

# Your guide to selling a home



# Real Estate Agents Authority



## DISCLAIMER

This booklet is an introductory guide. Buying property is a complex and sometimes fast-moving legal process. Every transaction is different, and we recommend you get legal advice.

June 2017

# Know what's important before you sell

Selling your home is a complex legal process. Use this guide to understand what's involved and what to watch out for – before you put your house on the market.

This guide covers four key things we recommend you do before you sell. You'll also find a list of words you'll need to know, and where to go for more information.

## 1. Get legal advice

You want to get a good price for your property, and you need to know your legal obligations when selling. That's why it's important to get your own legal advice before you sign anything.

## 2. Sign up with a real estate salesperson

Your real estate salesperson works on your behalf, so it's important to choose someone you feel comfortable with. You should discuss everything with them carefully before you sign an agency agreement.

## 3. Understand the sale process and method of sale

There are several methods of buying and selling property – for example, tender or auction. It's important to understand the process you're using to sell your property. Practices can vary between agencies, so make sure you confirm details with them.

## 4. Read the sale and purchase agreement

The sale and purchase agreement is legally binding, so it's important to read it carefully and get legal advice before you sign. You can negotiate the terms and conditions of an agreement, but once you sign it, there's no going back.

## 5. Understand the language of property sales

The property market has a lot of words and jargon that may be new to you. Use our handy glossary to find out what everything means.

## 6. Find out more about REAA

We're an independent government agency. We're here to help and protect people buying and selling property. Visit our [website](#) for more help and advice.

# Get legal advice

You want to get a good price for your property. You also need to make sure you understand your legal rights and obligations when selling your property. That's why it's important to get your own legal advice before you sign anything.

We recommend you engage a lawyer to help you through the selling process. Choose a lawyer before you set out to sell – selling can be a fast-moving process.

Agency agreements and sale and purchase agreements are legally binding documents. You should consult your lawyer before signing them.

## Find a property lawyer

- Get recommendations from friends, family or work colleagues.
- Contact the local branch of the New Zealand Law Society.
- Visit [propertylawyers.org.nz](https://propertylawyers.org.nz).

**TIP:** The New Zealand Law Society has an excellent fact sheet about buying and selling property.

# Sign up with a real estate salesperson

Real estate salespeople work for you to help you sell your property for the best price. You sign an agency agreement with them and you pay them a commission when the sale is confirmed.

## Choose a salesperson and check that they're licensed

Your real estate salesperson works for you, so it's important to choose someone you feel comfortable with.

You can contact as many agencies as you like before deciding who to list your property with. You can list your property with a single agency or with multiple agencies. You can also ask to deal with a specific salesperson from the agency you choose.

Even if you know your salesperson personally, or a friend recommends them, check that they're licensed. Use our public register at [reaa.govt.nz](https://www.reaa.govt.nz) to check their details and see if they've had any complaints upheld against them. If you deal with an unlicensed person, we won't be able to help you if things go wrong.

All salespeople must follow the Code of Professional Conduct and Client Care. You can find a copy of this at [reaa.govt.nz](https://www.reaa.govt.nz).

**TIP:** Remember that the salesperson works for you. They must always treat you fairly and represent your best interests.

## Choose an agency agreement type

If you list your property with one agency, you'll usually sign a sole agency agreement. If you list your property with two or more agencies, you'll usually sign a general agency agreement. If you're thinking about listing your property with more than one agency, it's very important that you read the agency agreements carefully. Make sure you understand when, how, and who you'll have to pay commission to when your house sells.

### Sole agency agreement

This agreement gives one agency the exclusive right to market and sell your property. Once you've signed a sole agency agreement, you shouldn't sign another agency agreement with anyone else. If you do, you may have to pay each of the agencies a commission when your house sells.

### General agency agreement

This agreement gives more than one agency the right to market your property. You'll sign a separate agency agreement with each agency, but you'll only pay a commission to the agency that introduces the buyer who eventually buys your property. Your lawyer can advise you on this.

