

# Regulatory Guidance and Professional Judgement

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# Today's Speakers



**Carmen deFoy**



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**Tina Albrecht**

A photograph of three business professionals in a modern office setting. On the left, a man in a dark suit is walking and looking towards the right. In the center, a woman in a white shirt and dark pinstriped trousers is gesturing with her right hand. On the right, another woman in a dark blazer and skirt is walking. They are all on a reflective floor in front of a large glass wall.

# Agenda

- 1 PROJECT OVERVIEW**
- 2 THE REGULATOR'S EXPECTATIONS**
- 3 PRACTICE SCENARIO**
- 4 WHAT TO EXPECT IN APRIL?**
- 5 Q&A**

# PROJECT OVERVIEW



# A New Approach to Regulatory Guidance



## TIME TO UPDATE

Much has changed in the real estate industry in 15 years.



## GOING DIGITAL

Content written and formatted for digital platforms.



## NEW RESOURCES

Addition of content focused on needs of managing brokers.



## Suggestions from 1997

- User friendly index
- Use simple English
- Keep content up-to-date
- Add more headings
- Ensure it is concise, clear and easy to read

### EXECUTIVE SUMMARY

While the main objective of this survey of agent nominees is to determine ways of reducing the scope of the manual, survey results indicate that the majority of agents are content with the manual as it is currently structured. Even when asked directly if there are sections they would recommend be eliminated, 56 percent think all sections should be maintained.

However, finances may dictate otherwise and, should it become necessary to scale down the manual, survey findings point to several areas as possibilities for elimination. These include the entire Licensee Practice Manual section, the Mortgage portion of the CCH Commentaries section, and the Mortgages and Brokers Act in the Statutes and Regulations section.

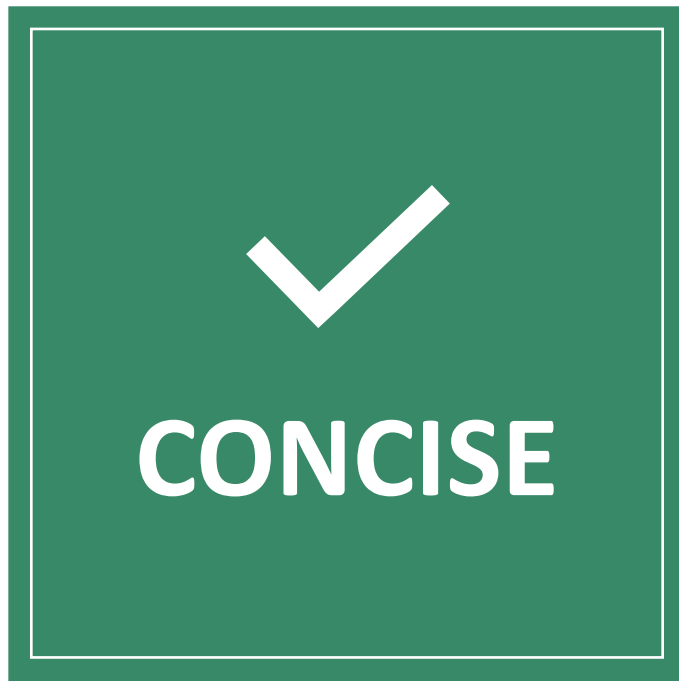
Another objective of the survey is to determine if, in fact, agent nominees are using the Corporate Office Manual and, if so, how frequently. In this regard the great majority of agents are using the manual but, of course, frequency of usage varies from section to section. The Licensee Practice Manual (LPM) is the most frequently used source with roughly a third using it weekly, a third monthly, and a third less than monthly. It should be noted, however, that most agents refer to the stand alone version of the LPM rather than this section within the Corporate Office Manual. Next, in declining order of frequency of use are the Topical Index, the Statutes and Regulations section, the Corporate Office manual section and the CCH Commentaries section.

In terms of the *usefulness* of the manual, the RECBC can take credit for the fact that the majority of agents consider the manual to be a useful resource tool. In this regard the Statutes and Regulations section is rated highest in usefulness, followed by the Topical Index, the LPM, the Corporate Office Manual section and finally the CCH Commentaries section.

