

# TIP 15 – Estate Agents

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## Warning

These notes are not intended to provide an exhaustive or definitive picture. Any tactical tips must be treated with a 'health warning' as the BIU cannot test or validate theories or ideas submitted to it, but merely supplies information to be used with **common sense and discretion**.

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### Links to the Internet

There are a number of **references to Internet** addresses scattered throughout this note. These are not linked and need to be accessed separately from this TIP.

### Reference to commercial organisations and products

This TIP may contain references to commercial organisations, together with reference to specific products or services. Please note these are included for example purposes only and are not endorsements of the organisations, products and services.

This TIP may also contain information or statements from external Websites. Links to non-HMRC Internet sites do not imply any official endorsement of or responsibility for the validity of the information, data or products presented. The sole purpose of links to other sites is to indicate further information available on related topics.

## Introduction

This TIP deals primarily with the estate agent whose "bread and butter" derives from the sale of second-hand domestic property, although some specialise in particular types of property e.g. more up-market properties, industrial units or business transfers. Most supplement their income by means of ancillary activities such as property management, mortgage broking, insurance advice or valuation services.

This TIP also covers letting agents and other related trades that you may wish to consider as part of a project into property trades.

Estate agents' premises typically have a large window frontage in which photographs of properties are displayed. Inside further photographs and particulars are displayed and there are usually a number of desks and seats. To attract potential vendors and buyers many agencies are refurbished on a regular basis. During periods of high demand – see History of the Property Market and Seasonality - many agents offer seven-day week and late night opening. Besides the proprietor or office manager, an estate agent's office may consist of a number of negotiators whose job it is to sell properties and show potential buyers around properties.

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Most house transactions in England, Wales and Northern Ireland are conducted through estate agents. According to an Office of Fair Trading report in 2004, over 90% of people buying and selling a home in England and Wales used an estate agent. The report also found that there is considerable regional variation in the volume of property transactions, being highest in south-east England and lowest in the North-East and Wales. The figure is considerably lower in Scotland where there is a strong tradition of solicitors arranging sales of domestic properties.

At the beginning of the 1980s there were approximately 9,500 estate agencies, mostly with only one outlet. The strong rise in the housing market during the mid-1980s enticed a large number of financial service institutions to develop estate agency firms despite their lack of direct experience. Most outlets were purchased from small and medium-sized chains spread across the country to form national chains. Following this incursion the Department of Trade and Industry estimated the number of estate agencies at 14,500 offices owned by 8,000 firms. As a result independent estate agents found it necessary to diversify into supplementary sources of income. However the large institutions entered the market just as the demand was trailing off and as a result, many of them left the market after experiencing huge losses. By 1997 there remained only a handful of these institutions hoping to regain any losses suffered during the period of recession and by 2003 the number of offices had shrunk to just over 11,100. In 2004 there were nearly 13,000 outlets.

In September 1988 the Law Society allowed solicitors in England and Wales to set up estate agencies in common with their Scottish counterparts which, with the backing of a nationally organised company, could offer clients a full financial services package. However the subsequent downturn in the property market dissuaded the vast majority of solicitors from branching out into this particular sector. However at the time it increased competition for estate agents at a time when there were already too many outlets in a shrinking market.

## History of the Property Market

This is a brief overview of the housing and property market since 1988. There are also a number of appendices to this TIP illustrating trends in house prices and volumes of sales:

- Appendix 2 for details of regional average house prices for 1995 to 2002 - if more information is required visit the Halifax's website at [www.hbosplc.com/economy/home.asp](http://www.hbosplc.com/economy/home.asp).

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- Appendix 3 for national annual housing transactions
- Appendix 4 for England and Wales quarterly housing transactions.

Fluctuations of the property market have characterised the industry over many years. Essentially peaks and troughs have followed a cyclical pattern, with boom periods followed by slumps, and then succeeded by renewed peaks. Various factors have influenced such fluctuations, and, in particular, different regions can be seen to be subject to local variations in the extent and timing of the ups and downs. Essentially, however, the role of the estate agent has remained pretty much the same, with a constant juggling act to balance out the good times and the bad.

### 1988 to 1995

The peak of the property boom occurred in 1988. House prices then began to fall, reaching their lowest point in 1992, one of the worst years for estate agency. The market picked up slightly in 1993. Some estate agents' profits were boosted by the collapse of many of their competitors. However, house prices hardly moved at all during 1994 although they did fall in the final quarter of 1994 and December 1994, according to industry sources, was one of the poorest months for house sales since 1989. In 1995 transaction levels were down 11% on 1994.

In 1993 and 1994 nearly a third of all properties on the market were sales for financial institutions in possession under the terms of the former mortgage deed, i.e. repossessions. This new source of business became a lifeline for many agents which set up corporate client divisions to specialise in this new type of business.

### 1996 to 1999

House sales finally began to recover in 1996 and were 7% higher than in 1995 but were still lower than 1994's total and considerably down on 1980s boom levels. Although the picked up across the UK, the greatest price increases (10% and above) occurred in London and parts of the Home Counties. The market continued to recover moderately during 1997, a year characterised by high demand but with a shortage of supply in many areas. The market was steadier in 1998 in terms of both activity and prices. In some areas, particularly the more desirable ones, a price war on fees emerged in an attempt to secure more business. The seasonal lull in the fourth quarter was greater than normal and annual transactions only amounted to 1.35m. The housing market picked up again in 1999 driven by strong gains in the south of England, particularly Greater London. Some agents reported that they were selling everything they could get. Total transactions for 1999 were 1.58m.

## **2000 to date**

House price growth slowed in 2000, most notably in Greater London and the Southeast, although the market overall was still buoyant. House price inflation increased with the most significant price increase in the first quarter. However the number of annual housing transactions fell to 1.44m. The market remained stable in 2001 with annual transactions staying at 1.44m. Although house prices continued to rise in 2002, there was only limited growth in the level of transactions as the cost of home ownership deterred an increasing number of would-be first time buyers. The rise in house prices began to tail off in the first half of 2003 and were, in some areas, decreased. The level of transactions was less than the previous year, with the exception of the final quarter. The shortage of homes being placed on the market in 2003 meant that in many areas, demand exceeded supply.

Strong housing demand, together with supply shortages, maintained house price inflation at a high level in the first half of 2004. The market remained very strong in northern England and Wales in particular, and house price inflation in the south picked up following a significant slowdown during 2003. But from July 2004, following increases in the Bank of England base rate, house prices in England and Wales took a downward turn, with prices falling each month. The second half of 2004 also saw an excess supply of properties on the market thus seeing an increase in the number of unsold properties. In London, house prices fell at their sharpest rate since the early 1990s although there was a dramatic increase in the number of properties coming onto the market. Scotland was the only area reporting that prices were still rising.

## **Seasonality**

In addition to cyclical fluctuations in demand (see History of the Property Market) seasonal factors influence the volume of sales. More people put their homes on the market between January and March than at any other time of the year. Consequently the busiest time of the year traditionally for sales is from April to July, especially near Easter. The summer months, August in particular, are generally very quiet with most people taking their annual holidays then although the school holidays are a popular time for the house move itself. Sales generally pick up again in the autumn. House prices are static between December and January, reflecting the lack of interest in the market, but start to pick up again as the peak selling period approaches.

## **Qualifications and Licensing**

No qualifications are required to be an estate agent. Estate agents in the UK do not have to be licensed and anyone can set up in a business at any time anywhere in the UK. Only undischarged bankrupts and those banned by the Office of Fair Trading are prohibited from becoming an estate agent. (Note that undischarged bankrupts can work for another estate agency so long as it is not their own company.)

Power was included in the Estate Agents Act 1979 for the Secretary of State to be able to "make provision for ensuring that persons engaged in estate agency work satisfy minimum standards of competence" and "may prescribe professional or academic standards". However, in spite of this and subsequent reviews of the services provided, professional examinations for entry into estate agency have not been made mandatory. Smaller agents tend to have less formal training than larger firms, but claim to have greater local knowledge.

The Housing Act 2004 includes regulation of estate agents in England and Wales who act for sellers of residential properties for which a home information pack will be required. It is expected that these packs will be introduced on 1 January 2007. The Act will make it mandatory for them to belong to a redress scheme. The redress scheme will have to pass evidence of serious misconduct to the Office of Fair Trading which has the option of banning estate agents if it deems this to be appropriate. Refusal to join a redress scheme will be treated as if it were an undesirable practice under the Estate Agents Act. Continued refusal to join a scheme will lead to a banning order under the Act. Similar regulation is being considered in Scotland and Northern Ireland.

### **Scotland**

In Scotland there is a strong tradition in Scotland of solicitors arranging the sale of domestic properties. All practising solicitors in Scotland must be a member of the Law Society of Scotland and hold a current Practising Certificate which is issued by the Society. The Law Society of Scotland's web site [www.lawscot.org.uk](http://www.lawscot.org.uk), contains a search facility for all solicitors in Scotland.

### **Surveyors**

Estate agents do not need any professional qualifications to carry out valuations of properties for the purpose of arriving at current market prices. But they must be a member of the Royal Institute of Chartered Surveyors (RICS) to be able to offer specialist surveys and valuations.

### **Financial Advice and Services**

With effect from April 1988, estate agents offering financial advice or selling financial products must provide a properly qualified financial advisor who must be registered with the Financial Services Authority (FSA). From October 2004, those estate agents offering advice on and arrangement of both mortgage and general insurance products (either by selling them directly or acting as an intermediary) must be authorised by the FSA.



## Professional Bodies

The two largest professional bodies representing the interests of estate agents are:

- I. The Royal Institute of Chartered Surveyors (RICS)
- II. The National Association of Estate Agents (NAEA)

Whilst the majority of practising estate agents are members of one or both of the above, it is estimated that 18 to 20% do not belong to either of them. Few of these non-members belong to any of the smaller organisations such as the Association of Residential Letting Agents. These associations represent only a small number of estate agents, or are simply concerned with particular aspects of the services provided.