## Discuss everything carefully with your salesperson

Before signing an agency agreement with you, your salesperson must do all of the following things:

- **Give you a written estimate of your sale price.** This must reflect market conditions and be supported by information about sales of similar properties.
- **Discuss the different options for selling your property.** You can choose to sell at an advertised price, or by tender, auction, or deadline sale. Your salesperson must tell you how the option you choose affects the commission you'll pay them.
- **Give you a written estimate of the commission.** They must tell you how they'll calculate the commission and when you must pay it by.
- **Give you a copy of the New Zealand Residential Property Agency Agreement Guide.** They'll also ask you to confirm in writing that you've received it.
- **Explain how they'll market your property and how much the marketing will cost.** Some marketing may be free, but you may want to pay for additional advertising. (You usually have to pay upfront).
- **Explain the risk of paying two commissions.** This is a risk if you enter into more than one agency agreement.
- **Give you the opportunity to seek legal advice before signing an agreement.** You should take this opportunity. Making sure everything's in order at this stage could save you problems later.

## Negotiate the agency agreement

You should only sign an agency agreement once you're happy with it. You can negotiate what's in the agreement, including:

- which method the salesperson will use to sell your house
- how long the agreement will last
- how much commission you'll pay
- what expenses you'll pay (for example, for advertising, or to get a LIM report or a building report).

Real estate agencies can choose to use standard clauses in their residential and rural agency agreements. These clauses help protect you by making clear:

- when the agreement ends
- when you need to pay a commission.

We recommend you only use agencies who use these standard clauses. Ask your salesperson about the clauses before you sign, or get a list of agencies using them from [reaa.govt.nz](http://reaa.govt.nz).

**TIP:** We publish a guide about agency agreements. You should read the guide before you sign. Get a copy from your salesperson or from [reaa.govt.nz](http://reaa.govt.nz).

## Find out about cancelling the agency agreement

Make sure you know how long the agreement lasts and when you or the salesperson can cancel it. You can negotiate this with your salesperson.

If you change your mind immediately after signing a sole agency agreement, you can cancel it by 5pm on the first working day after the salesperson has given you a copy. You must cancel in writing (for example, by letter or email). You won't have any further obligations to the agency.

However, if you enter into the agreement and decide to cancel later, you must understand your obligations. For example, if the salesperson has already done work that helps to sell the property, you may have to pay them a commission (even if you cancel the agreement and sell your property privately).

## Check if your salesperson has a conflict of interest

If your salesperson could get personal benefit from acting on your behalf, they have a conflict of interest. For example, if they want to buy your house themselves, that's in conflict with helping you to sell it for the best price.

If your salesperson – or someone connected to them professionally or personally – offers to buy your property, you have a few options. You can:

- ask to deal with another salesperson from the same agency
- change agencies
- get the salesperson to deal directly with your lawyer (rather than you).

We recommend that the salesperson no longer acts for you. If you do decide to continue with the same salesperson, talk to your lawyer about it.

## Give your consent before selling to a salesperson

Before you sign a sale and purchase agreement with your salesperson, they must do certain things designed to protect you. They must:

- ask you to sign a consent form showing you agree to them (or someone connected to them) buying your property
- give you (at their expense) a valuation of the property from an independent registered valuer.

If you decide to sign the consent form before you get the independent valuation, the salesperson must:

- give you a provisional (temporary) valuation
- give you the independent valuation within 14 days of you signing the consent form.

If the independent valuation is greater than the provisional valuation, you can cancel the sale and purchase agreement with no penalty.

If you enter into a sale and purchase agreement with a salesperson without providing your consent, you can cancel the sale and purchase agreement with no penalty.

You should also get independent legal advice from your lawyer.

### **Know what you're doing if you sell without a salesperson**

If you want to sell without the help of a licensed real estate salesperson, you need to think carefully about the advantages and disadvantages of doing it yourself. A salesperson will help you navigate the sales process and get the best result. If you sell your home privately, and something goes wrong, we won't be able to help.