A number of suggestions were given for improving the manual; these include:

- making the topical index more user friendly. This could include providing more detail and more cross-references in the index, having one index for the entire manual, providing instructions on how to use the manual, making page numbering less confusing and more standardized, referring to page numbers as well as paragraph numbers, and using simple English where possible in the index as well as throughout the manual;
- adding more headings to the sections;
- improving page numbering (page numbering at top and bottom of pages as well as gaps in numbering are confusing to some people);

# Project Goals: User-Friendly Content



# Project Goals: Online Accessibility



# Project Goals: Meet Information Needs



**GUIDANCE**



**INTERPRETATION**



**CLAUSES**

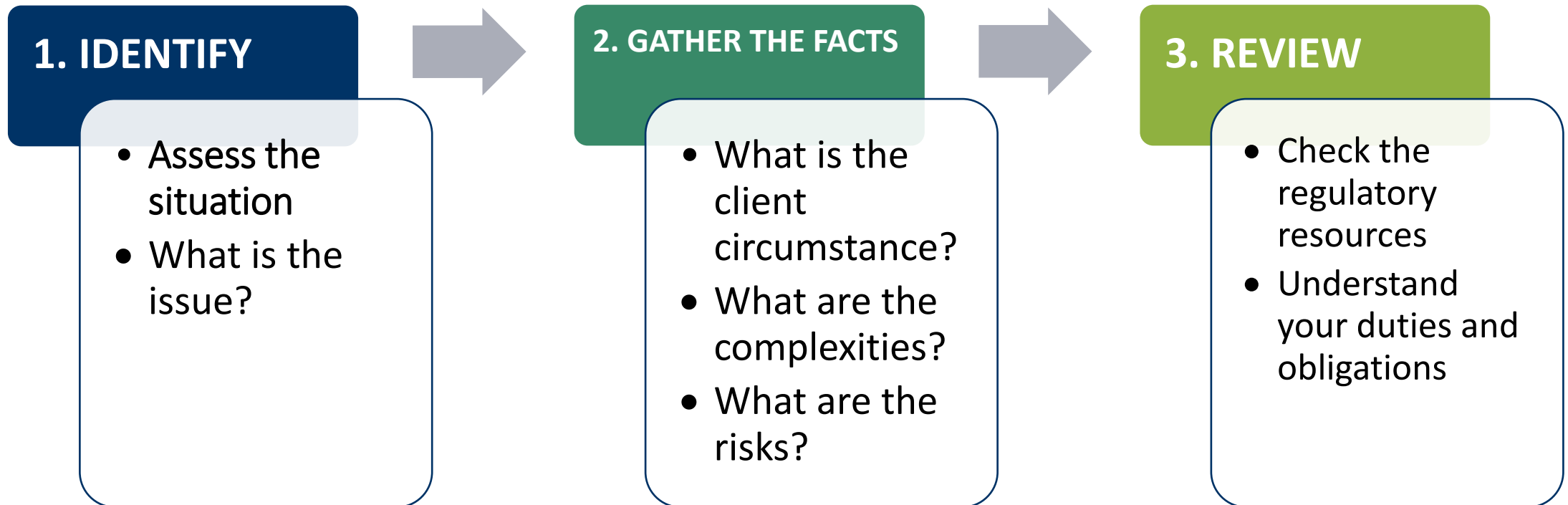
# THE REGULATOR'S EXPECTATIONS



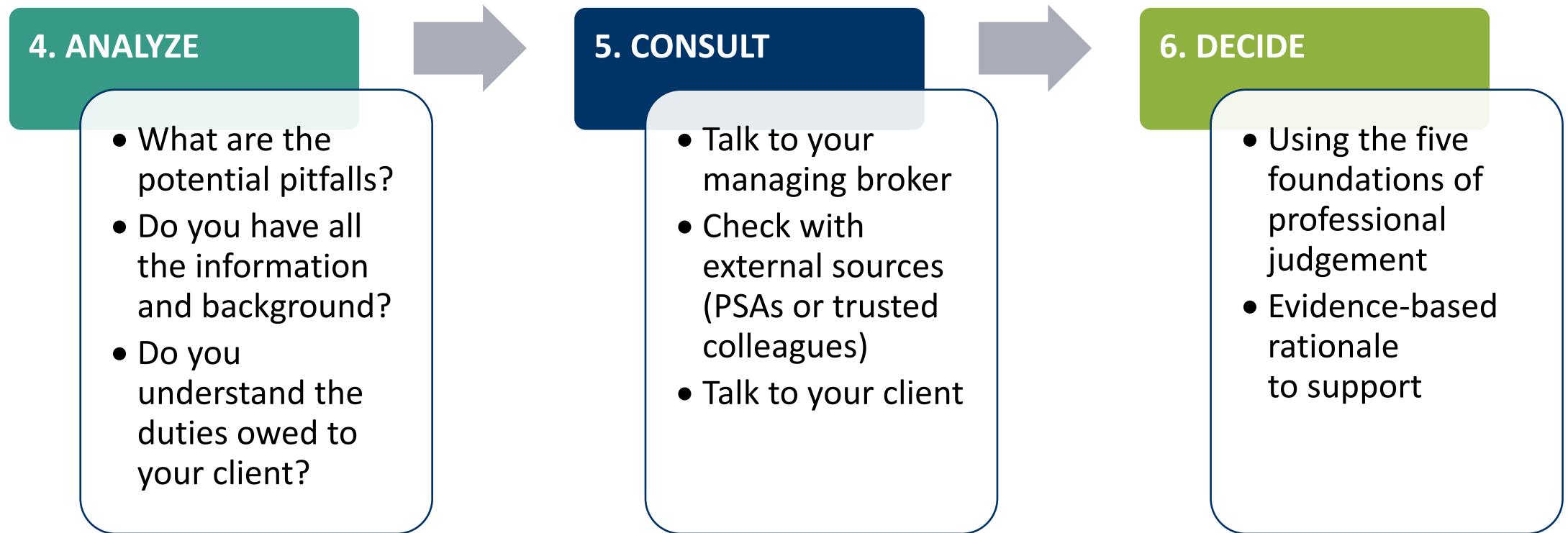
# Professional Judgment



# Steps to Decision Making



# Steps to Decision Making



**DOCUMENT!**

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**DOCUMENT!**

