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Buying with an agent or privately

It's important to understand your rights and responsibilities whether you are buying through an agent or buying privately.

Summary of important things to know

- ✓ Real estate agents are trained, licensed professionals who must follow the standards set out in the Code of Professional Conduct and Client Care. They must also meet their obligations under the Real Estate Agents Act 2008 (the Act).
- ✓ The real estate agent works for the seller. If they sell the property, the seller pays them a fee (commission).
- ✓ The agent or seller is required to tell you about any known problems with the property and must not withhold any details.
- ✓ Sometimes buyers use real estate agents called buyers' agents to help them find and buy property.
- ✓ In a private sale, the buyer and seller deal directly with each other rather than through a real estate agent.
- ✓ In a private sale, make sure you and the seller sign a sale and purchase agreement because this will include all of the standard obligations and responsibilities for both parties.
- ✓

It's important in a private sale to pay your purchase deposit to your lawyer or conveyancer so they can arrange for it to be held safely in a trust account pending the completion of the sale.

- ✓ The Real Estate Authority (REA) can help with questions and complaints about sales involving a licensed agent but cannot help you if there is an issue with a sale with a private unlicensed seller.
- ✓ Get legal advice, regardless of whether you buy through an agent or privately.

Working with a real estate agent

Most people use a real estate agent to help them sell their property.

Real estate agents work on the seller's behalf to get them the best possible sale price and conditions of sale. It's important to remember this when you're talking to a real estate agent about a property that you want to buy.

Real estate agents are required to do the following:

- Treat potential buyers fairly.
- Tell you about any known problems with the property and respond to questions professionally.
- Give you a copy of the REA's sale and purchase agreement guide before you sign a sale and purchase agreement. If you do not receive one you should ask for it or download it [here](#). [PDF, 319 KB] (/assets/Refreshed-Guides-2022-/Sale-Purchase-Agreement-/4870_Sales-and-Purchase-Guide_A4-DIGITAL_2022_ENGLISH_F4.pdf)
- Comply with the [Real Estate Act 2008](#) (<http://www.legislation.govt.nz/act/public/2008/0066/latest/DLM1151921.html>) and operate within a [Code of Conduct](#) [PDF, 208 KB] (</assets/Uploads/Resources/Guides/Code-of-conduct.pdf>) .

If there are any issues with an agent's behaviour or actions, you can contact REA. (<http://www.rea.govt.nz/buyers-and-sellers/ask-a-question-or-make-a-complaint/>) REA has an online public register where you can look up an agent, check that they hold a current licence and find out if they have had any complaints upheld against them in the last 3 years.

How to buy through an agent

Real estate agents must deal fairly and honestly with both buyers and sellers.

Here's what you need to know before you start your property search:

- You can ask the agent questions about anything you want to know about the property. They must tell you if they think there might be something wrong with the property that you should check out.
- The agent can't make statements about the property they can't back up with evidence.
- Remember that the agent represents the seller, so you shouldn't rely solely on them for advice or assistance.
- An agent must not put you under unfair pressure, or take advantage of you if you don't understand documents.
- They must not mislead you about the seller's price expectations.
- They must tell you in writing if they are selling a property that they or someone connected to them owns.
- You do not have to deal with the agent that a property is listed with. You can approach another agent who works for the agency that is marketing the property and ask them to show you the property.

What is a buyer's agent?

() A buyer's agent works on the buyer's behalf to find a property. It is more common to use a buyer's agent overseas than in New Zealand.

Buyer's agents are hired and paid by the buyer, not the seller. They can search for properties and find out all the information about them, then bid at an auction or negotiate with the seller on the buyer's behalf.

What do I need to know about working with a buyer's agent?

If you decide to work with a buyer's agent:

- Make sure the agent is licensed. You can check this on REA's public

register.

- Ask the agent how much they will charge for their services.
- The agent should ask you to sign an agency agreement that sets out what they will do for you. Ask a lawyer to check this agreement before you sign it.
- If the buyer's agent will be negotiating or bidding on your behalf, you need to be very clear about what they can do and when they need to seek your approval for a particular action or decision.
- Remember that an agent cannot work for both the buyer and the seller on the sale of the same property because this is a conflict of interest.

Understanding buying privately

Some sellers may choose to sell their property privately without a real estate agent.

If you are interested in a property that is being sold privately, think about the following:

- You should get legal advice if you are buying property in a private sale.
- Make sure you and the seller sign a sale and purchase agreement which includes all of the standard obligations and responsibilities for both parties.
- The buyer's lawyer or conveyancer often draws up the sale and purchase agreement in private sales.
- It's important to pay your purchase deposit to your lawyer or conveyancer so they can arrange for it to be held safely in a trust account pending the completion of the sale.
- REA can assist with questions and complaints about sales involving a licensed agent, but cannot help you if there is any issue with a sale with a private, unlicensed seller.
- Buying privately means you will not be covered by the Consumer Guarantees Act or the Fair Trading Act (unless you are buying from a person or entity that is in the business of trading properties). You may still be protected by the Contract and Commercial Law Act 2017. Read more

about your rights at Consumer Protection (<https://www.consumerprotection.govt.nz/>) .

- REA can also help if you think that an unlicensed person has sold a property on behalf of someone else. That may be unlicensed trading in breach of the Real Estate Act 2008 and you should contact REA if you have concerns.
- A private seller must let you know about any known issues with a property. If you have doubts about this, talk to your lawyer or conveyancer.
- Because the seller is not paying commission, they may have more scope to negotiate the price with you.

What to do if you have a problem

If you have a problem with a real estate agent that you can't resolve directly with them, find out how the Real Estate Authority (REA) can help you on the REA website.

There are other steps you can take and organisations that can help you when you need it. Find out more about getting help if things go wrong [here \(/buying-a-home/settling-and-moving-in/getting-help-if-things-go-wrong-when-buying/\)](/buying-a-home/settling-and-moving-in/getting-help-if-things-go-wrong-when-buying/) .

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