Membership of RICS is through prescribed examinations as well as practical experience, whilst membership of NAEA is through experience alone. It has a code of practice intended to protect customers. The RICS Rules of Conduct and Disciplinary Rules include provisions relating to the keeping of members' accounts, professional indemnity insurance and general standards of behaviour. They can be viewed at [www.rics.org/downloads/rules\\_of\\_conduct\\_02.pdf](http://www.rics.org/downloads/rules_of_conduct_02.pdf).

There is a professional category within the NAEA which requires completion of a course of study in addition to two years practical experience. It also has a code of practice intended to protect customers. The NAEA operates a Code of Practice and Rules of Conduct. These can both be viewed via [www.naea.co.uk](http://www.naea.co.uk).

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### **Royal Institute of Chartered Surveyors**

[www.rics.org.uk](http://www.rics.org.uk)

12 Great George Street  
Parliament Square  
London  
SW1P 3AD

### **National Association of Estate Agents**

[www.naea.co.uk](http://www.naea.co.uk)

Arbon House  
21 Jury Street  
Warwick  
CV34 4EH

## Ombudsman for Estate Agents

The Ombudsman for Estate Agents (OEA) scheme was set up in January 1998 in light of fears of the number of unscrupulous agents operating in the industry. The scheme drew up a standard Code of Practice for member estate agents. This can be viewed at [www.oea.co.uk](http://www.oea.co.uk) or a copy requested from the BIU.

To participate in the scheme originally, a firm must have had a partner, principal or director who was a member of either the NAEA or RICS. In January 2000, the membership criteria were widened further to allow any estate agents to apply. At June 2003, a total of 2,503 offices from 13 corporate estate agencies, and 1,858 offices from 753 independent firms were signed up to the Scheme. Despite the presence of the Ombudsman and the number of outlets subscribing to the scheme, there are reports of high numbers of complaints against estate agents (e.g. failing to declare a personal interest in a property or failing to pass on offers) became increasingly widespread with the boom in the housing market in recent years.

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# Legislation

This page summarises the main legislation governing estate agency work. The Office of Fair Trading has the power to ban transgressing estate agents from practising.

## Estate Agents Act 1979

The Estate Agents Act 1979 includes some provisions that cover anyone who is engaged in "estate agency work". The principal rules are:

- Estate Agents must declare in writing any personal interest that they or their associates have, or will have after the transaction, in a property with which they are dealing.
- Clients must be told in advance in writing the circumstances in which fees will be payable, and how the fee will be worked out, as well as being given details of additional charges such as advertising.
- Pre-contract and contract deposits must be kept in specially designated client accounts (either designated or general), not only separate from the agent's own money, but also separate from any other client monies such as rents, and agents must keep certain clear records of the transactions on this account. These accounts must be audited annually by a qualified auditor (defined as for the Companies Acts). The taking of pre-contract deposits is forbidden in Scotland. Information on the record keeping requirements affecting client accounts can be found at Records.
- Interest must be paid to the appropriate party when a deposit is more than £500 and the interest would amount to more than £10 (unless an agreement has been reached with the client varying these provisions).
- Undischarged bankrupts, and those in Scotland whose sequestration has not been recalled, are barred from estate agency work except as an employee.
- If any restrictive terms are involved, such as "sole agency" or "sole selling rights", or the agency has the right to remuneration for introducing a "ready, willing and able" buyer, then a statutory form of warning notice must be given.
- If the agency reserves the right to offer any of its services to prospective buyers or lessees, then the client must be given this information along with the written terms of business.
- All offers have to be reported in writing with any indication as to whether the bidder has the necessary financial ability to proceed and whether they can exchange contracts within the timescale required by the client.
- If any prospective buyer or lessee intends to take advantage of any of the services offered, the client must be specifically notified in writing.

The Director General of Fair Trading can investigate any practitioner's fitness to do estate agency work and, if necessary, ban an "unfit" person from taking part in estate agency work. "Unfit" people can include those convicted of certain criminal offences, and those who have been guilty of discrimination in the course of business.

The following Acts supplement the Estate Agents Act 1979:

### The Estate Agents (Appeals) Regulations 1981

This deals with appeals to the Secretary of State against any Warning or Banning Orders proposed by the DGFT.

### **The Estate Agents (Entry and Inspection) Regulations 1981**

This is merely a technical measure saying that a Trading Standards Officer investigating a possible offence under the Act exercising the right of entry an inspection under s11 may not seize documents from a bank without additional authority.

### **The Estate Agents (Accounts) Regulations 1981**

They deal with receipting, banking and auditing requirements and must be followed to the letter as any breach would be a criminal offence. They also deal with the provision for interest to be paid in certain circumstances on clients' money. For further information see Records.

### **The Estate Agents (Fees) Regulations 1981**

This sets the fees for inspecting the Register of Estate Agents subject to a Warning or Banning Order from the DGFT and the fee for applying for revocation or variation of any existing Order. It does not relate to estate agency commission rates.

### **The Estate Agents (Provision of Information) Regulations 1991**

This deals with the information which must be given to all potential clients in writing before the estate agent is legally instructed.

### **The Estate Agents (Undesirable Practices (No 2) Order 1991**

This deals with the day to day practice of estate agency requiring the supply of various items of information to the client during negotiations. This Order also deals with methods or handling any personal interest in a transaction.

### **The Estate Agents (Specified Offences) (No2) (Amendment) Order 1992**

This Order added a conviction under the PMA to the list of offences the DGFT can cite if it wishes to issue a warning or banning order.

### **The Property Misdemeanors Act 1991**

The PMA makes it a criminal offence to supply false or misleading information about a property for sale. An estate agent must verify any information they decide to publicise or risk prosecution if they are found to be negligent or even lacking in due diligence. The Act also applies to builders, developers and housing associations and solicitors when they are selling property. Additionally where estate agents believe they are being given false information they may no longer pass it on without appropriate verification. They may not shut their eyes but must remain alert and diligent at all times. The Act does not give the injured party any right to compensation.

### **Money Laundering Regulations 2003**

From 1 April 2004, businesses that deal in goods and accept cash equivalent to €15,000 (approximately £10,000) or more for any single transaction must register with HMRC as a High Value Dealer (HVD) and put anti-money laundering systems in place. If a business has a clear policy of not accepting in cash the equivalent of €15,000 or more for any single transaction, or if the business deals in services, they are not a High Value Dealer.

# The Legal Framework of House Buying

## England and Wales

An offer to buy is made "subject to contract", which means that neither the purchaser nor the vendor is committed to the sale until the contracts have been signed and exchanged. The offer to buy is in itself not a legally binding contract, and both parties may withdraw. The purchaser may therefore make offers on more than one property and the vendor is free to receive higher offers, which can lead to the practice of "gazumping". Although not legally necessary, some purchasers leave a deposit with the agent. The price asked for by the vendor is usually the maximum it is hoped to obtain, and, except when property is in very short supply, it is common for the eventual sale proceeds of a second-hand house to have been subject to negotiation downwards.

## Scotland

There is a strong tradition in Scotland of solicitors carrying out both the marketing and legal stages in the sale of domestic properties. Prior to 1970 there were very few estate agents in Scotland but today between a third and a half of all house sales are handled by estate agents who operate in much the same way as those in the rest of the UK. A person wishing to sell their property will either instruct an estate agent to carry out the marketing and a solicitor to carry out the legal work, or instruct a single solicitor to carry out both.

Some solicitors are members of Solicitors' Property Centres (SPCs) which consist of a showroom displaying the property particulars of all the properties being advertised, and a property list of those properties. Most SPCs charge each new member solicitor a joining fee and some charge an annual membership fee. Other solicitors may be able to use the SPC, for example when they are located outside the SPC's normal catchment area, but it will usually be on less preferential terms than those which apply to its members. Members or users wishing to advertise a client's property at the SPC pay an insertion fee which covers advertising. This may be for a fixed period or indefinitely until the property is sold. If the property is not sold within the fixed period, the insertion is renewable for a lower fee. The fee also usually covers advertising in the property list. SPCs may also offer other services such as providing schedules of particulars, mailing list facility, computerised property-matching services and a duty solicitor service for the benefit of visitors who may not have a solicitor and want general advice.

In England and Wales there is no binding agreement until the contracts have been formally and legally exchanged and, until then, the negotiations are conducted on a 'subject to contract' basis. In Scotland, a legally-binding offer is made at the outset. The process then usually involves:

- the issue of a qualified acceptance of the offer by the solicitor acting for the vendor
- the adjustment of the missives (whereby various terms and conditions are qualified, deleted or accepted)

A buyer can request that a property be reserved as nobody else may buy that property whilst it is reserved. If another party wishes to buy the reserved property, the vendor's agent must contact the first party and invite them to submit a revised offer. Pre-contract deposits are forbidden in Scotland.

Survey and search work have to be incurred before an offer is made or is known to be accepted. Therefore the time-scale necessary to purchase a property is significantly shorter than in England and Wales. The vendor usually sets a minimum asking price by calling for "offers in excess of - -" or "offers over". If a property is advertised at a 'fixed price' it means that the vendor is willing to accept the first firm offer at the price specified.

If more than one buyer is interested in a property, the vendor's agent invites each of them to make an offer (a 'sealed bid'). The vendor will normally wait until a number of people have expressed an interest in making an offer and then announce a closing date. Every offer for a property must be made in writing and is opened at the closing date. Once opened, the agent passes details of all the bids to the vendor. The vendor does not have to accept any of the offers but if they do accept one, the agent will confirm this in writing to the buyer's agent. The procedure by which the parties make offers and counter-offers until a contract is concluded by one party accepting another party's offer is known as the missives stage. The missives stage can take up to 2 to 3 weeks to conclude. Estate agents can carry out the missives stage but this is almost exclusively undertaken by a solicitor. Solicitors may sign an offer of acceptance on behalf of their clients. After a binding contract has been agreed – 'concluding missives' – the solicitor completes the conveyancing procedures and prepares a number of documents, including a disposition which transfers ownership of the property to the buyer. If the marketing is being handled by an estate agent, the preferred offer is forwarded to the vendor's solicitor for qualified acceptance; the estate agent will generally take no further part in the transaction.