# Accountability

## **What the licensed professionals at your brokerage need to know:**

- Always make decisions that put the client interests first
- Avoid conflicts of interest
- Brokerage's policies and procedures

# PRACTICE SCENARIO



## THE SCENARIO

Your seller client has  
received an offer.

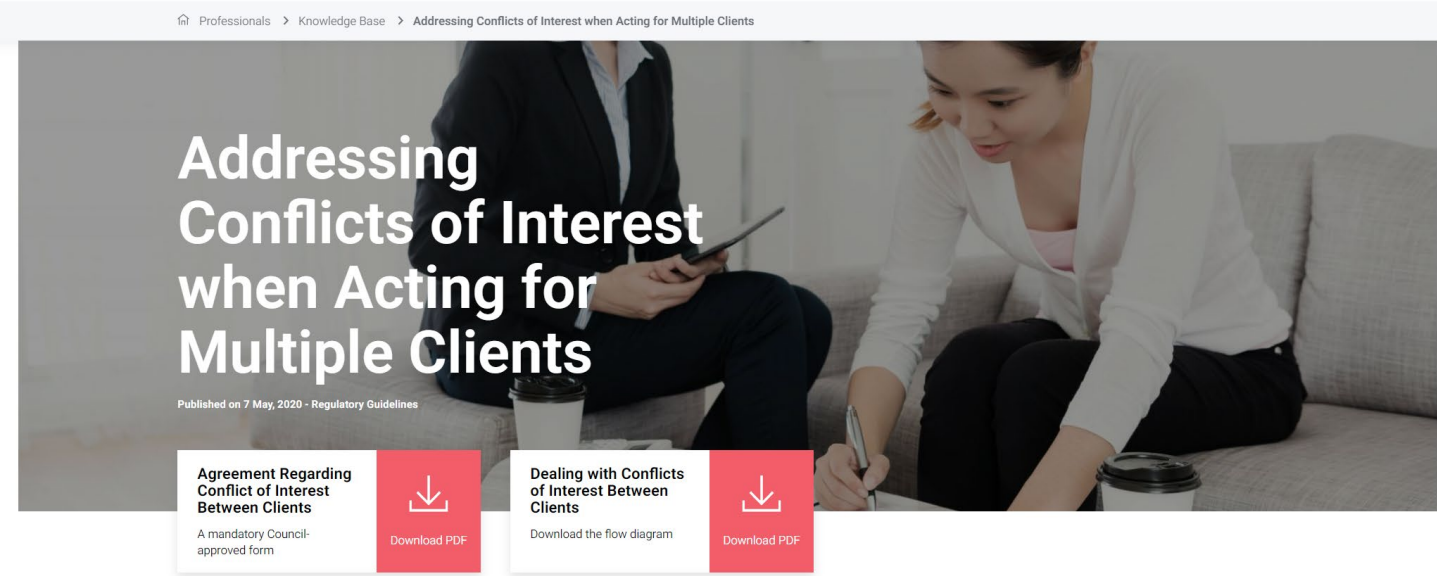
## Step 1: Identify

**ISSUE:** The offer is from a **former client** of yours, who you released and is now **unrepresented**.

## Step 2: Gather



# Step 3: Review



### 3. Understand the risks of working with a released client as an unrepresented party

There are significant risks to working with a released client as an unrepresented party, because:

- you have likely obtained confidential information about the released client;
- you have a continuing duty of confidentiality to the released client; and
- it is difficult to act in the continuing client's best interest when you cannot disclose the confidential information about the released client.