There's more to selling your home than putting up a sign and showing people around. You need to set a price, choose a method of marketing, and answer questions from prospective buyers.

You're legally obliged to share all relevant information about your property, such as whether it has any weather-tightness issues. If you mislead a potential buyer, they have the right to cancel the sale. In extreme cases, they can even take you to court.

You also need to prepare the sale and purchase agreement. This includes negotiating a number of things, such as whether any chattels will be included and what the sale timeline will be. You should get your lawyer to help you prepare the agreement.

Finally, be aware of your obligations to do with commission. If a salesperson has done some work to market your property, but you then sell it privately, you may still have to pay them a commission. If you've signed an agency agreement, be aware of the terms of cancellation.



# Understand the sale process and method of sale

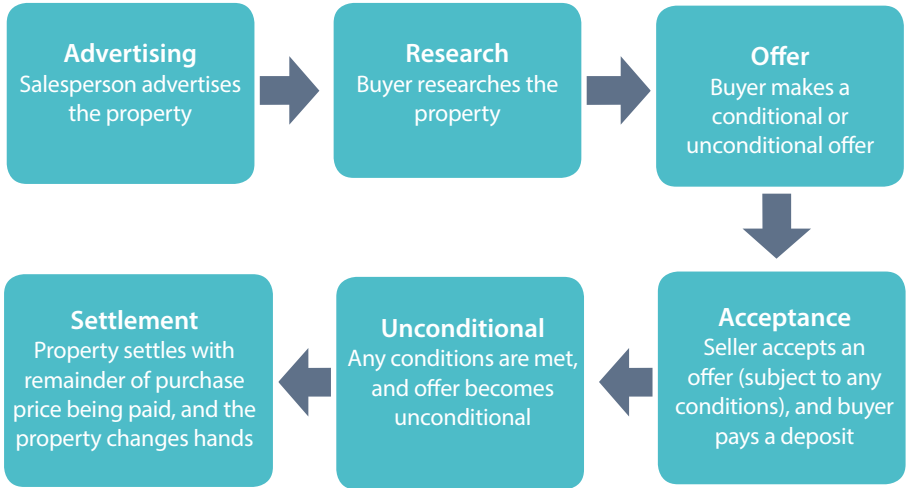
There are several methods of selling property in New Zealand. These are:

- selling at an advertised price
- selling by tender
- selling by deadline sale
- selling at auction.

It's important to choose the process that suits your circumstances. For example, if you need a quick sale, auction could be the best option. If you're in no hurry, you may choose to advertise a price and wait for the best offer. Talk to your salesperson to find out what they recommend.

# Selling at an advertised price

Your property will be advertised with an asking price – the lowest amount you want to be paid for it. The sale has no time limit, and anyone can make an offer at any time.



## Decide on the price to advertise

You and your salesperson decide on the amount to advertise. This must be a price that you're willing to seriously consider if someone makes an offer at that amount. You should take into account the price you want to get as well as the salesperson's estimate of what it's worth.

## Consider any offers

Each prospective buyer will make you a signed written offer. Your salesperson will present these to you as sale and purchase agreements. You'll consider each offer to decide whether you want to accept. It's entirely your decision.

Prospective buyers can make offers above or below the advertised price. You may ask your salesperson to negotiate the price or conditions with the buyer.

Read more about [sale and purchase agreements](#).

## Receiving conditional offers

It's common for a buyer to make a conditional offer. This means the offer is subject to a number of conditions. For example, before buying, the buyer may need to:

- sell their property
- gather evidence about the quality of your property (for example, a building report)
- secure finance to buy your property.

You may also attach conditions. For example, you may want a settlement date that coincides with the settlement date for a home you've bought, or you may want to keep a particular chattel. Ask your lawyer to advise you.

### **Negotiating the terms in a sale and purchase agreement**

If the offer or conditions aren't acceptable to you, the salesperson can negotiate. They'll aim to help you agree on price or conditions or both.