## **Northern Ireland**

The system in Northern Ireland is akin to that in England and Wales. However, the vendor will usually have the contract drafted before the property is put on the market, and this is sometimes deposited with the estate agent. The contract is commonly signed two to four weeks after oral agreement is reached and is subject to the purchaser obtaining finance and the legal searches being in order. There is no exchange of contracts. Instead the buyer signs their contract and it is sent of to the vendor. When the vendor has signed their part and returns it to the buyer's side, a contract is deemed to be in existence.

## The Home Information Pack

In December 1998 the government published proposals aimed at speeding up the process of home buying and selling in England and Wales. This included the introduction of a Seller's Information Pack to be provided by anyone putting a home on the market.

A pilot scheme was established in Bristol on 10 December 1999. Thirteen estate agency firms and nine solicitors or licensed conveyancers took part in the pilot. During the pilot, which ran for just under a year, 87% of accepted offers on properties with a seller's pack resulted in a completed transaction compared to 72% under the old system

A smaller pilot took place in Burnley and Bradford, also during 2000.

The Housing Act, which includes the requirement for vendors to prepare a 'home information pack' (HIP) based on the seller's pack, received Royal Assent in November 2004. It is expected that these packs will be introduced on 1 June 2007. The Government proposed that the home information pack should include searches, evidence of Title, a draft contract, copies of guarantees and warranties and a report on the condition of the property. The main component of each HIP was to be a home condition report, to replace a basic survey. However in July 2006 the government announced that the reports will instead be voluntary.

The Home Condition Report (HCR) is a detailed report on the condition of the property focusing on serious and urgent repairs. HCRs will be carried out by home inspectors drawn from a number of different professions, although it is expected that many of these will be property surveyors.

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

A government report established that the most common concern for estate agents was the belief that the introduction of the pack will reduce the number of sellers coming to the market which will lead to a fall in revenue within the industry. However, there was an acknowledgement that reduced revenue would be offset, at least in part, by lower fall out rates and fewer failed transactions.

## **Methods of Operation**

Estate agents normally represent only the vendor of the property and are expected to act in the vendor's best interest. This includes getting the best price for a property, thereby justifying their participation in gazumping. The estate agent's agreement will generally stipulate a minimum term, which may be anything from 4 weeks upwards. Depending on the terms of the representation a vendor will not be able to instruct another agent until the term expires. The most common forms of representation are:

### **Sole agency**

The vendor instructs one firm to act on their behalf and will pay commission only if the property is sold through the agent. If the vendor sells privately, the agent will receive nothing. However if another agent arranges the sale the estate agent would still be entitled to charge their agreed fees. Sole agency is more common in the middle and north of the country and Scotland.

### **Sole selling rights**

Many estate agents include a term stating that the client's liability to pay the remuneration will arise either on exchange of contracts or on the introduction of a prospective buyer who is ready, willing and able to exchange contracts.

### **Joint sole agency**

The vendor instructs two agents to act in co-operation with each other, but pays only one fee, which is shared between the two regardless of which one introduces the buyer.

### **Sub-agency**

A sole agent may, with the agreement of the vendor, appoint one or more sub-agents. This might occur if the property is to be marketed outside the principal agent's normal territory. If the latter is instrumental in selling the property the commission is shared with the principal agent in proportions which they agree in writing.

### **Multiple Agency**

The vendor places the property with more than one agent, but only pays commission to the agent effecting the sale. The commission or fee charged will be higher than in sole agency. If the vendor sells the property independently they pay no commission. Together with Joint Sole Agency these methods are generally more common in London and the south of England.

### **Ready Willing and Able**

This clause within a contract establishes an estate agent's additional right to claim liquidated damages as compensation for loss of an opportunity to earn the agreed remuneration. The vendor has to pay the fee if the agent finds a buyer who is prepared and able to buy the property and exchange unconditional contracts. The fee is still payable even if the vendor withdraws from the sale and contracts are not exchanged or if the vendor finds a buyer privately. The term may be included in a multiple agency agreement as well as one which involves sole agency or sole selling rights.

## The Typical House Sale

The estate agent is normally approached by a vendor who wishes to put their property on the market. The agent will then visit the property and make a valuation (for which there is normally no charge) in the hope of obtaining an instruction to act in the sale of the property. The agent is required by law since 1999 to give any prospective client a written statement detailing the amount of fees, details of circumstances in which those fees will become due and an estimate of likely costs additional to those fees before any instructions are confirmed. The usual sequence of events when a vendor puts their property into the hands of an agent is as follows:

- The agent registers the property in the books and confirms with the vendor the terms of business and the instructions received. In England and Wales this is normally confirmed in writing, but this is less likely to be so in Scotland and Northern Ireland.
- The agent inspects the property, takes measurements, etc. and is likely to take photographs.
- The agent advises the vendor on the best method of sale i.e. auction or private treaty. Sale by auction tends to be less popular although most agents in England and Wales offer the service and it may be suggested in cases where the property is considered un-mortgageable, for example, where the property has a sitting tenant. The agent will also discuss the sale price.
- The agent is likely to ask for keys to the property to be able to show prospective purchasers around the property when the vendor is not available. To protect their own interests most agents will keep a book recording the keys in their possession that the owner will sign on relinquishing and taking back the keys. This book, although not part of the accounting records, provides a double-check on some of the houses dealt with - but not necessarily sold.
- The agent will advertise the property and disseminate details. This can involve:
  - erecting "For Sale" boards
  - advertising in the local and, sometimes, national press and magazines
  - displaying the property's particulars at the estate agency
  - issuing the property's particulars to potential buyers on the mailing list
  - advertising on the Internet

There are strict rules covering the way in which property can be described and it is a criminal offence for an estate agent to make certain statements which are false or misleading. The agent will take prospective purchasers to view the property, or will arrange convenient times for them to call on the vendors.

- The agent will receive offers from buyers, act as middleman in negotiations and accept payments of a deposit - usually at least £100. This deposit, or stake, does not render the offer binding, but is more a display of good faith. It is returnable to the "buyer" if the sale falls through, or is passed onwards to the vendor as part of the sale price, usually by being deducted from the commission eventually due. Stakes will normally be held for a minimum period of four weeks, and, since May 1982, must be placed in a separate bank account. The taking of pre-contract deposits is forbidden in Scotland.

Some agents will assist the buyer in obtaining a mortgage or will offer advice on how to do so. Many will give advice on insurance matters, and some will put purchasers in touch with local builders.

The Land Registration Act 2002 came into force on 13 October 2003, reducing the time taken to perform searches on and register property ownership, thus speeding up the house buying process.



Appendix 5 gives details of selling patterns (e.g. average number of viewings per sale) taken from Hometrack's monthly surveys of the national housing market. Appendix 5 only gives national figures but the original surveys do give statistics on a regional level - [www.hometrack.co.uk](http://www.hometrack.co.uk).

## Methods of Charging

Fees are not fixed by law and are negotiable. It is unlawful to have agreements between agents relating to charges for work in connection with selling houses. Nearly all agents charge a percentage of the selling price of the property. If a property is worth over a certain amount some agencies reduce the commission payable on a tapered basis, for example 2.5% of the first £1m and 2% of the excess. Obviously the amounts will vary from region to region depending on local property values. When selling an expensive property or during a seller's market a vendor may be able to negotiate a reduced rate or fee.

A very small proportion of estate agents charge a flat fee, but many more charge a minimum fee, which is effectively a flat fee, for lower priced properties. In effect, this device allows estate agents to charge higher percentage rates to owners of lower value properties.

An alternative method of charging favoured by some estate agents is to charge a fixed fee - receivable up front - regardless of whether the property is sold or not. The fee may also be fixed regardless of the value of the property, but is generally set at a lower level than would be payable under the conventional method of charging.

All of these methods may be qualified by one or more of the following:

- A minimum fee - e.g. "% subject to a minimum of £250"
- An addition for advertising costs
- An addition for other expenses - usually associated with a lower than nationally average percentage fee.
- "Quick sale" discount - e.g. £100 reduction if the sale is achieved in a specified period.

If the vendor finds a private buyer or withdraws from the sale, and the arrangement with the agent includes the term "ready willing and able" the vendor must still meet the agent's full fee. In the case of a multiple agency where the property is sold through another agent, the vendor may have to meet the agent's expenses. There are, however, large regional variations in these practices.

Many estate agents operate on or will enter into a "no sale-no fee" basis although some may still try to claim their fee on the basis of a "ready willing and able" clause.

A sole agent may instruct another agency or agencies (a sub-agency) to help them find a buyer. The sole and sub-agent will agree a fee or commission rate between them, payable if the latter introduces the purchaser. The vendor pays no more than the sole agency fee; the agent who instructs the sub agent pays them a fee out of the sole agency commission. The sub-agent usually receives half the fee (occasionally two thirds). However, where there is a joint sale agency, the fee is split equally regardless of who makes the introduction.

Where an agent appoints a sub-agent or sells a property via the National Association of Estate Agent's Homelink service (a network of estate agents which provides buyers and sellers who want to relocate with introductions to estate agents in other parts of the UK and abroad), any commission received is split as previously negotiated.

Some agents have begun to advertise French and other overseas properties and, if successful in effecting a sale, will share the commission with their foreign counterpart. French commission rates tend to be high, ranging from 5% to 10%.

<p>This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.</p>
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## Level of Charges

For most estate agents, the fee charged to sellers is based on a percentage of the price at which the property actually sells. There is much variation in the percentage fee rates charged by estate agents although it is usually between 1% and 4%, depending on the type of representation chosen:

**Sole agency - average of between 1.5% and 2% and may also pay for advertising and other out-of-pocket expenses**

**Joint sole agency – average between 1.5% and 2.75% and generally the agent pays for advertising and other out-of-pocket expenses. The commission is split between the agents, often 60:40 with the larger share going to the agent who finds the buyer.**

**Multiple Agency - rates are higher at between 2% and 3%**

Sometimes, commission is payable on a tapered basis where two rates of commission are charged: a lower rate being charged above a certain sale price.

The vast majority of fee rates are set at between 1% and 2%, at intervals of 0.25%. Appendix 6 shows average commission rates in England and Wales per Woolwich Market Surveys. The 2004 Office of Fair Trading (OFT) Report into the Estate Agency Market in England and Wales found that sellers on average paid 1.45%. Commission generally varies according to the transaction value, with a higher rate charged for cheaper properties although the report found that there is no significant difference in average fee rates across property price bands. In terms of absolute fees, higher fees are paid on higher priced properties, yet the higher fees do not reflect proportionately higher costs.