Learn more about the limited trading services you can provide to [unrepresented parties](#) and your [disclosure requirements](#).

Because you previously had an agency relationship with the released client, the risks to you of working with them as an unrepresented party are heightened. You could be in an implied agency relationship – or you could be perceived to be in implied agency.

Menu	GO TO
Purpose	
Guidelines	+
Managing Broker Considerations	
Applicable sections of RESA/Regulation/Rules/Bylaws	
Definitions	

Menu

RECBC

Search

Home

Professionals

Knowledge Base

Addressing Conflicts of Interest when Acting for Multiple Clients

# Addressing Conflicts of Interest when Acting for Multiple Clients

Published on 7 May, 2020 - Regulatory Guidelines

Agreement Regarding Conflict of Interest Between Clients

A mandatory Council-approved form

Download PDF

Dealing with Conflicts of Interest Between Clients

Download the flow diagram

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Related Links

Guide to Agreement Regarding Conflict of Interest Between Clients Form

→

Real Advice: Conflicts of Interest

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FAQ on Current & Former Clients

→

Obtaining Informed Consent

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Purpose	
Guidelines	+
Managing Broker Considerations	
Applicable sections of RESA/Regulation/Rules/Bylaws	
Definitions	

## Step 4: Analyze



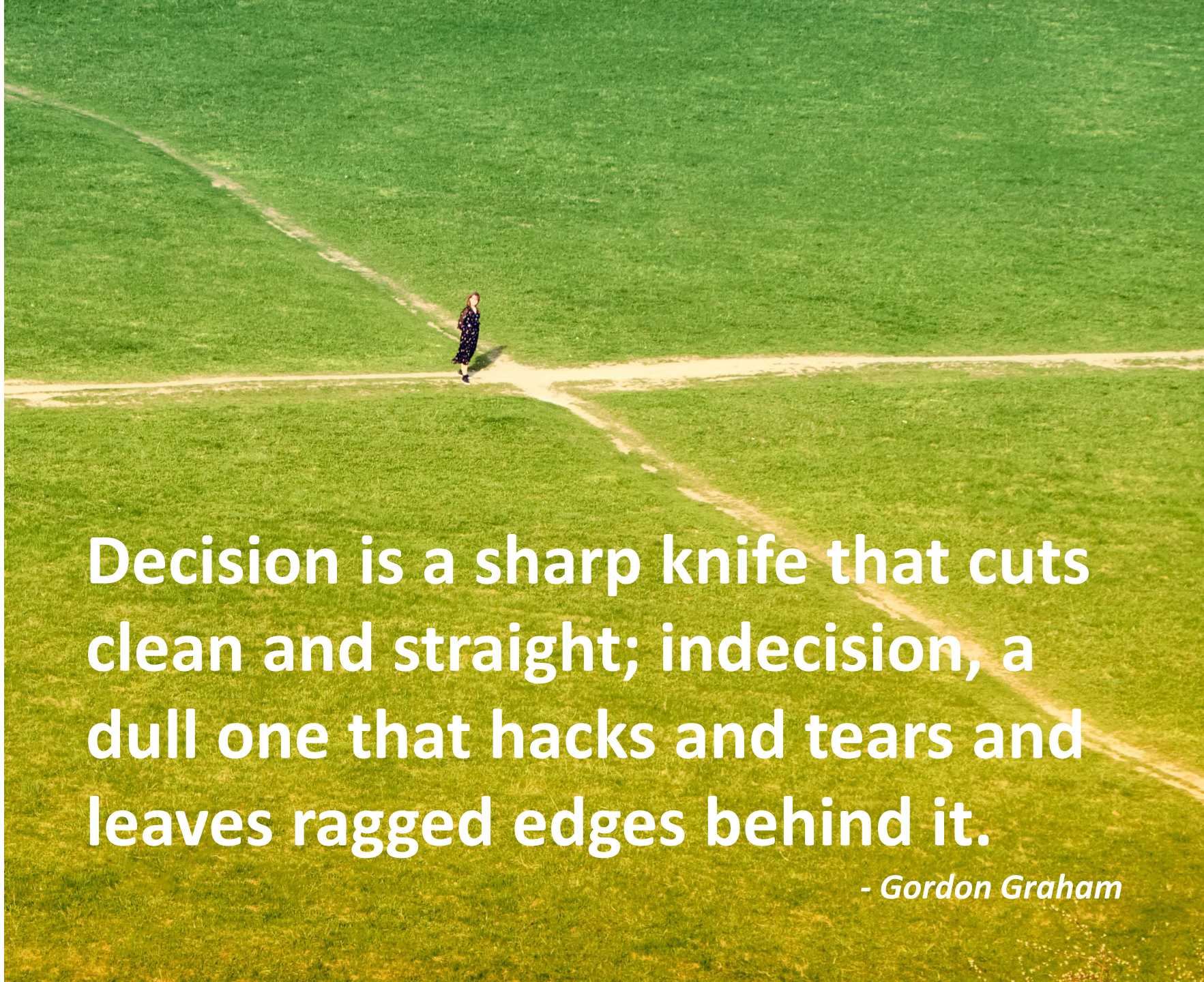
## Step 5: Consult



## Step 6: Decide

Decision is a sharp knife that cuts clean and straight; indecision, a dull one that hacks and tears and leaves ragged edges behind it.

- Gordon Graham



# Step 7: Document



# WHAT TO EXPECT IN APRIL



# Regulatory Resources Preview



**Information &  
Guidelines**



**Clauses**



**Knowledge Base  
Preview**



# Knowledge Base

Welcome to your information and resource hub. Find answers to your real estate questions and stay up-to-date on the latest developments.

[SEARCH TIPS FOR ADVANCED USERS →](#)

[CLAUSES →](#)

[TOOLKITS →](#)

[AGENCY AND DISCLOSURE FORMS →](#)

All

Real Estate Sales

Rental Property  
Management

Strata  
Management

Brokers

## Knowledge Base

Resources to support your real estate practice. Find answers to enhance your regulatory compliance.

Search the Knowledge Base by keyword



[SEE ALL CONTENT →](#)

[BROWSE BY TOPIC →](#)

# Regulatory Resources Topic Index

Use the index below to browse all of RECBC's regulatory resources. Within most topics you will find regulatory information and guidelines.