### **Changing the sale and purchase agreement**

The price and conditions in the sale and purchase agreement may change during the negotiation process. The salesperson will ask you and the buyer to initial any changes (amendments) to show you both agree with them. Read any changes and make sure you understand and agree with them before initialling. Your lawyer can advise you during this process and should check the agreement before you sign it.

### **Agree with the buyer about price and conditions**

You and the buyer are in contract when you've agreed on price and conditions and have both signed the sale and purchase agreement. All contact between you and the buyer continues to be through your salesperson.

### **Receive the deposit**

After you've signed, the buyer will pay a deposit. This is usually around 10% of the purchase price. Details of the deposit are set out in the sale and purchase agreement. The deposit is usually held in the real estate agency's or your lawyer's trust account until the agreement becomes unconditional.

### **Work through the conditions until the contract is unconditional**

After the sale and purchase agreement is signed, the process of working through any conditions begins. When all conditions have been met, the contract becomes unconditional.

### **Pay your salesperson their commission**

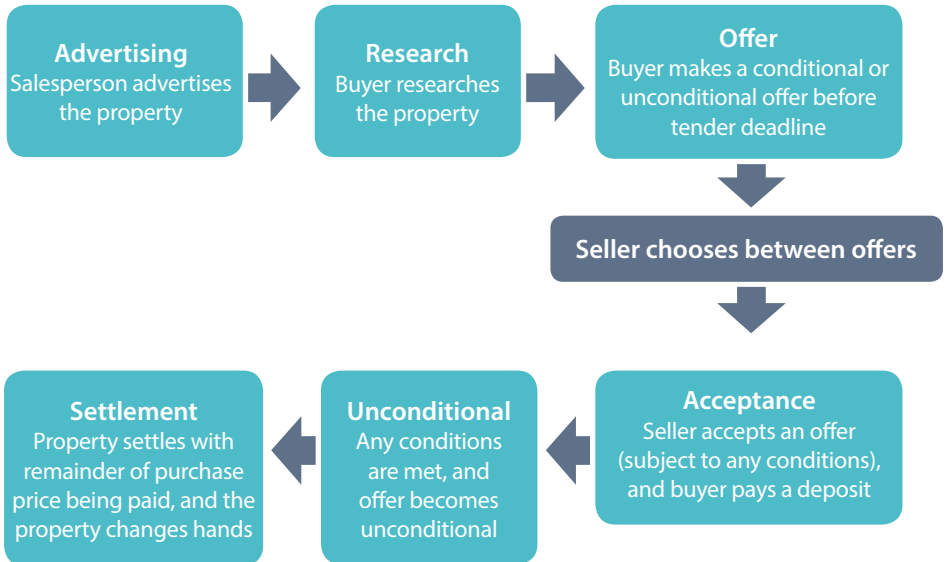
The buyer's deposit should be enough to pay your salesperson their commission.

### **Settle the deal and move out**

The settlement date will be stated in the sale and purchase agreement. This is the date when the buyer pays you the rest of the amount agreed for the property, usually through your lawyer. This is usually also the date you must vacate the property by.

# Selling by tender

When your property is being sold by tender, prospective buyers make confidential written offers to the salesperson before a deadline. The buyers don't know how much other buyers are offering. You consider all the offers and decide whether or not you want to accept one.



## Decide on a price to advertise if you wish

Tenders usually have no reserve price (the lowest price you're willing to accept), but your property may be marketed with a buyer budget over (BBO), a buyer enquiry over (BEO) or a pricing guide. People can make offers below this guide price, but you don't have to accept them if you don't want to.

If your property is advertised as "for sale by tender (unless sold prior)", it means it can be sold before the tender date. The marketing material and tender documents must make it clear if this is the case.

## Choose between offers

After the tender deadline, the salesperson will give you all the tender offers. Consider the offers and decide which, if any, you want to accept. You have 5 working days to accept a tender. We recommend you ask your lawyer to review an offer before you accept it.

