

FARRER&Co

Selling residential property in England and Wales: the basics



Navigating the property market

Once you have made the decision to sell your home or investment property, the process should be smooth and stress free. This is our advice for the key stages of the sale including valuation and appointment of agents, appointment of solicitors, and an overview of the conveyancing process.

1. Valuation and appointment of estate (selling) agents

Valuation

You should obtain guide price valuations from at least three estate agents and consider how their proposed marketing strategy fits with you and your property. Of course the agents are trying to win your work at this stage, but a good selling agent will be realistic and honest when advising you on price. You should ask each agent for comparables of properties on the market in the locality and those which they have recently sold.

Appointment of estate agents

When appointing agents you should read their terms and conditions carefully. We recommend that you also ask your solicitor to review these on your behalf. It may be appropriate to amend the terms even where they appear to be standard form and not open to negotiation.

Agency agreements will contain general terms and conditions which you may wish to consider, eg that a For Sale board may be erected, or that their fees are payable on exchange, rather than on completion.

If you are unsure about who to appoint, we can suggest agents we have worked with previously.

Type of agency agreement

Each type of agency agreement will have different obligations and consequences so you should consider the nature of the appointment carefully. Estate agents are regulated by the Estate Agents Act 1979 and the terms of their contracts are governed by the Estate Agents (Provision of Information) Regulations 1991. The Regulations prescribe fixed statutory wording which must be used in the definition of certain types of agency agreements.

The options you can choose from are:

- (a) **Sole agency.** This type of agreement is most common because estate agents ideally want an exclusive opportunity to sell the property. Generally, the commission charged by agents for a sole agency will be lower than for a joint or multiple agency. The seller is liable to pay commission in a wide range of circumstances: if the agent introduced the buyer, if they had negotiations with the buyer, and if any other agent introduced the buyer during the agreed term of the sole agency. In practice, this means that the agent will be paid where the buyer is directly or indirectly introduced to the property as a result of shop-front, online or For Sale board advertising or via any other agent.
- (b) **Sole selling rights.** The estate agent will be paid their commission even where you find a private buyer introduced to the property entirely independently of any marketing or work carried out by the agent.
- (c) **Joint sole agency.** Two estate agents are appointed and they share the commission when the property is sold. It is important that the split of the commission is agreed before terms are signed and you must make sure the agents are happy with this type of agency. The agents' terms and conditions must dovetail to ensure clarity on your obligations as to payment. A joint sole agency may have the benefit of introducing the property to a broader client base. We would advise you to consider a local or boutique agency alongside a larger, international agency for the best coverage if you wish to sell on a joint agency basis.

(d) **Multiple agency.** This is a winner takes all basis of appointment. Agents will usually seek to charge a higher commission, as they are taking on a larger risk that they will carry out the work for no reward. You can appoint as many agents as you like and only the agent who introduces the buyer will be paid. With this type of agreement, you need to be careful that each of the agents keeps a clear list of who they have introduced to the property to avoid disputes over buyers viewing through more than one agent. The contracts may need to be amended to make it clear that you will be responsible for only one agent's commission.

In order to market the property the estate agent will need an Energy Performance Certificate, certain information in relation to the property, and evidence of your identity.

The period of time it will take for a residential property to sell varies depending on price and location. The terms and conditions that you sign do become particularly important if you choose to change estate agents at the end of your contractual agreement. If you sell to a buyer who was introduced by the original agent, they may still be entitled to their fees. You should therefore take care to exclude the list of introductions made when swapping to a new agent so as not to pay double commission.

Accepting an offer

When an offer is made, you should ask the agent to give you all material facts in relation to that offer so that you can consider it properly. This would include what the proposed buyer's position is (ie do they have a property to sell and if so is there any onward chain), do they require mortgage finance or are they a cash buyer, and do they have any requirements as to timings. You may also wish to consider any terms as to fittings and contents at this stage.

When you do accept an offer, this is not binding on either you or the buyer until exchange of contracts.

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What we love about Farrer & Co is that they provide a really personal and bespoke service.”

- Chambers High Net Worth 2023

Until then, either party is free to change their mind and walk away without legal or financial recourse.

2. Appointment of solicitors and preparation for sale

Appointment of solicitors

We recommend that you appoint lawyers before the property is put on the market. This means that you can take advice on the agent's terms and conditions to ensure that you understand these and are comfortable with them. Having solicitors instructed early on will mean you are well placed for a smooth transaction.

Preparation of sales pack

Your lawyers can prepare a sales pack at the outset, before a buyer is found. The sales pack will include a draft contract and all of the information the buyer's solicitor needs to review as part of their due diligence.

