

Conflicts of Interest

Information Sheet

What is a conflict of interest?

A conflict of interest with a real estate agent¹ (agent) happens when they or someone connected to them wants to buy the property they are selling for you, or when they or someone connected to them has a financial interest in the property you want to buy.

Conflict of interest extends to a wide range of people, including an agent's colleagues, employees and certain relatives (a full list is below).

Agents must disclose any conflict of interest. It is important that your agent is independent and acts in your best interests.

Conflict of interest for sellers

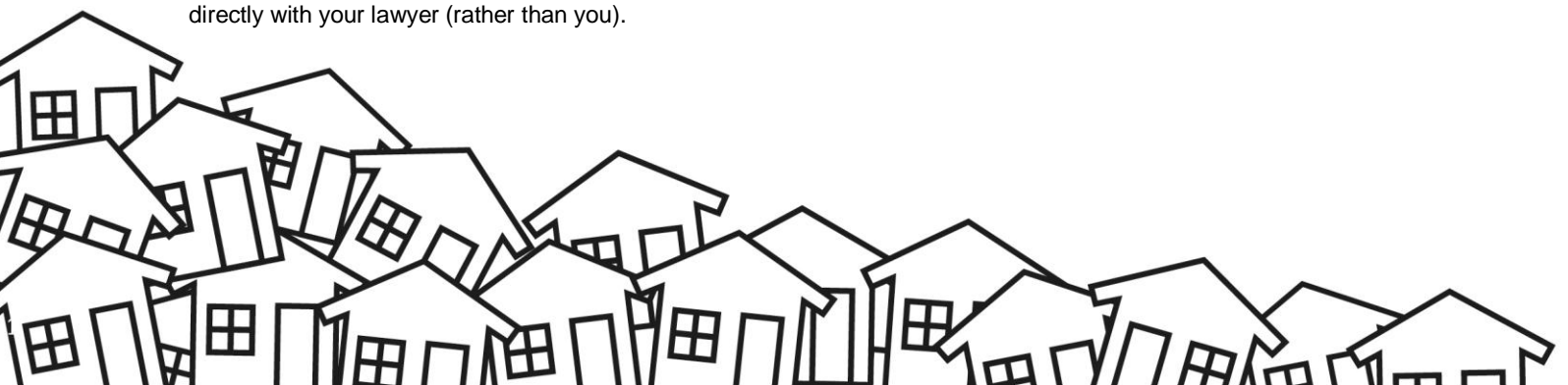
Can a real estate agent or someone connected to them make an offer to buy my property?

An agent who is working for you under an agency agreement, or someone connected to that agent, can offer to buy your property (or business).

If this happens, we recommend the agent who wants to buy your property no longer acts for you and another agent from the real estate agency represents you². An agent who wants to buy your property has a conflict between wanting to buy the property and advising you and acting in your best interests as their client. It is

¹ Agent is a general term that refers to an agent, branch manager or salesperson.

² If it is a one person agency then we recommend that you go to another real estate agency or have the agent deal directly with your lawyer (rather than you).



important that you have someone independent working for you to sell your property – this is the service you are paying for.

What must the agent do?

When there is a conflict of interest there are certain things, under the Real Estate Agents Act 2008, that must be done. These requirements are outlined in the Act and are intended to protect your interests. These requirements must still be met even if another agent in the agency ends up acting for you (which we recommend) as this is still a conflict of interest situation.

You should ensure that you receive the information listed below. If an offer is made and you are unsure of your rights, or need further information, you should consult your lawyer before signing anything.

Before signing the sale and purchase agreement, the agent must first:

- ✓ Obtain your informed consent by giving you a consent form to sign: this must be in the form that is set out in regulations (you can see a copy at reaa.govt.nz); and
- ✓ At the same time, give you a valuation of your property or business.

The valuation must be made by an independent registered valuer, or in the case of a business be made by an independent chartered accountant. This valuation is not the same as the market appraisal that the agent originally gave you when you listed the property for sale.

The valuation must be made at the agent's own expense.

You can insist on seeing the valuation before you consider signing the consent form and the sale and purchase agreement.

If you decide to sign the consent form before receiving the independent valuation, the agent **must**:

1. Give you a provisional valuation (this is not the same as the original market appraisal); and



2. Give you the valuation made by an independent registered valuer or chartered accountant within 14 days of you signing the consent form.

If the independent valuation is greater than the provisional valuation, you can cancel the contract for the sale of your property (if you have already signed one) without any penalty.

Conflict of interest for buyers

The agent must tell you in writing if they are selling a property or business in which they, or someone connected to them, has a financial interest. You can see a copy of the form they must use at reaa.govt.nz.

Who is covered by the above requirements?

If any of the following people:

1. Want to buy your property or business the agent must obtain your consent and provide a valuation as covered in the conflict of interest for sellers section above.
 2. Own or have an interest in the property you are buying the agent who is marketing the property must disclose this in writing to you as covered in the conflict of interest for buyers section above.
- a) an agent, branch manager or salesperson working for you under an Agency Agreement
 - b) if the agent is a company, every officer and shareholder of that agency company
 - c) a business partner of any of the persons in (a) and (b)
 - d) an employee of any of the persons in (a) and (b)
 - e) a branch manager or salesperson engaged by an agent
 - f) the spouse, civil union partner or de facto partner of any of the persons in (a) or (b)



- g) a child, grandchild, brother, sister, nephew or niece of any of the persons in (a) or (b), or a child, grandchild, brother, sister, niece or nephew of their spouse, civil union partner or de facto partner
- h) any other child who is being, or is to be, cared for on a continuous basis by any of the persons in (a) or (b) or by their spouse, civil union partner or de facto partner
- i) any parent of the persons in (a) or (b) or of their spouse, civil union partner or de facto partner
- j) any entity that has an interest in any of the persons in (a) or (b) or any entity (that is not an entity listed on the New Zealand Stock Exchange) in which any of the persons listed in (a) or (b) has an interest.

Information sheets that provide further information on the property buying and selling process are available from www.reaa.govt.nz or by calling **0800 for REAA** (0800 367 7322) or (04) 471 8930.

Real Estate Agents Authority

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To the best of the Real Estate Agents Authority knowledge, the information in this guide is accurate at the date shown below. However, the requirements on which this information is based can change at any time and the most up-to-date information is available at www.reaa.govt.nz [Version 1.3, 18 December 2014].