The state of the market has a major bearing on the levels of fees charged. Commission rates tend to fall in periods of buoyant demand and rise in depressed periods when volume sales decline. In addition vendors may be asked to pay for expenses which previously were included in the percentage charge as advertising and other expenses can increase greatly when property is not moving. In a seller's market these are likely to be minimal.

Commission also varies regionally. Joint sole or multiple agencies are more common in the London and the south of England but have higher charges, which in part explains higher overall charges in the South. Fees may also be higher in wealthier residential areas.

Property developers, and other clients who bring in a lot of business, may be charged a lower rate of commission. Property that is expected to sell very quickly may also attract a lower fee.

Levels and methods of charging are unlikely to alter a great deal, and it should be possible to ascertain a particular agent's scale of fees either through a direct approach or from local knowledge.

## Other Sources of Income

Whilst commission on the sale of properties represents the greater part of their income in most cases the majority of estate agents will supplement their income in a number of ways. Besides those listed below, other sources of income may include property speculation, selling advertising space to house builders and similar organisations and house clearances.

Elsewhere in this TIP is included information on the following related trades:

Letting Agents  
Property Finders  
Home Staging

The following businesses may be run alongside the main business as an estate agent.

## Surveys and Valuations

Estate agents do not need any professional qualifications to carry out valuations of properties for the purpose of arriving at current market prices. But they must be a member of the Royal Institute of Chartered Surveyors (RICS) to be able to offer specialist surveys and valuations. Consequently fees from these sources will generally only be received if the agent is qualified. Depending on the nature of any partnership agreement, it is possible that such income may be payable to the individual rather than to the firm, particularly where there is perhaps only one qualified member.

Survey work arises mainly in connection with the prospective purchase of a property. The reasons for valuations are numerous and will include: for probate purposes; revaluation for annual and final accounts; valuation of interest in a partnership; capital taxation; determination of loan security; compulsory purchase; insurance; and compensation under the Landlord and Tenant Act.

Market valuations are generally free of charge although a charge will be made where a written valuation is required, e.g. for a mortgage valuation.

Fees charged for a survey will vary according to the purchase price of the property, its age, size and condition, and the type of survey required. A full structural survey will be approximately double the price of a basic survey.

Although a large number of estate agents are chartered surveyors, many do not carry out survey work because legislation has increased their liability regarding compensation which requires special insurance cover. Many estate agents therefore contract out their survey work.

## Financial Services

Many estate agents provide advice to prospective purchasers on the subjects of mortgages and property insurance. Such service can naturally extend to matters falling within the scope of the Financial Services Act 1986. With effect from April 1988, and as a direct result of this Act, agents and brokers dealing with "investments" became bound by law to register their business with the Financial Services Authority (FSA). From October 2004, those estate agents offering advice on and arrangement of both mortgage and general insurance products (either by selling them directly or acting as an intermediary) must be authorised by the FSA. They will also have to comply with the FSA's rules and standards.

Investment business within the terms of the Financial Services Act includes investment in long term life insurances. The business activities governed by the Act include:

- dealing in shares
- arranging investment deals

- providing investment advice
- establishing, operating or winding up a collective investment scheme.

Excluded from the definition of investment business are the following:

- shares in Building Societies
- straightforward banking instruments (cheques, bank accounts)
- leases and normal property dealings
- non-convertible level or reducing term insurance policies
- permanent health policies, unless they contain a profit element or surrender value.

One important consequence of the Financial Services Act was the requirement of the FSA to maintain a public register of all firms who are authorised to carry on investment businesses, as well as some other information. Accordingly, a Central Register showing the names, addresses and specific types of business an individual or firm is authorised to undertake is available for public inspection. This register can be searched online at [www.fsa.gov.uk/register](http://www.fsa.gov.uk/register).

A fundamental aspect of the Financial Services Act legislation is the concept of "polarisation". An investment adviser must be either:

- A "tied" representative is committed to a single financial institute and can sell and advise on the products of only that company. The representative's activities are regulated indirectly by the body regulating the activities of their respective company; or:
- An Independent Financial Adviser (IFA). "Independent intermediary" and "Broker" are alternative names for an IFA. IFAs must be members of the FSA.

Agents must declare to their clients whether they are "tied" to one insurance company, or whether they are providing advice independently.

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

Where an agent acts as a mortgage broker, they receive commission usually based on a percentage of the mortgage value. Alternatively, the estate agent may have an arrangement with a mortgage broker, and may be in receipt of shared commissions, or a fixed introduction fee for every policy sold. Sometimes an agent will receive a combination of a percentage commission plus a fixed fee. In order to verify receipts from such a source, the estate agent will need to maintain a record of every applicant introduced to the broker.

The commission received by estate agents from insurance companies for introducing new clients to an insurer and for collecting periodic payments is exempt from VAT. Alternatively agents may refer clients to an insurance company or broker, without arranging the insurance themselves. Any such "introduction fees" received are standard rated.

## **Agricultural Property Management**

Management fees for agricultural property will normally cover the following services:

- The collection of rent
- The supervision of tenants
- The making of estate payments
- Keeping the necessary estate cash accounts
- Supervising repairs and maintenance carried out by estate staff or contractors

- Ordinary management of woodlands
- Estate income tax (excluding personal returns and tax), rates and tithe and maintaining estate ordnance sheets and other records.

Valuations, sales and purchases of property, lettings and rent reviews, new works and surveys are all excluded. These latter matters can be included in an overall management of the estate, for which higher fees are likely to be charged.

## **Specialist Property Selling or Leasing**

Some large agents specialise as commercial, retail, farm land or industrial property agents because of the expertise, initial outlays and contacts required. Occasionally a smaller established estate agent may pick up the odd commission arranging leases or sales. An agent who finds a tenant or leases industrial, commercial or private property receives a “one-off” commission calculated as a percentage of the first year’s lease, or with private property, one month’s rent. There can also be a further “premium” for assigning the unexpired portion of an existing lease. Fees for commercial work are quite substantial and can be 10% or more on high value property.

## **Auctioning**

An estate agent may have a specialist arm of the business handling auctioning of land and property auctions. The auctioneer should normally inspect the property and advise on a reserve price, or inform the vendor if any unusual items would be better placed at a specialist sale. The agent should then prepare descriptions of the property for catalogues and advertisements. Finally the property will come under the hammer at auction.

Average commission rates for this service vary between 10% and 15%, plus incidental expenses such as photographs, advertising and insurance. Some of the larger auctioneers reduce the commission to the vendor to, say, 6%, and then introduce a buyer’s premium of 10% which is payable to the auctioneer. When an item fails to reach its reserve price it is common for commission to be charged to the unsuccessful vendor based on a percentage of the reserve. Moreover, if a sale is effected privately, especially of property, within a certain time scale both before and after the auction, commission may still be payable.

## **Buying or Third Party Agent**

Buying agents work for a buyer, locating and securing suitable property for their clients to purchase. Buying agents charge between 1% and 2.5%, although 1.5% is common, of the actual purchase price. Others may charge a percentage commission based on the difference between the asking price and the eventual sale price. This is in addition to the estate agent’s commission. See also Property Finders.

## **Other Professional Services**

These include letting, planning and development, compulsory acquisitions, conveyancing, specialist relocation services and architectural and design services. In agricultural areas a wide variety of services related to the land are often offered, including advice on such matters as farm and forest management, improvement and drainage schemes, reclamation of land, the provision of public access, and rural property development.

## **Building Society Agencies**

A number of estate agents act as Building Society agencies. This entails not only mortgage advice, but also the receipt and accounting of monies deposited by the building societies investors. Commission, typically between 0.5% and 3.5%, is paid by the building society for the amount of monies paid into accounts and the number and type of accounts opened on their behalf. This commission is exempt from VAT but charges to an investor for advice or investment guidance are not.

## **Interest on Bank Deposit Accounts**

In the 1960s and 1970s the majority of estate agents made it standard practice to take deposits and often had a large sum of money in their client accounts. However this practice has declined over the last 20 years and the majority of estate agents in the south of England no longer seek deposits. Elsewhere the profession is following a similar trend. The taking of pre-contract deposits is forbidden in Scotland.

Contract and pre-contract deposits must be held on trust and be properly accounted for in special client accounts – see Records. It is a criminal offence to take a deposit unless insurance is held to cover the possible loss of clients' money. The Estate Agents (Accounts) Regulations 1981 provide for the estate agent to pay interest on any client's money held unless:

- the amount held is £500 or less;
- the interest that would be earned is less than £10; or
- an agreement has been reached with the client varying these provisions.

## **Refurbishment Grants**

Another possible line of work could be the pursuit of refurbishment grants for older houses. An agent will supervise the contract, recruit the builders, pay them direct and take their percentage cut (say 10%) when the grant is eventually paid.

## Franchises

Growth in the UK housing market has led to corresponding growth in the number of estate agency franchise opportunities. Many franchisors focus on virtual trading from websites or a home base. The following provides details of some of the franchise opportunities available in estate agency. These are included for informational purposes only and their inclusion does not imply endorsement or recommendation.

### Your Move

Franchisees have to pay:

- an initial fee of £15,000 plus VAT per branch (2006)
- a monthly management service fee of 8% of gross monthly takings as defined in the Franchise Agreement, plus VAT
- a monthly IT Support Fee.

Franchisees receive commissions on:

- introduction and take-up of clients to Your Move conveyancing services
- the take up of customers for mortgages, re-mortgages and mortgage protection product sales
- introduction and take-up of clients to financial services sales
- general insurance and utility sales

The franchise model also includes the additional income streams of residential lettings and overseas homes.

Website: [www.your-move.co.uk/franchising/index.html](http://www.your-move.co.uk/franchising/index.html)

### RE/MAX

RE/MAX was founded in 1973 in North America and has since grown to 120,000 associates working from 6,500 independently owned and operated offices in 64 countries (stats. July 2006) covering Europe, Central and South America, Australasia and Asia. RE/MAX offers master (i.e. regional or country) and office franchises. Associates are the fee earners who pay the franchise a fee for the use of the brand and office facilities. A percentage of the fee collected from the associate by the franchisee is remitted to RE/MAX.