Your solicitor will ask you for:

- Completed property information form
- Completed fittings and contents form
- Any other relevant information eg notices and correspondence received, copy invoices, planning and buildings regulations documents
- Mortgage account number (if applicable)

For leasehold sales you will also need to provide:

- Completed leasehold information form
- Details of the managing agents

If you want to avoid any delays with the sale while the buyer carries out searches, you should also ask your solicitor to check the turnaround time for a local authority search and consider putting this in hand (the cost can be recovered from the buyer assuming the sale proceeds while the search result is valid ie within six months).

In the event that you wait until a buyer is found to appoint a solicitor and arrange for them to carry out this work, then you may find that you lose several days (at least) which will slow down exchange of contracts. In our experience, if buyers are allowed too much time to consider their decision they may change their mind so, as a seller, being in a position to move to a swift exchange is a real benefit. Buyers may be able to move to exchange very quickly, within a few working days or even hours, but they are only able to do so if the information their solicitors need is to hand. We appreciate that this does involve some upfront expenditure on legal fees but many sellers feel this is worthwhile.

In the event that there is anything unusual about the property or the demise, then we recommend you invite your solicitor to carry out a site visit so that they fully understand any complexities involved.

3. Conveyancing process

Sales pack and additional enquiries

Once you accept an offer the estate agent will circulate a memorandum of sale. This details the heads of terms, namely: the parties, their lawyers, the price, any contents price, the target timeframe for exchange and completion and any other special conditions of sale. Your solicitor will then send the sales pack to the buyer's solicitors. The buyer will also arrange a survey (if required) and the lender will arrange a valuation (if applicable).

After reviewing the sales pack, search results and survey report, the buyer's solicitors may need to raise additional enquiries if there are matters requiring clarification. You should be available to give your solicitor instructions and information as quickly as possible in order to avoid delays to

exchange. Once the buyer's solicitor is satisfied that the property has good and marketable title, they will report to the buyer and ask them to sign the contract and send the deposit monies in readiness for exchange. Your solicitor will send you the contract to sign or ask you for your authority to sign on your behalf.

Exchange and completion

The buyer will usually pay a 10 per cent deposit on exchange of contracts. It is only once contracts are exchanged that the parties are contractually committed to the transaction. Gazumping (whereby a sale is agreed in principle and then another buyer makes a higher offer which the seller accepts) is a possibility until that time.

One way to reassure buyers that this will not happen is to give them all of the information they need to enable them to exchange quickly. Alternatively, you can consider lock-out/exclusivity agreements, albeit it may take longer to negotiate terms than simply to press forward to exchange on the property transaction. At exchange the completion date is fixed and the date can be immediate or several days, weeks or months away, by agreement between the parties. Before completion you will need to sign the transfer deed and return the original. On completion you will need to vacate the property by the contractual completion time and hand the keys to the estate agents. If there is no related purchase, do not forget to let your solicitors know your account details for the net proceeds of sale.

This is our insight to how you can best prepare for sale. It is not just a case of ensuring there are always fresh flowers in place and keeping the house clean and tidy.

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Farrer & Co's 'first-rate property team excels at tricky issues'

- Legal 500

Key contacts



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Laura is a specialist residential property solicitor, dealing with sale, purchase and mortgage transactions. Laura deals with all types of residential property, whether freehold or leasehold, town or country but she has a great deal of experience in the prime central London market. Laura particularly enjoys a fast paced deal and has an excellent track record for delivering quality advice and exchanging transactions under pressure.



Annabel Dean, Partner

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Annabel's focus is on providing pragmatic and commercial advice, enabling clients to navigate the property market intelligently. Her wide-ranging experience spans residential, commercial and rural property issues. Her particular specialism is high-value residential real estate and secured lending. She thrives on fast-paced transactions and finding solutions to the complicated problems which can arise as a result of the esoteric nature of the land law of England and Wales.



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Laurie acts for individuals, institutions, private banks and others on property transactions with a particular focus on high-value residential properties. He has acted for many of his clients for many years as their property interests have become more valuable and complex.



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Hugh is a residential property specialist experienced in high-value conveyancing and acting for both banks and borrowers in secured lending transactions. In particular, Hugh has extensive experience in acting on new-build acquisitions and sales, and frequently represents purchasers based outside of the UK.

Details for the whole of our highly qualified and knowledgeable [Residential Property team](#) can be found on our website.

If you will have a related purchase then we refer you to our [briefing note – a basic guide to buying property in England and Wales](#).

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