### Receiving conditional offers

It's common for a buyer to make a conditional offer. This means the offer is subject to a number of conditions. For example, before buying, the buyer may need to:

- sell their property

- gather evidence about the quality of your property (for example, a building report)
- secure finance to buy your property.

You may also attach conditions. For example, you may want a settlement date that coincides with the settlement date for a home you've bought, or you may want to keep a particular chattel. Ask your lawyer to advise you.

### **Negotiating the terms in a sale and purchase agreement**

If the offer or conditions aren't acceptable to you, the salesperson can negotiate with the buyer on your behalf. They'll aim to help you agree on price or conditions or both.

Read more about [sale and purchase agreements](#).

### **Changing the sale and purchase agreement**

The price and conditions in the sale and purchase agreement may change during the negotiation process. The salesperson will ask you and the buyer to initial any changes (amendments) to show you both agree with them. Read any changes and make sure you understand and agree with them before initialling. Your lawyer can advise you during this process and should check the agreement before you sign it.

### **Receiving the deposit**

Each tenderer will provide a deposit. This is usually around 10% of the purchase price. Tenderers get their deposit back if you don't choose their offer. The deposit is usually held in the real estate agency's or your lawyer's trust account until the agreement becomes unconditional.

### **Rejecting all tenders**

If none of the tenders reflect the price you're willing to accept, or the conditions are unacceptable, you can reject all tenders.

### **Agree with the buyer about price and conditions**

You and the buyer are in contract when you've agreed on price and conditions and have both signed the sale and purchase agreement. All contact between you and the buyer continues to be through your salesperson.

### **Work through the conditions until the contract is unconditional**

After the sale and purchase agreement is signed, the process of working through any conditions begins. When all conditions have been met, the contract becomes unconditional.

### **Pay your salesperson their commission**

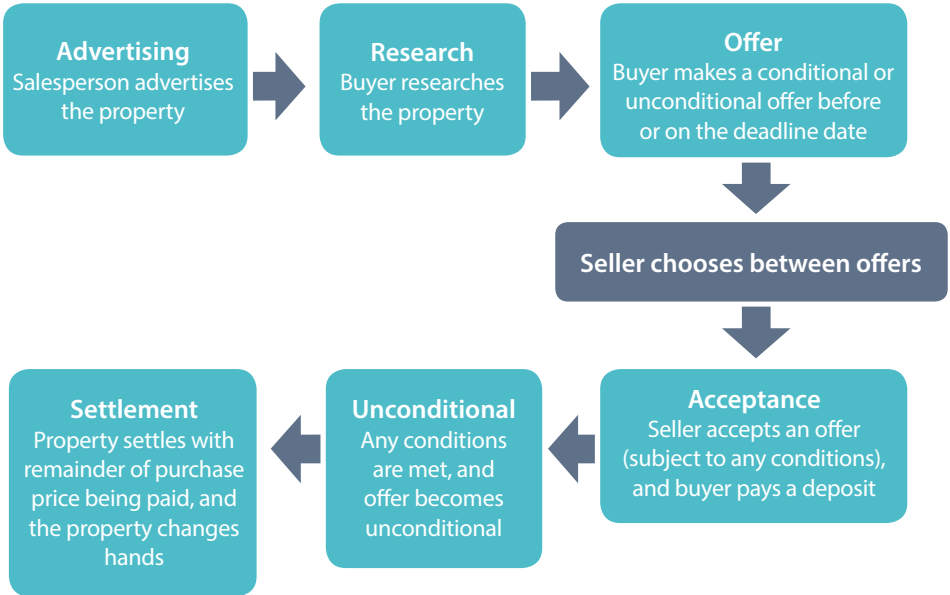
The buyer's deposit should be enough to pay your salesperson their commission.

### **Settle the deal and move out**

The settlement date will be stated in the sale and purchase agreement. This is the date when the buyer pays you the rest of the amount agreed for the property, usually through your lawyer. This is usually also the date you must vacate the property by.