Website: [www.remax-franchises.co.uk](http://www.remax-franchises.co.uk)



# Letting Agents

## General

Many estate agents will also act as letting agents but some businesses will solely deal with lettings and property management. Letting agents or estate agents who also manage property rentals may be a member of The Association of Residential Letting Agents (ARLA), [www.arla.co.uk](http://www.arla.co.uk).

Letting agents introduce and vet prospective tenants, prepare the tenancy agreements; advise on inventories; changes to utility accounts and Council Tax; collect the rent and pay the balance to the landlord's account. When retained as property management agents, additional services include paying bills for the landlord; regularly inspecting the property and arranging for any repairs and maintenance to be carried out.

Most agents require that residential property is let for a minimum of 6 months, usually under an assured shorthold tenancy. A deposit of a month to 6 weeks' rent is usually held as a deposit against damage and non-payment of rent.

## The Property Management and Lettings Market

The late 1980s saw the beginning of a gradual expansion in the private residential letting market. The downturn of the property market in the early 1990s prompted an increasing number of estate agents to turn to the rental sector as an additional source of income.

In 1991, 7% of UK households were rented out privately. Between 1992 and 2000 there was an increase in these figures by 43%. Currently 12% of all privately owned property is now let. The property rental sector has been fuelled by social changes, reduced job security, population mobility, favourable legislation and taxation and stable interest rates. Since 2000 would-be first-time buyers who have been priced out of the rising housing market have added to the demand for rental property.

The Royal Institute of Chartered Surveyors produces a quarterly survey of the lettings residential market in Great Britain as well as a regional breakdown. The survey includes trends in tenant demand, gross yields, rent expectations and average monthly rents broken down by region and property type. Extracts from these surveys are reproduced at Appendix 7. Recent surveys can be viewed online at [www.rics.org.uk/Property/Residentialproperty/Residentialpropertymarket/lettings+market+survey.htm](http://www.rics.org.uk/Property/Residentialproperty/Residentialpropertymarket/lettings+market+survey.htm)

## Fees

Typically an agent might charge the landlord 10% of the rental income for finding a tenant only, 12.5% to 15% for finding a tenant and collecting rent, and up to 20% for a complete management package. Some agents charge landlords a marketing fee each time a property is let. Most agents do not charge the tenant an introductory fee although tenants may have to pay a share of the cost of preparing an inventory and tenancy agreement and for carrying out references.

Some agents require potential tenants to pay a bond or holding deposit that will not be returned if the reference, credit or employer checks fail or if for any other reason the tenant does not move in. Otherwise, the money is deducted from the first month's rent. Tenancy agreements may also include financial penalties such as extra charges if the rent is not paid by standing order.

The Press often contains reports of letting agents charging excessive fees. In 2003 the Department of Trade and Industry filed 2,085 complaints against letting agents, yet no

legislation currently exists preventing them from charging excessive fees. ARLA cannot direct its members what to charge.

Valuations, work in connection with alterations or improvements, agreeing tax liabilities and reletting or renewing tenancies are all normally charged separately, although some agents charge a higher percentage fee and include some of these duties in their service. Some agents specialise in this type of work, especially for clients who are temporarily resident abroad.

Certain agents have an arrangement with builders who develop blocks of flats and take over the running of the flats as nominees of the lessors. The agent then collects the ground rents and service charges, and, in addition to their commission from the lessor in respect of the rents, the lessees are charged a percentage (usually 12.5%) on the total expenditure. As this will include insurance, there should also be some commission due from the insurance company. This is obviously therefore a very lucrative area of work.

## **Tenancy Deposit Scheme**

Many tenants in the private sector give their landlords a deposit against possible non-payment of rent or damage to property. When a tenancy comes to an end there is usually no disagreement about the return of the deposit. But when there is, it can cause much hardship and inconvenience to both the landlord and tenant.

The Tenancy Deposit Scheme for Regulated Agents (TDSRA), [www.tds.gb.com](http://www.tds.gb.com) was launched in November 2004. The scheme was developed to ensure that the deposits agents hold are protected by the Disputes Service Ltd and that disputes about their return are resolved swiftly, inexpensively and impartially.

Under the scheme:

- deposits are protected during the tenancy
- where there is no dispute at the end of the tenancy, deposits are returned promptly
- where there is a dispute about the return of the deposit it is dealt with fairly by the Independent Complaints Examiner.

The Housing Act 2004 provides for statutory deposit protection. The relevant provisions are due to be implemented in April 2007. The Dispute Service is tendering for a contract for a statutory scheme. It will replace and extend the TDSRA.

## **Seasonality**

The lettings market is less seasonal than the housing market although student lettings activity peaks in late summer with the start of the new academic year.

## **Franchises**

The following are examples of the range of franchises available and the variations in the contract/franchise requirements. These are included for informational purposes only and their inclusion does not imply endorsement or recommendation.

### **Belvoir**

A Belvoir specialist property lettings franchise costs £22,500 (2006) plus VAT and working capital. Belvoir offers a number of franchise opportunities:

- Office or shop based new business. Support provided with premises search, project management prior to start up, induction training and ongoing support.
- Resale/purchase of an existing franchise when available.

- Acquisitions: the purchase and rebranding of an existing lettings agent.

Websites:

Recruitment for new franchisees: [www.belvoirfranchise.com](http://www.belvoirfranchise.com)

Group website: [www.belvoirlettings.com](http://www.belvoirlettings.com)

### **Castle Estates**

Castle Estate franchises in property management services commenced in 1990. The franchise fee of £18,995 plus VAT (2004) provides franchisees with a complete starter pack of letterheads, business cards, compliment slips, 'To Let' boards, all contracts and notices relating to property management, website and software.

Website: <http://franchise.castle-estates.co.uk/home.mhtml>

### **Martin & Co**

Martin & Co is a property management and lettings business founded in 1986. Its first franchise opened in 1995. Its franchise package costs £18,500 plus VAT (2004) and franchisees pay a management services fee of 9% of gross fee income.

Website: [www.propertyfranchise.co.uk](http://www.propertyfranchise.co.uk)

### **Northwood**

Northwood, who are lettings and estate agents, was founded in 1995. The business was then franchised in 1999. The current franchise fee of £39,950 + VAT (July 2006) includes a training programme, office furniture, computers, software, signage, digital camera, photocopier, printers and stationery. The ongoing royalty fee is 10% plus VAT of the gross profit which is paid monthly.

[www.northwoodfranchises.co.uk](http://www.northwoodfranchises.co.uk)

### **Surelet**

Surelet is a residential lettings business offering franchises. The role of the franchisee is to work with landlords to find suitable tenants for their properties while Surelet's Management Centre handles all routine administration work such as the preparation of rental agreements, tenant vetting and rent collection. The franchise package fee is £19,995 plus VAT (2006) and includes training, marketing materials and business stationery for approximately 6-9 months of operation, a digital camera and a supply of 50 'To Let' boards.

A management service fee of 8% of commission income is payable to Surelet Franchising Ltd on a continuing monthly basis. Franchisees also have to pay a monthly national marketing levy of 2% of commission income, again payable to Surelet Franchising Ltd. The initial term of the franchise agreement is set for 5 years.

Surelet's financial projections show that with 120 managed lettings during the year, a franchise can achieve a net profit of around £31,000 before tax and drawings. If the lettings per year are increased to 180, a profit of £53,000 is achievable. Both figures quoted are for 2006.

Website: [www.surelet-franchise.co.uk](http://www.surelet-franchise.co.uk)

## Managing Agents

A managing agent is a person or firm appointed by a freeholder of a property to manage that property on their behalf. In the case of residential leasehold property (subject to the lease permitting such an appointment) the managing agent contracts with the freeholder to manage the property in accordance with the terms of the lease and statutory requirements. A lease is a contract between the lessee and the freeholder (often referred to as the lessor) to which the managing agent is not normally a party.

The managing agent is only the agent of the freeholder or the person/organisation with legal responsibility for the management of the property; thus the ultimate responsibility for the full and proper management of the property always remains with the freeholder. Managing agents deal with the administration of the property including:

- ground rent and service charge collection
- management of landscaping, cleaning and furnishing of common areas and security
- instruction of repairs including co-ordinating the appointment of contractors
- allocation and collection of repair charges and insurance premiums
- arrears collection and disputes between lessees
- rent reviews and lease negotiations
- full accounting facilities for budgeting
- year-end accounting.

The management of long leasehold residential property is a complex business requiring a full understanding of the structure and meaning of leases and a thorough knowledge of the statutory requirements of the various landlord and tenant legislation.

## Property Finders

Property finders locate suitable property for their clients to purchase. Most also, once they have found the right property, negotiate the purchase price, organise surveys and supervise the conveyancing process through to completion.

Property finders became popular in the 1980s and there are now hundreds throughout the UK and some of the larger estate agents have opened their own property search divisions.

Clients include those living abroad wishing to relocate abroad and wishing to relocate and the wealthy with little time to go house hunting. Consequently many property finders concentrate on the higher end of the property market.

Fees typically range from 1% to 2.5% of the purchase price, sometimes levied on a tapered basis, e.g. 1.5% of the first £1m and 1% of the excess. Most usually charge a retainer, say between £400 and £1,000 and this may again be on a tapered basis. The retainer will cover a specified period of time, e.g. 8 weeks, and is deductible from the final fee. Subsequent retainer payments will be an additional cost. Alternatively some property finders might charge on a 'no win, no fee' basis.

## Home Staging

Home staging helps to maximise the potential of property to appeal to a wider market, to sell faster and at a better price. Home staging is a relatively new concept in the UK but interest in this area has increased following the popularity of many property developing and makeover tv shows, and recent years have seen the growth of businesses offering a home staging/house doctor service. These businesses do up properties on behalf of their owners to sell.

The basic home staging service may simply include a consultation at the homeowner's property with advice on how to stage the property for sale. Extra services may include:

- clearing clutter
- sale or hire of furniture and accessories (the business may own or even hire these items)
- undertaking painting, decorating etc (this work may be subcontracted out)
- photographs and advertising.

Home staging business may be run alongside an existing estate agency or interior design business.

