

A quick guide to buying or selling your home



This leaflet gives you tips on what to look out for when you're buying or selling a home using an estate agent, plus some useful addresses.





Selling a property

Shop around and get at least three agents to give a valuation and quote for their services. Estate agents often start by offering similar fees, but by bargaining you can make big savings - about £300 on an average valued home.

When you ask an estate agent to act on your behalf and he agrees to do so, you are entering into a legally binding contract. So 'think contract'. Check its terms. Find out about whether you have the right to cancel the contract and how long it will run for.

To get the best deal:

- Negotiate on fees
- Ask for the fee as a monetary sum based on the estate agent's valuation, not just a percentage
- Always get more than one valuation for the property and compare them. Be realistic – trying to sell your property at an inflated price could mean that it will take longer to sell
- Check what you're signing up to and whether you're being offered a **sole** or **multiple** agency deal or sole selling rights (see key terms)
- Check exactly what's included in the package such as advertising, brochures and so on
- Read the contract, ask questions and never sign up to anything that you don't understand

Know your rights

When selling a property you have certain rights.

Offers: potential buyers view your property and can make an offer to buy it. You must be told promptly and in writing of all offers received by the estate agent (unless they are of a kind you have said in writing that you don't wish to receive).

Between an offer being accepted and exchange of contracts, you should be able to re-negotiate the price and conditions of sale without penalty.

What your estate agent must do

The contract: the terms 'sole agency', 'sole selling rights' and 'ready willing and able purchaser' must be explained in writing and in wording required by law if used in the contract.

Fees or charges: when you enter into the contract you must be given written details of how much you will be charged and when payments will be due. Fees are usually paid on completion of a sale.

Property particulars: once instructed, the estate agent visits your home and takes details of its size and features.

False or misleading statements

It is a criminal offence for an estate agent to make statements about the features of a property that are false or misleading.

NOTE: estate agents might be in a position to benefit personally from the sale of a property. You must be told - promptly and in writing - if the estate agent or a relative or business partner of the estate agent who is selling your property wants to buy it. And you must be told if the agent might benefit in any other way (above and beyond the agreed commission) from the sale of your property. Similarly, if the agent or a relative or business partner is selling a property, then the prospective buyer must also be told promptly and in writing.





Buying a property

Remember that estate agents provide information and property details to buyers, but they're usually working for and paid by the seller. Know your rights and be prepared to bargain so that you get the best deal.

What to look out for:

- If you need a mortgage, shop around yourself for the best deal. Don't be talked into taking out one the estate agent is trying to sell, unless you've compared it with other lenders' offers
- Estate agents must not discriminate against you if you buy additional services elsewhere or ignore their recommendations (for example, for insurance or a mortgage)
- The agent must not mislead you
- The agent must describe the property in a true and accurate way
- You can make your offer subject to conditions, but the seller does not have to accept them
- If you're asked to pay a pre-contract deposit, check with your solicitor if this is necessary. If so, is the money returnable if you don't complete the purchase? Get a receipt
- Don't use the same legal adviser as the seller

- If using the services of an estate agent to find a suitable property to buy, try to avoid buying a property where your agent is also acting for the seller. Under such circumstances, the agent may have a conflict of interest
- To find a surveyor, ask friends or relatives for their recommendations. Or contact the Royal Institution of Chartered Surveyors (see useful addresses)

Top tips for buyers and sellers

- Check whether the estate agent is a member of a trade association, for example the National Association of Estate Agents (NAEA), Royal Institution of Chartered Surveyors (RICS) or the Ombudsman for Estate Agents Scheme (OEA)
- Shop around and compare before you commit yourself
- Don't be persuaded to sign up to a mortgage, conveyancing or other services without checking the alternatives
- Keep a record of all correspondence

Key terms

Estate agents: arrange the sale of a property by bringing together buyers and sellers. They usually act for sellers, not buyers - although this will not always be the case.

Estate agents advise on price, negotiate between sellers and buyers and handle advertising. For these services they usually take a commission – often a percentage of the purchase price and payable by the seller (if the seller is their client).

Sole agency: the term refers to your appointed estate agent - the only *agent* with the right to sell your property. You should be able to sell the property yourself without paying the agent a fee – provided that the buyer was not introduced to you by the agent during the contract period.

Sole selling rights: the estate agent that you have appointed is the only *person* with the right to sell your property. The agent is entitled to his fee *even* if you sell the property yourself.

Multiple agency: you can ask several agents to act for you. But only the one that sells the property is entitled to a commission. Commission can be higher if you opt for a multiple agency deal.

Ready willing and able purchaser: under the contract, if the estate agent finds you a buyer who is prepared and able to buy your property and to exchange unconditional contracts, you must pay the commission – even if you decide not to sell.

Gazumping: even after an offer has been accepted, the estate agent has a legal duty to pass on any further offers unless the seller specifies otherwise. This can lead to gazumping – where a new and higher offer is accepted by the seller before exchange of contracts.

Mortgage: this is a long term loan, often secured on the value of the property. The Financial Services Authority (FSA) can help you find the best deal (see useful addresses).

Surveys: a *home buyer's survey* is a partial survey of the state of the property.

A *full structural survey* tells you if the property is sound or whether major repairs are needed. This should be carried out by an independent surveyor.

Conveyancing: the legal side of buying property. It's normally done by a solicitor or licensed conveyor, but some people take this on themselves.

What if there's a problem?

If you are unhappy with the service provided by the estate agent try to sort it out with the local branch or head office. If that doesn't work talk to your local trading standards department. The address is in the phone book. If the agent is a member of a trade association or the Ombudsman for Estate Agents Scheme, they might be able to help (see useful addresses).



Useful addresses

The Financial Services Authority (FSA)

25 The North Colonnade
Canary Wharf
London E14 5HS

*FSA consumer leaflet line 0845 606 1234
(calls charged at local rate)*

Website: www.fsa.gov.uk/consumer

The Royal Institution of Chartered Surveyors (RICS)

12 Great George Street
London SW1P 3AD
Tel 020 7222 7000

Website: www.rics.org/public/

The Ombudsman for Estate Agents Scheme (OEA)

Beckett House
4 Bridge Street
Salisbury
Wiltshire SP1 2LX

Tel 01722 333306

Website: www.oea.co.uk

The National Association of Estate Agents (NAEA)

Arbon House
21 Jury Street
Warwick CV34 4EH
Tel 01926 496800

Website: www.naea.co.uk

The Office of Fair Trading (OFT) website also contains lots of information on buying and selling residential property and we also produce a more detailed leaflet *Using an estate agent to buy or sell your home* (OFT157). Go to www.offt.gov.uk or call 0870 60 60 321

Scotland - The OFT is working with Scottish stakeholders to produce information about buying and selling property in Scotland. This will be produced separately.

This leaflet sets out general guidelines. All legal rules have exceptions and variations. How the law applies to you depends on the facts of your case. If you think you have a legal claim and cannot get a satisfactory answer from the trader get advice from your local authority's trading standards service or a Citizens Advice Bureau or a solicitor.

- Consumer tips
- Consumer know-how
- Consumer credit

This information is available in other formats and other languages on request. Please ring 0870 60 60 321 for details.

Published by the Office of Fair Trading
Printed in the UK comprising 75% post-consumer waste and 25% ECF pulp

Product code OFT744

Edition 09/04 Printed 09/04 – 20,000

© Crown Copyright 2004

www.offt.gov.uk