# Selling by deadline sale

In a deadline sale, your property is marketed for a set period with an advertised end date. You can choose to accept an offer at any point during the listing period, but you don't have to accept any. Deadline sales do not require a property to have an advertised price.



## Decide on a price to advertise if you wish

Deadline sales usually have no reserve price (the lowest price you're willing to accept), but your property may be marketed with a buyer budget over (BBO), a buyer enquiry over (BEO) or a pricing guide. People can make offers below this guide price, but you don't have to accept them if you don't want to.

If your property is advertised as "for sale by deadline sale (unless sold prior)", it means it can be sold before the deadline date. The marketing material and documents must make it clear if this is the case.

## Consider any offers

Your salesperson will present all offers on a standard sale and purchase agreement. You can either:

- wait until the end date and consider all the offers together
- accept an offer at any point during the listing period.

You're not bound to accept the highest offer. You can accept any or none of the offers, and you can negotiate with anyone who submits an offer.

Read more about [sale and purchase agreements](#).

**TIP:** A deadline sale is more flexible than the tender process, because you can choose to accept what you want, when you want.

## Agree with the buyer about price and conditions

You and the buyer are in contract when you've agreed on price and conditions and have both signed the sale and purchase agreement. All contact between you and the buyer continues to be through your salesperson.

## Receive the deposit

After you've signed, the buyer will provide a deposit. This is usually around 10% of the purchase price. Details of the deposit are set out in the sale and purchase agreement. The deposit is usually held in the real estate agency's or your lawyer's trust account until the agreement becomes unconditional.

## Work through the conditions until the contract is unconditional

After the sale and purchase agreement is signed, the process of working through any conditions begins. When all conditions have been met, the contract becomes unconditional.

## Pay your salesperson their commission

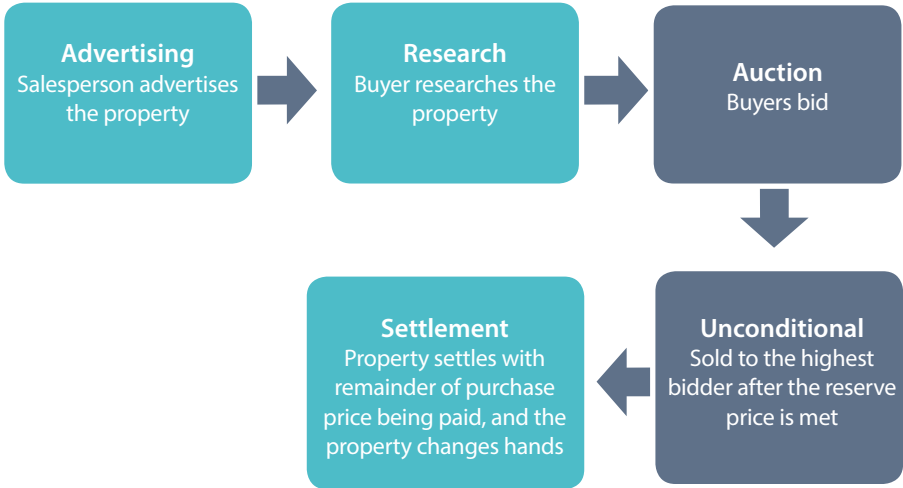
The buyer's deposit should be enough to pay your salesperson their commission.

## Settle the deal and move out

The settlement date will be stated in the sale and purchase agreement. This is the date when the buyer pays you the rest of the amount agreed for the property, usually through your lawyer. This is usually also the date you must vacate the property by.

# Selling by auction

An auction is an open process where buyers bid against each other to buy your property.



## Set a reserve price

Before the auction, you'll need to establish a reserve price (the lowest price you're willing to accept) with the auctioneer. The reserve price is confidential to you.

## Attend the auction

The auctioneer works for you to get the highest bid possible. Bidding usually starts below your reserve price. If bids reach or exceed the reserve price, the highest bidder will win the auction. The winner is immediately legally committed to buy your property.