Expand all

Addressing Conflicts of Interest when  
Acting for Multiple Clients +

Advertising +

Agency +

Anti-Money Laundering +

Assignments +

Cannabis (Residential) +

Communication with Council +

Confidentiality +

Conflict of Interest (Rental Property  
and Strata Management) +

Conflict of Interest (Trading Services) +

Licensee Obligation to Report  
Misconduct +

Manufactured Homes +

Material Latent Defects +

Personal Office +

Personal Real Estate Corporation +

Presales +

Privacy +

Radon Precautions +

Referrals +

Remuneration +

Service Agreements +

Expand all

Addressing Conflicts of Interest when Acting for Multiple Clients +

Advertising +

Agency -

This information will help you understand the different types of agency and your requirements under the Real Estate Rules.

REGULATORY INFORMATION →

REGULATORY GUIDELINE →

Anti-Money Laundering +

Assignments +

Licensee Obligation to Report Misconduct +

Manufactured Homes +

Material Latent Defects +

Personal Office +

Personal Real Estate Corporation +

Presales +

Privacy +

# QUESTIONS & ANSWERS



Q: When real estate professionals at my brokerage ask questions that are new and unfamiliar, what steps should I take?

**A:** The regulatory information and guidelines are available in the Knowledge Base. The new resources include managing broker considerations and relevant cases to assist you in your decision making. Professional Standards Advisors are available to provide information and respond to practice inquiries.

**Q:** With all the changes coming what does this mean for us as managing brokers?

**A:** Inform the real estate professionals at your brokerage about the changes, ensuring they are well versed. Create robust policies and procedures for your brokerage.

*See Rule 3-1 regarding supervisory responsibilities.*

**Q:** Given the focus on critical thinking and using professional judgement, is this now being taught in RECBC's education courses?

**A:** Yes. One of the purposes of this project was to ensure that the regulatory information and the regulatory guidelines were following the “continuum of education”. Our goal is that the information and guidelines are consistent all the way from the pre-licensing course to the new regulatory resources.

# AUDIENCE QUESTIONS



# Thank you

For information on  
practice issues, contact  
RECBC's Professional  
Standards Advisors  
[advisor@recbc.ca](mailto:advisor@recbc.ca)