<p>This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.</p>
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## Option Contracts

In recent years, property retailers who employ the use of option contracts have emerged in the market. Option contracts contain terms not normally found in traditional estate agency contracts. The option contract may offer the seller a certain guaranteed price for their property by giving the retailer the option of purchasing the property at that price. However, the option will, in general, only be exercised if the retailer can find a sub-buyer who is willing to pay them a higher price.

By signing up to an option market, the seller may bear the risk of fluctuations in the property market. If the value of the property rises during the contract period, and the property retailer exercises its option to purchase the property, the seller will only be entitled to the previously agreed selling price. If the value of the property falls during the contract period, the property retailer may have difficulty in attracting a potential sub-buyer who is willing to meet the sale price for the property. Consequently the property retailer may seek to negotiate a new option contract where the seller receives a lower price while the retailer maintains the same margin.

The difference between the price paid by the sub-buyer and the price that the property retailer has guaranteed to the original seller, minus costs, represents the retailer's margin. This margin may be considerably higher than that generally earned on commission by traditional estate agents.

These retailers often operate from high street outlets indistinguishable from outlets used by traditional estate agents.

## The Internet

A recent development in the buying and selling of property has been appearance of property websites, the number of which is constantly increasing. Essentially there are three main types of websites:

- Independent property sales websites allow vendors to bypass estate agents by selling online, generally for a standard charge, payable whether or not a buyer is found, although some sites are free. The fee charged is often considerably less than the traditional estate agent's typical fee. It is akin to advertising in newspapers with most sites allowing the vendor to post a photograph of the property.
- Then there are property portals, large Internet websites displaying property details on behalf of a number of subscriber estate agents. Portals are accessed by potential buyers and sellers. They enable buyers to search for properties prior to visiting estate agents and enable potential sellers to identify local estate agents selling property similar to theirs. Sellers who register with high street agents will often have their properties posted on one of these "pool" sites.

A number of portals are owned by groups of estate agents, but access is provided to other estate agents. Most do not prevent user estate agents also using other sites. The majority of the portals do not permit individuals to advertise their property if they do not use an estate agent.

All the agents using the portal are charged a fee. The fee charged by most of the portals is a standard amount for each office per month, regardless of the number of properties advertised, although some charge per property advertised.

- The third type of website are one-stop shops. These not only allow users to sell or find a home, but act as a "host", providing a range of property related services such as mortgage advice, surveys, conveyancing, removals, tradesman and cleaners.

Private property sales are doubling each year, and now represent more than 5% of the total market. The Internet and online services that allow people to advertise their homes for a small fee have aided the growth in private sales.

40% of estate agents now use the Internet as a sales tool. A vendor gets no reduction if their home is sold online rather than by a negotiator in an office. Use of the Internet is expected to help estate agents simplify processes connected with serving the vendor thus allowing them more time to help buyers

There are also a small number of Internet estate agents. These are able to compete against the traditional High Street firm because they do not have to pay high rents and overheads for a shop front.

The growth of Internet property sites is adding to the complexity of the market. One site allows vendors to seek offers from potential buyers in a transparent bidding process open to anyone with Internet access.

However it is still not possible to buy or sell property electronically as the law currently requires that contracts for the sale of land and the deed required to convey land to be in writing and signed. A deed must also have a witness.



## Buy To Let

Buy To Let is a joint initiative by the Association of Residential Letting Agents (ARLA) and mortgage lenders launched in 1996. It is designed to help private individuals to invest in property to let without being penalised by mortgage surcharges or paying commercial rates of interest. Mortgage lenders in the Buy To Let scheme take account of rental income likely to be achieved from the property.

Most Buy To Let investors in residential property invest for the long term. However, ARLA has recently found that many Buy To Let mortgages have been used for incorrect purposes e.g. speculative buying, buying in foreign markets and buying holiday homes in the UK and abroad.

More information on Buy To Let can be found on ARLA's website at [www.arla.co.uk](http://www.arla.co.uk).

Estate agents may offer Buy To Let investors the following services:

- recommending any refurbishment works and advising on reputable local tradesman
- arranging for an independent survey/valuation
- liaising with the solicitor and the selling agent
- advising on appropriate insurance schemes
- early marketing of the property so that it is let soon after completion.

## Overseas Landlords

From 6th April 1996, where a landlord has a usual place of abode outside the UK the letting agent normally has to deduct tax from the rental income, after deductible expenses, of the Schedule A business. If there is no letting agent and the rent is more than £100 a week, the obligation falls upon the tenant. However landlords can apply to Residency, previously Centre for Non-residents, for approval to receive the income with no tax deducted. This does not make the rent exempt income, and Residency will usually begin sending the gross-approved landlord an SA return each year. Details of the Non-resident Landlords Scheme are set out in PIM4800 and online at the Non-resident Landlords Scheme - [www.hmrc.gov.uk/cnr/nr\\_landlords.htm](http://www.hmrc.gov.uk/cnr/nr_landlords.htm). More information, including the 'Guidance notes for letting agents and tenants', is available through the Residency pages of HMRC's Internet website.

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

**This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.**

### **Third Party Information**

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

The Financial Services Authority (FSA) maintains a public register of all firms, including estate agents, who are authorised to carry on investment businesses. Accordingly, a Central Register showing the names, addresses and specific types of business an individual or firm is authorised to undertake is available for public inspection. This register can be searched online at [www.fsa.gov.uk/register](http://www.fsa.gov.uk/register).

The Royal Institute of Chartered Surveyors also has an online member directory at [www.ricsfirms.co.uk/](http://www.ricsfirms.co.uk/).

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

### **Office of Fair Trading**

Enforcement action that can be carried out under the Estate Agents Act 1979 includes warning and prohibition orders. The law can be enforced by:

- the Office of Fair Trading (OFT)
- local authority trading standards departments
- the Department of Economic Development (Northern Ireland).

The OFT has the power to ban estate agents from practising if they break the law relating to, for example, information on charges, personal interest in a sale or interest on clients' money. The OFT publishes details of warning and prohibition orders issued to estate agents as press releases on its website – [www.of.gov.uk](http://www.of.gov.uk).

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

The OFT's 2004 report into the estate agency market in England and Wales can be viewed at [www.of.gov.uk/NR/rdonlyres/C60D0986-86B4-4A32-ACE8-41C48865693E/0/oft693.pdf](http://www.of.gov.uk/NR/rdonlyres/C60D0986-86B4-4A32-ACE8-41C48865693E/0/oft693.pdf).

### **The Internet**

The following websites all offer a database search of estate agents and may prove useful when identifying the population of estate agents in your area and locations.

[www.naea.co.uk](http://www.naea.co.uk) (National Association of Estate Agents)

[www.arla.co.uk](http://www.arla.co.uk) (Association of Residential Letting Agents)

[www.propertyfinder.co.uk](http://www.propertyfinder.co.uk)

[www.ukpropertyshop.com](http://www.ukpropertyshop.com)

[www.assertahome.com](http://www.assertahome.com)

[www.rightmove.co.uk](http://www.rightmove.co.uk)

[www.primelocation.com](http://www.primelocation.com) (a database aimed at more exclusive properties)

[www.lpn.co.uk](http://www.lpn.co.uk) (London Property News)

[www.homesandproperty.co.uk](http://www.homesandproperty.co.uk)

[www.oea.co.uk](http://www.oea.co.uk) – the website of the Ombudsman for Estate Agents includes a searchable directory of members

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

## Profiling

An estate agent's turnover is largely dictated by the following factors:

- number of property (and land) sales
- the total value of these transactions
- the level of commission charged.

In addition, the nature and amount of other sources of income will play a part in an estate agent's level of turnover.

There is no obvious factor such as GPR which can indicate that an estate agent's Return is suspect as most of the costs incurred are fixed and not necessarily related to the number of properties sold or the amount of commission received.

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

Comparing the following may assist in judging if individual results are realistic or in fact point towards any potential risk areas:

- ratio of overhead costs to turnover
- ratio of employee costs to turnover
- ratio of advertising costs to turnover

## The Housing Market

An estate agent's income is heavily affected by the performance of the housing market, especially the number of transactions and average house prices. When the market is active turnover increases but income levels do not rise in line with house prices, especially as agents often alter their commission rates to reflect the state of the market, reducing rates when the housing market is buoyant and increasing them when it is flat – see Appendix 6. House prices rise as a direct factor of supply and demand. When house prices are rising the trend usually starts from a restricted number of properties on the market. People see prices rising and hold back from selling their own homes. This merely helps prices to rise more sharply although sales volumes drop significantly. And volumes are more important to estate agency cash flow than the prices being achieved.

For details of the number of housing transactions see Appendix 3 (for national annual figures) and Appendix 4 (for England and Wales quarterly figures).

## Factors affecting Margins

The relationship between turnover and expenditure is not fixed and may vary from year to year for the following reasons:

- Many of the estate agent's costs are fixed in contrast to income which may vary because the number and prices of properties sold will change year on year, reflecting the state of the market.
- In a sellers' market properties sell quickly and the agent is able to keep the costs of putting the house on the market to a minimum. Conversely, in a buyers' market the agent may incur high advertising and mailing costs (which might not be charged for separately) in an attempt to sell the property.

- If the property market declines rapidly high staff wages incurred at a time when the market was buoyant still have to be paid.
- A reduction in commission rates may result in an erosion of profit margins if not compensated for by an increase in volume sales or in the value of property.

## **Size and Location**

The largest town-centre branch has high overheads. Staff are generally very busy, concerned with the throughput of potential customers. An experienced estate agent based in a quiet out-of-town residential location may have the time to build relationships and recognise those who are in the market. Ultimately the most effective marketing message by far is a “Sold” board.

An estate agency which has only 20 houses on offer at any time but sells two or three a week will be highly profitable. A large flagship branch with two or three hundred instructions on offer cannot hope to be ten times more successful.