### If you receive offers before the auction

You can sell the property before the auction if the auction terms and conditions allow it. However, if you accept a pre-auction offer, it doesn't necessarily mean the auction will be cancelled. The auction may be held sooner than the advertised date, and the pre-auction offer will become the first bid at the auction.

### You may bid against the buyers (vendor bidding)

Sometimes the terms and conditions of the auction will state that vendor bidding may take place at the auction. Vendor bidding is when you or your representative (usually the auctioneer) bids on the property. This can be used to start the bidding and to raise the bidding to get the bids closer to the reserve price. Vendor bids are only allowed when:

- the property has a reserve price



- the reserve price has not been reached
- the bid is clearly identified by the auctioneer as a vendor bid.

The auctioneer must clearly state that a vendor bid is about to be made and must not use confusing terms like “the bid is with me”.

### **If bidding does not reach your reserve**

If bidding does not reach your reserve price, the auctioneer may pause the auction and ask you for further instructions.

If the bidding has stopped close to the reserve price and you agree to accept the last bid, the auctioneer may say the property is now “on the market”. This means the reserve price no longer applies.

The last bidder before the auction was paused will be held to their bid, and the auctioneer will continue from that point. The auctioneer will accept the highest bid made when the auction resumes, even if the reserve price isn't reached. The highest bidder will then be committed to buying the property.

Alternatively, the auctioneer may say the property is being “passed in”. This means the auction is ending without the property being sold, as the reserve price hasn't been reached.

### **You can negotiate after the auction**

If the reserve price wasn't reached, you may ask your salesperson to approach the highest bidder to negotiate a sale.

**TIP:** It's a good idea to attend and observe another property auction before you attend the auction to sell your own property.

## **Receive a deposit on the day of auction**

Auction sales and purchases are unconditional. You cannot attach conditions to an auction purchase. When you've accepted the bid and the auctioneer's hammer has fallen, the sale is unconditional. The successful bidder should be prepared to pay a deposit on the day of the auction.

## **Pay your salesperson their commission**

The buyer's deposit should be enough to pay your salesperson their commission.

## **Settle the deal and move out**

The settlement date will be stated in the sale and purchase agreement. This is the date when the buyer pays you the rest of the amount agreed for the property, usually through your lawyer. This is usually also the date you must vacate the property by.

Read more about [sale and purchase agreements](#).

# Read the sale and purchase agreement

The sale and purchase agreement is legally binding, so it's important to read it carefully and get legal advice before you sign it. You can negotiate the terms and conditions of an agreement, but once you sign it, there's no going back.

We publish a [sale and purchase agreement guide](#). The salesperson must give you a copy of the guide before you sign a sale and purchase agreement. We recommend reading the guide early in the selling process.

## Know what's in the sale and purchase agreement

The sale and purchase agreement sets out all the agreed terms and conditions.

### Basic clauses

These include:

- the price
- chattels (for example, fixed floor coverings, whiteware or curtains) included in the sale
- the type of title (for example, freehold or leasehold)
- any conditions you or the buyer want fulfilled before you agree the contract
- the date the agreement will become unconditional
- the settlement date
- any deposit the buyer must pay.

### Clauses about obligations and conditions

The agreement also includes clauses that set out obligations and conditions that you or the buyer (or both) must abide by. These may include what access the buyer can have to inspect the property before settlement and ensuring the property remains insured until the settlement date.

### Clauses about default by you or the buyer

Clauses are also likely to cover what happens if you or the buyer default. This covers compensation that you or the buyer must pay if either defaults on the terms of the agreement – for example, by delaying settlement. Your lawyer can explain these clauses to you.

## Understand that you can't change your mind after you've signed

In general, when you've signed the agreement and the conditions set out in the agreement have been met, you have to go ahead with selling your property.

**TIP:** Remember, you can negotiate the terms and conditions of an agreement, but once you sign it, there's no going back.

