

Fair Trading is the residential property authority in NSW

NSW Fair Trading is the Government authority responsible for the laws that regulate the residential property industry in NSW.

These laws are in place to protect your money and your home. They also set the standards for real estate agents to operate professionally.

Whether you are buying or selling, Fair Trading can help with information about your rights under the law.

Call **13 32 20** or visit a Fair Trading Centre.

NSW Fair Trading – What we do

- Shopping and consumer guarantees
- Retirement villages
- Renting, buying, selling a home
- Co-operatives and associations
- Home building and renovating
- Product safety
- Strata and community living
- Resolving disputes

www.fairtrading.nsw.gov.au **General enquiries 13 32 20**

Language assistance 13 14 50 (*ask for an interpreter in your language*)

TTY 1300 723 404 for hearing impaired

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This publication must not be relied on as legal advice.

For more information about this topic, refer to the appropriate legislation.

Buying or selling a home



**Fair
Trading**

www.fairtrading.nsw.gov.au



Each year, Fair Trading helps thousands of people with information about their rights when buying and selling their property. It's one of the biggest financial transactions you will make so it's important to get it right.

Selling your home

If you use a real estate agent to sell your home you are employing them to work for you. You will sign an agency agreement with them which is a legally binding contract and pay them a fee, usually in the form of a commission.

Shop around for an agent

It's a good idea to talk to at least three real estate agents. Make sure they have a good knowledge of the local area. Compare their commissions, other fees, marketing plans and track records of selling in your suburb. As this person is working for you, it is important to assess them thoroughly. Check that they are properly licensed.

Be realistic about the price

Don't simply sign with an agent because they give you the highest estimated selling price. Keep watch in your local area for sales of similar properties—take note of the sale prices to get an idea of how much your property could be worth. It is against the law for an agent to falsely overestimate the selling price of a property. This can be a dishonest way of influencing you to sign with them if you think they will get you a higher price for your home.

Agency agreements

Once you choose an agent you will sign an agency agreement. By law an agent must give you information about the different types of agreements so you can decide which one is right for you. Agents must give you a Fair Trading fact sheet called *Agency agreements*.

Do not sign an agency agreement before you understand what it means for you in terms of cost and what the agent is committing to do for you. If there's anything you don't understand, contact Fair Trading or your solicitor.

You can cancel an agency agreement during a 1-d day cooling-off period which starts from the day the agreement is signed. Do this in writing and be sure to keep a copy.

A contract is essential

A contract of sale must be prepared by your solicitor or conveyancer before your property can be advertised.

Advertising your property

Research how you think your home should be marketed by looking around at what others are doing. Advertising can be expensive and you should be wary if your agent recommends a campaign that you can't afford or don't believe is required.

Private treaty or auction?

Research the pros and cons of selling your home by private treaty versus auction so you can make an informed decision in consultation with your agent.

Exchanging contracts

You sign one copy of the sale contract and the buyer signs another before they are swapped, or 'exchanged'.

No cooling-off

Once contracts are exchanged, you are generally bound to complete the sale. Sellers do not have a cooling-off period to withdraw from the contract.

Buying your home

You will not usually pay for the services of an agent, unless you use a buyer's agent (or advocate). During all your dealings with an agent remember that they are being paid a commission to get the best price for the seller.

Research market prices

Research what properties are worth by finding out the sale prices of other, similar properties in the same area. It is against the law for an agent to falsely underestimate the selling price of a property. This can be a dishonest way to keep you interested in a property.

Building and pest inspections

Consider getting experts to inspect the condition of any property you would like to buy as it can save you time and money later on. A building inspection should tell you about any significant problems and a pest inspection should tell you if there are termites or other pests present on the property.

Before making an offer

Ensure your licensed conveyancer or solicitor examines the sale contract before you make an offer.

Making an offer

If you make an offer and are asked to pay a fee as an 'expression of interest', under the law, the agent must tell

you if another offer is received and give you the chance to increase your offer. If you don't end up buying the property, the agent must refund the fee.

Paying a deposit

When you exchange contracts, you must pay a deposit, (usually 10% of the sale price) by bank cheque or a deposit bond. This is held by the agent in a trust account until the sale is finalised, so it makes sense to be certain that the agent is properly licensed.

Changing your mind?

After you exchange contracts on a property bought by private treaty, there is a 5-day cooling-off period if you change your mind. If you exercise your cooling-off rights and withdraw from the contract, you will have to pay the seller 0.25% of the purchase price. This works out to be \$250 for every \$100,000. However, if you buy at an auction, or exchange contracts on the same day as the auction after the property is passed in, there is no cooling-off period.

Buying at auction

The agent must give you information from Fair Trading about the auction process. If they don't give you a fact sheet called *Bidders guide* you can download one from the Fair Trading website.

At an auction, 'dummy bidding' is against the law. This means that the auctioneer and/or agent can't invent bids to push the price up. The seller of the property is entitled to make one bid, or have one bid made on their behalf. The auctioneer must announce when the seller's bid is made.

Settlement

Settlement, or completion of the sale process, usually takes place 6 weeks after exchange. You then become the legal owner of the property. The balance of the purchase price and other adjustments are paid on this date.





Always check licences

All real estate agents and salespeople must hold a licence or certificate of registration issued by NSW Fair Trading. Before a person can be licensed, they must be properly trained and qualified for the property industry.

You should always check the licence details of an agent before dealing with them to buy or sell property. Do a licence check online at **www.fairtrading.nsw.gov.au** or call **13 32 20**.

Once licensed, agents have to abide by various laws covering things like the way your money is looked after, what information you have to be given and how auctions are run.

Top tips

When selling your home

Before you sell your home make sure you:

- shop around for an agent who is properly licensed with Fair Trading
- get a copy of the Fair Trading *Agency agreements* fact sheet
- watch out—it's against the law for an agent to falsely overestimate the selling price of your property.

When buying your home

Before you buy your home make sure you:

- remember agents are working to get the best price for the seller
- consider getting a building inspection – it can uncover problems you may not be aware of
- remember there's no cooling-off period when you buy at an auction.