## **Overheads**

The estate agent will incur substantial annual expenditure on overheads regardless of the buoyancy of the market. Expenses include:

- Rent, rates, insurance, office maintenance
- Staff wages (e.g. basic wage plus commission)
- Stationery and postage
- Photographic expenses
- “for sale” boards. These may be obtained and erected by an agent, or a specialist firm may be employed to erect and maintain boards
- travelling expenses
- printing
- advertising costs, including regular advertisements placed in local newspapers
- Following on from the above, marketing of very high priced exclusive properties often involves the agent arranging for the production of sale brochures and advertising in more specialist publications and possible national newspapers. However, clients are frequently charged separately for the cost of such material and advertising.

The main variable costs incurred by estate agents in marketing properties are staff and advertising. These do not vary significantly between properties of different values although the commission element of what staff earn will relate to the value of the property they sell.

Estate agents’ costs are not proportionately related to the size or price of the property in the way that the fees they charge are.

**This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.**

# Records

## General Records

There are no regulations governing what books must be kept and as such the records kept by an estate agent will differ little in principle from most businesses. They are likely to be substantial and an Investigator would be advised to ascertain exactly what is kept before asking for sight of them. Normally one would expect to see:

### **Prime Records - not part of double entry**

- Purchase day book
- Sales day book
- Wages book
- (Possibly) Rent book
- Diary listing appointments etc - may be one central diary or one diary for each member of staff
- General day book - a complete record of every telephone call, message, activity undertaken throughout the day, from which relevant information is subsequently transferred to the relevant file.
- File notes for each property
- Residential lettings records
- Record of commission received from building societies, mortgage brokers etc.
- VAT records

### **"Ledger" records - part of double entry**

- Purchase ledger
- Sales ledger
- Cash book
- Nominal ledger and/or private ledger

### **Memorandum**

- List of properties on hand
- Viewing card index
- Key book
- Mailing lists

Each property is given a separate file to retain all items of correspondence, expenses incurred, fees, invoices etc. Agents involved in property management also keep a ledger recording individual properties, rent received, disbursements, fees deducted and the net balance paid to the client.

Some of the expenses, for instance advertising, will relate directly to clients. There are two ways of recording such items. The agent can treat all advertising as a business expense so that in the accounts it shows all advertising as a charge and includes with fees the amount of advertising (and other expenses) charged out. In this case all expense invoices coming in will be charged to the appropriate nominal ledger's expense account - and credited to the supplier's account in the purchase ledger. The other way is to charge expense invoices direct to the client's account - debit the account and credit the supplier in the purchase ledger. In



the profit and loss account these expenses are not shown as chargeable items, and, of course, are not included in fees as charged out expenses.

If two separate books are not kept, the cash book will have at least two columns on each side: one for the office bank account and one for the client's bank account. Similarly in the client's ledger, each client will have two columns for office and clients so facilitating the reconciliation of clients and office bank accounts. Some estate agents might sub-divide the purchase daybook to record separately those invoices which are chargeable to the firm - e.g. rates, insurance and possibly advertising - and those which are chargeable directly to clients.

The billing of fees will follow the normal pattern of invoicing sales. When one inclusive fee is charged to cover commissions and out of pocket expenses it is easier, in large practices, to disguise the effect of unduly high P & L expenses - e.g. travelling. For instance, if a firm acted in the management of widely spread estates, there could be legitimate travelling expenses. If the income is shown as "fees and recharged expenses", it is tempting to assume that all the relevant expenses have been charged out and must therefore be in order. If an examination of the bills shows that expenses have not been re-charged specifically, a high figure for (say) travelling might be queried. Where expenses are not included in the commission charge, their recovery will often be set off against the relevant expense to show only a net figure in the accounts.

Where one exclusive fee is charged, the estate agent must, of course, bring in as work in progress or "debtors" the amount of advertising charged in the accounts which has not been billed.

## **Client Money**

The current regulations governing the records required to be maintained by estate agents in respect of client money came into effect largely by virtue of the Estate Agents Act 1979 and Estate Agents (Accounts) Regulations 1981. Prior to these enactments, other than for members of the RICS, the regulations were relatively sparse.

### **Estate Agents (Accounts) Regulations 1981**

Under the Estate Agents (Accounts) Regulations 1981, as from May 1982 all clients' monies (from any contract or pre-contract deposits) must be paid without delay into a separate client account with an institution authorised by the Regulations. The account can be either a designated or a general account. The requirement for the operation of a client account is only compulsory if the property is being sold in the UK. It does not apply to property abroad.

The Estate Agents Act limits the definition of client money to deposits relating to the purchase of an interest in land. The Regulations go on to provide that only such money as defined shall be paid into a client account. Since most estate agents will receive client monies in other forms - e.g. rents - it will be necessary for them to maintain at least 2 client accounts: one for deposits and one for other client monies. Whilst there is no statutory backing, it seems likely that the accounts will be called "statutory client account" and "client account". Deposits will be paid into the former and other client monies into the latter.

#### **Interest on Deposits**

Deposits are classified in the regulations as pre-contract or contract. In the main pre-contract deposits are held for the prospective purchaser, and any interest accruing will be due to the purchaser. (Note that pre-contract deposits are forbidden in Scotland.) The capacity in which contract deposits are held is determined by the contract and will be either as agent for the vendor or as stakeholder. If the deposit is held for the vendor, the vendor is due any interest. If the deposit is held as stakeholder the agent can keep any interest. Interest is payable on deposits over £500 and where the interest that would be earned exceeds £10, unless the estate agent has a written agreement with the person entitled to the interest varying these provisions.

## Record Keeping

The Accounts Regulations state that very specific records must be kept in respect of client accounts. At any time they must show that the estate agent has paid the money into a statutory client account and show and explain all subsequent dealings with that money. In particular these records must show:

- the full title of the client account
- the authorised institution where it is held
- the amount received
- the name and address of the payer
- whether the sum received is a contract or pre-contract deposit
- in either case, whether it includes any sum in respect of a 'connected contract' (a contract which is linked directly with the contract for the sale or acquisition of the property in question)
- if the sum includes any money which is not statutory clients' money, and if so, for what purpose and in what form that part is received
- the interest in the land to which the sum relates
- the identity of the person wishing to dispose of the relevant interest in the land
- the capacity in which the sum is received
- if the payee is an agent, the identity of the person for whom the sum is being received
- the date of receipt.

In the case of payments out from a statutory client account, the following information should be readily available:

- the amount
- the identity of the payee
- the date of payment
- details of the interest in land to which the payment relates
- in the case of payments made out of a statutory client account for the estate agent's remuneration, the appropriate authority, e.g. release letters from both conveyancers, or written agreements from the seller if the funds are held as 'agents for the seller' etc.

All the bank accounts and file records must be retained for a period of 6 years after the end of the accounting period to which they relate.

## Bookkeeping

Although the Regulations stipulate what information must be recorded, they do not state what books must be kept. The RICS (Royal Institute of Chartered Surveyors) recommends a conventional bookkeeping approach with cash books and double entry ledger accounts for the statutory clients' money, plus the supporting property files which should include copies of all correspondence relating to the instruction and how the estate agent complied with the regulations. It also suggests keeping all relevant counterfoils or duplicates of receipts for statutory clients' money with a transfer journal showing the transfer from statutory client account to another, and a copy of the latest auditor's report.

The final decision as to whether the records are sufficient rests with the auditor.

## Auditor's Report

The Regulations also require all those engaged in estate agency work and who have been in receipt of clients' money to have their statutory client accounts audited within 6 months of the end of each accounting period which must not exceed 12 months and one week.

The auditor is qualified under the Estate Agents Act in the same way as under the Companies Acts. They must report to the estate agent whether in their opinion the requirements of the Act and of the Regulations have been complied with. The Regulations do not require that the report is sent to the Office of Fair Trading or to any other person. However the estate agent has to produce the Auditor's Report on demand to a duly authorised officer of an enforcement authority which in practice means the local trading standards officer.

### **RICS Regulations**

Under the RICS regulations estate agents who practice as chartered surveyors are under an obligation to submit an annual Auditor's Report covering all clients' money or a certificate that they have not held client monies. This would include statutory clients' money as defined in the Estate Agents Act. However, RICS does not recommend that auditors produce a single report to cover the estate agent's responsibilities under both the Estate Agents Act and the RICS regulations for three reasons. Firstly, the reports are addressed to different bodies, secondly, the definitions differ and thirdly, it would not be necessary to include any possible breaches of the RICS regulations in the Auditor's Report which might be read by Trading Standards officers.

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

### **NAEA Accountant's Report**

From 1991, members of the National Association of Estate Agents (NAEA) must produce on application for membership and annually thereafter within 6 months of the end of the accounting year, a report by an accountant approved by the NAEA.

Where an NAEA member does not hold any kind of clients' funds, the agent may formally advise the NAEA to that effect and sign an annual declaration included in the notice of subscription renewal.

### **Money Laundering Regulations 2003**

From 1 April 2004, businesses that deal in goods and accept cash equivalent to €15,000 (approximately £10,000) or more for any single transaction must register with HMRC as a High Value Dealer (HVD) and put anti-money laundering systems in place. If a business has a clear policy of not accepting in cash the equivalent of €15,000 or more for any single transaction, or if the business deals in services, they are not a High Value Dealer.

**This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.**

## Examining Records

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

### Income Recognition

Estate agents do not need to account for any commission or fee income which they would obtain on a sale which has not yet reached the stage of exchange of contracts. VAT must be paid on the issue of the original invoice at the exchange of contracts for sale of a property.

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

### Property Finders

The final fee is normally payable on exchange of contracts. In disputes over income recognition, sight of the original contracts will be necessary.

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

### Negotiators

Many estate agents pay their negotiators a percentage commission for sales they have been instrumental in completing, keeping detailed records of these payments, including the addresses of the properties involved.

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

Some negotiators operate on a self-employed basis using the agent's office facilities and therefore should issue invoices to the estate agent for their service.

### Bad Debts

These may arise where the estate agent's fee is not settled direct from the proceeds of the sale of the house, and that debtor cannot be subsequently traced. This situation is unlikely to occur as estate agents normally receive their commission direct from the solicitor before the sale proceeds are distributed to the seller.

Bad debts may also occur where the vendor decides not to sell the house and refuses to pay the expenses incurred. The "ready, willing and able" clause within a contract establishes an estate agent's right to claim their fee if the agent finds a buyer who is prepared and able to buy the property and exchange contracts or if the vendor finds a buyer privately.

