that where there is no mortgagee listed on title, written confirmation of the power of sale or management, noting this is not required in the case of a person holding a valid power of attorney,
- a process to ensure that reasonable attempts are always made to verify the power of sale or management with the registered owner of the property, and a record is retained of each attempt,
- a process to ensure records are kept of the documentation relied upon to verify an individual's identity, but a copy of the documentation itself relied upon to verify an individual's identity is not required to be kept,
- a process to ensure the confidential destruction of all copies of proof of identity documents, and
- a process to ensure that, for ongoing dealings with parties to an agency agreement, only confirmed contact details and bank details that are held on file belong to the person who is party to the agency agreement and any changes are independently verified.

Identity verification procedure – documents to be relied on

In verifying the identity of a person, a licensee must inspect (in person or electronically, or by audio visual means) an original, digital version, or certified copy of:

- a current primary proof of identity document, which is one of the following:
 - Australian driver's licence, or
 - photo card issued by an Australian State or Territory, or
 - Australian or foreign passport.
- two of the following secondary proof of identity documents, which can include:

- current Medicare card
 - current credit card
 - passbook or account statement from a financial institution no more than one year old
 - electoral enrolment card or evidence of enrolment not more than two years old
 - gas, electricity, water or council rates bill no more than one year old
- c. a document providing proof of legal ownership of the property, business or livestock, with acceptable documents including:
- evidence of title
 - current council rates notice up to one year old
 - land valuation notice up to one year old
 - National Vendor Declaration for livestock.

2.5.5 Price representations and underquoting in the sale of residential property

2.5.5.1 Guidance

The law requires high professional standards from property agents when making price representations. Making false or misleading representations to any party, including by omission, can have serious consequences for consumer detriment and can result in strong enforcement action against agents.

Section 52 of the Act states:

52 Misrepresentation by licensee or registered person

- (1) A person (the *agent*) who is exercising or performing any function as a licensee or registered person must not induce any other person to enter into any contract or arrangement by—
- (a) any statement, representation or promise that is false, misleading or deceptive (whether to the knowledge of the agent or not), or
 - (b) any failure to disclose a material fact of a kind prescribed by the regulations (whether intended or not) that the agent knows or ought reasonably to know.

Maximum penalty—200 penalty units.

(2) Without limiting the generality of subsection (1), a statement, representation or promise is taken to be false, misleading or deceptive if it is of such a nature that it would reasonably tend to lead to a belief in the existence of a state of affairs that does not in fact exist, whether or not the statement, representation or promise indicates that the state of affairs does exist.

(3) It is a sufficient defence to a prosecution for an offence under this section if the defendant proves that the defendant did not know, and had no reasonable cause to suspect, that the statement, representation or promise was false, misleading or deceptive.

2.5.5.2 Requirements

Operational procedures maintained in accordance with Supervision Requirement 2 must include a procedure for compliance with:

- a. the prohibition on misrepresentation in section 52 of the Act,
- b. the Australian Consumer Law as it applies to the agency business and its prohibitions on:

- false and misleading representations
 - misleading and deceptive conduct
 - unconscionable conduct
 - unfair terms in standard form contracts (such as agency agreements and supply contracts)
 - unfair business practices, and
- c. as set out in 2.5.6 and 2.5.7 below, transparent representations on the price of residential properties, in accordance with the Act.

2.5.6 Representations about the selling price of residential property

2.5.6.1 Guidance

Specific rules on agents' representations about the selling price of a residential property are in Division 3, Part 5 of the Act. Those rules add to the overarching prohibition on misrepresentations under section 52.

Proper supervision of the business of a licensee includes ensuring sales agents deliver transparent and compliant price representations.

2.5.6.2 Requirements

Operational procedures maintained in accordance with Supervision Requirement 2 must include a procedure for ensuring compliance with Division 3, Part 5 of the Act.

The procedure must include:

- a. the evidence that can be relied on to establish the reasonableness of an estimated selling price which includes, at a minimum:
 - sales of comparable properties,
 - market feedback,
 - any current or relevant valuations provided in respect of the property,
 - the characteristics and features of the property,
 - the methods used to market the property,
 - vendor requirements as to the timing of sale of the property,
- b. a requirement for timely reviews of the estimated selling price, having regard to market conditions, the method of sale for the property and any other relevant factors, and
- c. a procedure for timely communication to the vendor of any revisions to the estimated selling price, in accordance with section 72A(4)-(5) of the Act.

2.5.7 Price representations in multi-unit residential properties

2.5.7.1 Requirements

Operational procedures maintained in accordance with Supervision Requirement 2 must include a procedure for ensuring transparent price representations in the sale of a multi-unit or multi-lot property which includes the following requirements:

- a. if any price indication is given, it must include the estimated selling prices for the lowest and highest priced properties in each property category expressed by:

- providing the price ranges for each category, with the low end of the range being the estimated selling price of the lowest priced property in the category and the higher end of the range being the most expensive property in that category; or
 - stating the estimated selling price in the agency agreement of the lowest and highest priced properties for each property category
- b. any collective marketing of residential units or lots that include a price indication must also advise prospective buyers that there are multiple properties within each category of varying prices, and
- c. all advertising and marketing must be updated to reflect the value of the current lowest priced lot or unit available.

3

Supervision Requirement 3: Monitoring business conduct

3.1 Proper supervision includes monitoring the conduct of business to ensure compliance with procedures

3.1.1 Guidance

Supervision Requirement 3 is the requirement to monitor conduct of business in a manner that will, as far as practicable, ensure compliance with the operational procedures required under Supervision Requirement 2.

Licensees in charge and principal licensees should take reasonable steps, including the establishment of adequate systems, to monitor conduct of the business in the critical areas of risk set out in Supervision Requirement 2. These steps are in addition to any other legal requirements for monitoring and review, such as the record keeping and trust accounting auditing obligations in Part 8 of the Act.

Reasonable steps and adequate systems should ensure that:

- a. the business management structure has clear lines of accountability that enable effective monitoring of compliance with the operational procedures by all persons engaged in the business
- b. work is distributed to persons engaged in the business in a manner that does not jeopardise compliance with operational procedures maintained in accordance with supervision requirement 2, for example due to volume or complexity of the work
- c. records of transactions, communications, advertisements, contracts, agreements and other types of business information are held in a manner that enables access and review by licensees in charge, and
- d. performance and conduct reviews of persons engaged in the business are undertaken at appropriate intervals to satisfy the licensee in charge that compliance with operational procedures is being monitored effectively and corrective action can be taken.

3.1.2 Requirements

- a. Principal licensees and licensees in charge must establish adequate systems to monitor the conduct of the business so that, as far as is practicable, the requirements of Supervision Requirement 2 are met.
- b. Licensees in charge must make a record of each instance of non-compliance with the operational procedures maintained under Supervision Requirement 2, including the name of the person engaged in the business who failed to comply with the operational procedures, the clause of the operational procedures breached, and any corrective action taken.
- c. Records made under these requirements must be kept for a minimum of three years in accordance with section 104(2) of the Act.

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