# Understand the language of property sales

Advertised price	Selling at an advertised price means that a property is marketed with an asking price – the amount the seller wants to be paid for it.
Agency agreement	A legally binding contract between the seller and the agency. It sets out what the agency's salesperson will do, what they will be paid, and all the terms and conditions. If you want an agency to sell your property, you must have an agency agreement.
Agent or real estate agent	A general term that refers to an agent, branch manager or salesperson (these are different types of real estate licences).
Auction	An auction is a sale method in which buyers publicly bid until the highest price is reached.
BBO (buyer budget over)	An indication of the minimum price that the seller will sell the property for.
BEO (buyer enquiry over)	An indication of the minimum price that the seller will sell the property for.
Builder's report or property inspection	An inspection by a qualified property inspector who can check the property for defects and maintenance issues.
Code of Professional Conduct and Client Care	The Real Estate Agents Authority maintains this Code of Conduct, which sets out the minimum standards of professional competence and conduct salespeople must follow.
Commission	A fee paid by the seller to the real estate agent when a property sells. The amount of the commission must be set out in the agency agreement.
Conditional offer	An offer to buy a property subject to stated conditions being met.
Conditional sale	Where a buyer and seller have agreed to buy and sell a property subject to stated conditions being met.
Freehold (or fee simple)	Freehold title gives the owner full ownership of the land.
GV (government valuation)	The official estimation of a property's worth on the market at the time it was valued, under the Rating Valuations Act 1998. A GV is now called an RV (rateable value).
LIM (Land Information Memorandum)	This provides prospective buyers with important current and historical information the local council knows about the property and land.

<b>Leasehold</b>	Leasehold title does not give the owner full ownership of the land. It is only leased, and the owner will only own what is on the land.
<b>On the market</b>	At an auction, a property is “on the market” if the highest bid will now be successful and any reserve no longer applies.
<b>Passed in</b>	At an auction, a property is “passed in” if the auction is closed without the property being sold.
<b>Reserve</b>	At an auction, a “reserve” is the lowest price the seller is willing to sell the property for.
<b>RV (rateable value)</b>	The official estimation of a property’s worth on the market at the time it was valued, under the Rating Valuations Act 1998. An RV used to be called a GV (government valuation).
<b>Sale and purchase agreement</b>	A legally binding contract between the seller and buyer for the sale and purchase of a property. A sale and purchase agreement provides certainty to both the buyer and seller, and it sets out in writing all the agreed terms and conditions.
<b>Settlement</b>	Settlement is when the sale and purchase of a property is completed with exchange of property and payment.
<b>Tender</b>	A tender is a sale method where prospective buyers submit confidential written offers by a certain deadline
<b>Title search</b>	A title search gives you all the records about the property that are held by Land Information New Zealand (LINZ). A lawyer can check who the legal owner of the property is and that no one else has any claim over it.
<b>Unconditional agreement</b>	Where a buyer and seller have agreed to buy and sell a property without any conditions. A conditional sale becomes unconditional once all conditions are met.
<b>Unconditional offer</b>	When the buyer offers to buy a property without any conditions.
<b>Valuation report</b>	An estimate of a property’s worth on the current market. A buyer’s bank or lender may request this.

# Find out more about REAA

## We're independent, and we're here to help buyers and sellers

The Real Estate Agents Authority (REAA) is an independent government agency. We inform, guide and protect people who are buying and selling property, and we advise, educate and regulate real estate licensees.

## Visit our website – [reaa.govt.nz](http://reaa.govt.nz)

We publish information about working with real estate salespeople and the sale and purchase process. Our guides are available in a number of languages at [reaa.govt.nz](http://reaa.govt.nz).

## Find out about a salesperson

We have an online public register of licensed real estate salespeople that includes information on any complaints upheld against them. The public register is available at [reaa.govt.nz](http://reaa.govt.nz).

## Make a complaint

Contact us if you have an issue with a real estate salesperson. We are responsible for dealing with complaints – we run an independent, fair and open complaints process.

## Contact us

**Email:** [info@reaa.govt.nz](mailto:info@reaa.govt.nz)

**Mail:**

PO Box 25371 Featherston Street  
Wellington 6146  
New Zealand

