

Conveyancing

If you want to buy or sell a home, land or investment property you'll have to sign a contract. The legal work involved in preparing the sales contract, mortgage and other related documents, is called conveyancing. It's possible to do your own conveyancing, however, most people get a licensed conveyancer or solicitor to do the work for them. This fact sheet explains what is involved with conveyancing.

Who can do conveyancing work?

Three options for doing your conveyancing are:

- using a licensed conveyancer
- using a solicitor
- doing it yourself.

Before you start organising your conveyancing, it's important to do your homework first.

Using a conveyancer

In NSW, conveyancers must be licensed with the Office of Fair Trading. Most conveyancers hold an unrestricted licence that allows them to perform the full scope of conveyancing work for residential, commercial and rural property. Conveyancers are licensed to do legal work such as preparing documents, giving legal advice on contracts and explaining the implications. Before you decide to use a particular conveyancer, check if they are licensed with us first.

To find a conveyancer, look them up in the Yellow Pages under 'Conveyancing Services' or call one of the professional associations listed on this fact sheet.

Licensed conveyancers must have professional indemnity insurance to protect you in case they make a mistake or are negligent in their work. If they are dishonest with the money you have entrusted to them, you may have access to the Compensation Fund administered by Fair Trading.

QUICK TIP – If you want to complain about a conveyancer, call Fair Trading on 9895 0297.

Using a solicitor

While conveyancers and solicitors are equally qualified to do conveyancing work, solicitors can also give you legal advice about other matters.

Solicitors, like licensed conveyancers, must also have professional indemnity insurance for your protection.

To find a solicitor who does conveyancing:

- look up the Yellow Pages (under 'Conveyancing Services')
- call the Law Society of NSW on 9926 0333
- do a search for specialists in 'property law' in your local area using the 'Find a Lawyer' page on the Law Society's website www.lawsociety.com.au

To complain about a solicitor call the Legal Services Commissioner on 9377 1800 or 1800 242 958.

Doing your own conveyancing

Doing your own conveyancing can be risky because you can't get the same insurance available to a licensed conveyancer or solicitor. This means that if you make a mistake you are responsible and there's nowhere you can go for financial compensation. For example, your solicitor or conveyancer may fail to make sure the vendor has disclosed everything they are legally required to, such as an order to demolish the place. If you suffer loss as a result of this negligence you may be able to take action against them – that's the difference!

Do-it-yourself conveyancing kits are available from:

- Law Consumers' Association Tel: 9564 6933
- Australian Property Law Kits Tel: 1800 252 808.

CAUTION – If you do your own conveyancing you are effectively taking on all the responsibility without insurance against making mistakes. So make sure you know what you are doing.

The conveyancing process

The conveyancing process can involve the following steps:

- arranging building and pest inspections
- examining a strata inspection report if the property is part of a strata scheme
- arranging finance if necessary
- examining and exchanging the contract of sale
- paying the deposit
- arranging payment of stamp duties
- preparing and examining the mortgage agreement
- checking if there are outstanding arrears or land tax obligations
- finding out if any government authority has a vested interest in the land or if any planned development could effect the property (eg. local council, Sydney Water, Roads and Traffic Authority)
- finding out any information that may not have been previously disclosed such as a fence dispute or illegal building work
- calculating adjustments for council and water rates for the property settlement
- overseeing the change of title with the Land and Property Information NSW
- completing any final checks prior to settlement
- attending settlement.

IMPORTANT – Before the conveyancer or solicitor starts the work it is important for you to have a realistic idea of how much it will cost. The best way to do this is to ask for an itemised statement of the likely costs.

Costs

Fees will vary between solicitors and conveyancers as there is no official charge for conveyancing. In addition to a legal service fee you will usually be charged for 'disbursements'.

These can include:

- a title search

- certificate fees charged by authorities with responsibility for water, electricity, roads, schools etc.
- photocopying
- registering the mortgage.

Costs other than legal fees and disbursements will usually include:

- building and pest inspections
- survey report
- establishment of mortgage
- home building insurance
- valuation fees
- mortgage insurance
- stamp duty and mortgage duty
- council and water rates.

Legal practitioners and conveyancers are required to disclose their costs to clients, including the clients' right to negotiate a costs agreement, receive bills and be advised of changes, among other things.

Need more information?

Australian Institute of Conveyancers NSW Division
Tel: 9633 1355
www.aicnsw.com.au

The Law Society of NSW
Tel: 9926 0333
www.lawsociety.com.au

The Office of the Legal Services Commissioner
Tel: 9377 1800 or 1800 242 958
www.lawlink.nsw.gov.au

Home Purchase Advisory Service
Tel: 1800 806 653
www.housing.nsw.gov.au