## Money Laundering

From 1 April 2004, businesses that deal in goods and accept cash equivalent to €15,000 (approximately £10,000) or more for any single transaction must register with HMRC as a High Value Dealer (HVD) and put anti-money laundering systems in place. If a business has a clear policy of not accepting in cash the equivalent of €15,000 or more for any single transaction, or if the business deals in services, they are not a High Value Dealer.

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

## Employer Compliance

Besides the proprietor or office manager, an estate agent's office may consist of a number of negotiators whose job it is to sell and let properties and show potential buyers around properties, general administration staff, financial advisors and mortgage brokers.

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

## **Associations and Organisations**

Please note these are included for example purposes only and are not endorsements of the organisations.

### **National Association of Estate Agents**

Arbon House  
21 Jury Street  
Warwick  
CV34 4EH

[www.naea.co.uk](http://www.naea.co.uk)

The NAEA is the main professional body for estate agents.

### **Association of Residential Letting Agents**

Maple House  
53-55 Woodside Road  
Amersham  
Bucks  
HP6 6AA

[www.arla.co.uk](http://www.arla.co.uk)

This website includes a searchable database of members.

ARLA is the only professional self-regulating body to be solely concerned with lettings.

### **Association of Residential Managing Agents**

178 Battersea Park Road  
London  
SW11 4ND

[www.arma.org.uk](http://www.arma.org.uk)

This website includes a searchable database of members.

ARMA is concerned exclusively with matters relating to the management of residential leasehold blocks of flats: reputable practices in the profession, professional codes of practice, consistent levels of service and client satisfaction. It does not encompass management in Scotland where there are differing property laws.

### **Property Managers Association Scotland**

2 Blythswood Square  
Glasgow  
G2 4AD

[www.pmas.org.uk](http://www.pmas.org.uk)

This website includes a searchable database of members.

### **Association of Home Information Pack Providers**

3 Savile Row  
London  
W1S 3PB

[www.hipassociation.co.uk](http://www.hipassociation.co.uk)

This website includes a list of AHIPP members.

The AHIPP was founded in June 2005 by a number of key players in the emerging market to ensure that there would be proper representation for those companies involved in and affected by the introduction of Home Information Packs.



### **Royal Institute of Chartered Surveyors**

RICS Contact Centre  
Surveyor Court  
Westwood Way  
Coventry  
CV4 8JE

[www.rics.org.uk](http://www.rics.org.uk)

This website includes an online member directory.

RICS is the only professional body for chartered surveyors. In 2000, the Incorporated Society of Valuers and Auctioneers merged with RICS.

### **Financial Services Authority**

25 The North Colonnade  
Canary Wharf  
London  
E14 5HS

[www.fsa.gov.uk](http://www.fsa.gov.uk)

This website includes the FSA's register.

The FSA is an independent body that regulates the financial services industry in the UK.

### **Property Consultants Society**

107A Tarrant Street  
Arundel  
West Sussex  
BN18 9DP

[www.p-c-s.org.uk](http://www.p-c-s.org.uk)

Most members of the PCS are in the UK and Europe, but with some members further afield. The society was created with the principal aim of providing a central organisation for surveyors, architects, valuers, auctioneers, land and estate agents, master builders, construction engineers, accountants and members of the legal profession who practise as consultants.

**This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.**

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# Appendix 1 – Abbreviations Used and Glossary

## Abbreviations

PP	Planning permission
OPP	Outline planning permission
DPP	Detailed planning permission
FPP	Full planning permission
F/H	Freehold
L/H	Leasehold
OIRO	Offers in the region of
ONO	Or nearest offer

## Glossary

completion	The finalising of the sale when all the monies are passed over and the purchaser has legal right to the property.
contract deposit	Any sum paid by a prospective buyer which, in whole or in part is, or is intended to form part of, the consideration for the acquisition of an interest in land, and is paid on or after the time unconditional contracts are exchanged.
contract race	This is usually instigated by the seller between two or more purchasers wanting to buy the same property to sign and exchange a contract on it. The successful purchaser is the first one to exchange contracts.
conveyance	The written instrument by which a property transfer is effected.
conveyancing	The legal process transferring ownership from vendor to purchaser.
delayed completion	Completion can take place anytime after exchange of contracts. However, if it is longer than 28 days it is referred to as delayed.
exchange of contracts	The stage when the buyer and seller exchange signed, legally binding contracts of purchase and sale. Both then become committed to complete the transaction.
gazumping	A term used to denote a situation where the vendor has accepted an offer but subsequently accepts a higher offer from another purchaser.
gazundering	A term used to denote a situation where the purchaser lowers their offer immediately prior to exchange of contracts.
Homelink	A free referral service for anyone moving from one area to another. Administered by the National Association of Estate Agents, it is a network of estate agents through which properties are marketed.
instruction	When a seller instructs an estate agent to market a property; the term may also sometimes apply to individual properties.
joint agency	Where two agents act, the commission being apportioned as agreed by the seller and joint agents.
joint sole agency	Where two agents act as sole agents, the commission being divided equally, no matter who sells the property.
linked selling	The sale by an estate agent to buyers of financial services such as mortgages, home and life insurance.
missive letter	In Scotland, one of the formal letters passing between the buyer and seller dealing with

	and agreeing all matters governing the terms and conditions of the transaction e.g. offer to purchase and letter of acceptance.
money laundering	The process by which criminally obtained money or other assets (criminal property) are exchanged for clean money or other assets with no obvious link to their criminal origins. It also covers money, however come by, which is used to fund terrorism.
multiple agency	Where two or more agents act for the vendor. The agent who introduces the successful purchaser is the only one paid.
pre-contract deposit	An initial goodwill payment which a prospective buyer pays to the estate agent. Pre-contract deposits are forbidden in Scotland.
ready, willing & able	A buyer who is prepared and in a position (e.g. financially and legally) to purchase a property.
register	A list of all the properties on an estate agent's books i.e. current instructions.
settlement	In Scotland, the term for completion (see above)
sole agency	Where only one agent has the authority to sell the property.
sole selling rights	Where one agent has complete control of the sale and is entitled to a fee however the property is sold.
sub-agency	Where a sole agent instructs a second agent to help sell a property.
subject to contract	A phrase used as a provisional agreement before contracts have been exchanged where either party may still withdraw from the transaction.
tie-in	A term in a contract that forbids the vendor from dropping an agent or switching to another. This may also be known as "lock-in".
touting	Deliberately overvaluing a property in order to gain an instruction.

## Appendix 2 - Regional Average House Prices

Fourth quarter figures (seasonally adjusted)

	1995	1996	1997	1998	1999	2000
North	49,509	51,401	52,857	53,663	56,290	55,284
Yorks & Humberside	50,469	53,005	52,356	53,295	55,574	55,975
North West	52,158	55,079	55,321	56,429	60,612	62,485
East Midlands	53,291	55,378	58,799	60,772	66,562	70,612
West Midlands	61,192	64,975	67,679	71,513	74,635	81,795
East Anglia	57,724	60,241	64,375	69,991	77,466	87,708
Wales	49,977	54,909	55,708	57,780	61,973	63,967
South West	61,564	65,855	70,814	76,912	88,718	99,305
South East	77,254	83,405	93,939	102,144	121,495	130,778
Greater London	77,203	88,865	102,516	110,787	142,233	153,454
Northern Ireland	47,428	53,865	55,122	62,108	64,474	72,652
Scotland	57,794	60,264	59,005	60,973	63,809	61,039
UK	61,544	66,094	69,657	73,286	81,595	86,095

	2001	2002	2003	2004	2005
North	61,782	77,348	104,244	130,933	142,070
Yorks & Humberside	62,702	77,348	98,728	120,724	131,064
North West	67,240	83,604	101,411	129,151	138,356
East Midlands	79,167	111,506	125,931	155,671	148,609
West Midlands	87,394	117,938	137,73	157,835	160,832
East Anglia	104,942	126,508	145,308	163,431	161,352
Wales	68,782	87,277	115,576	133,775	143,477
South West	115,346	151,093	162,798	184,532	181,257
South East	150,201	188,469	200,579	214,967	221,328
London	179,558	213,957	232,679	241,670	257,120
Northern Ireland	77,642	81,571	91,812	113,707	129,447
Scotland	64,204	71,788	84,334	99,056	113,169
UK	96,149	121,137	140,687	161,940	169,901

Source: Regional Quarterly Summaries, Halifax plc

The full summary breaks down the above figures by house type, buyer type and includes the average semi-detached house prices for various towns and cities. They can be viewed via the Halifax's website on [www.hbosplc.com/economy/housingresearch.asp](http://www.hbosplc.com/economy/housingresearch.asp).

This area of guidance had been withheld because disclosure would prejudice the assessment or collection of taxes/duties or assist tax/duty avoidance or evasion.

This site also contains the Halifax House Price Calculator which is broken down into regions. The index begins in 1983. If the purchase price and date are known for a particular property the index will calculate its value at a second given date.

## Appendix 3 – National Annual Housing Transactions

1999	1.58m
2000	1.45m
2001	1.64m
2002	1.71m
2003	1.59m
2004	1.60m
2005	1.27m

Source: Quarterly House Price Surveys, Nationwide Building Society ©



## Appendix 4 – England & Wales Quarterly Housing Transactions

Jan-Mar 1995	167,746
Apr-Jun 1995	201,769
Jul-Sep 1995	209,896
Oct-Dec 1995	203,522
Jan-Mar 1996	174,230
Apr-Jun 1996	224,496
Jul-Sep 1996	263,959
Oct-Dec 1996	230,198
Jan-Mar 1997	177,193
Apr-Jun 1997	225,515
Jul-Sep 1997	251,085
Oct-Dec 1997	231,142
Jan-Mar 1998	170,634
Apr-Jun 1998	211,922
Jul-Sep 1998	229,683
Oct-Dec 1998	206,611
Jan-Mar 1999	166,515
Apr-Jun 1999	218,393
Jul-Sep 1999	256,820
Oct-Dec 1999	245,876
Jan-Mar 2000	197,985
Apr-Jun 2000	232,548
Jul-Sep 2000	239,114
Oct-Dec 2000	236,985
Jan-Mar 2001	190,679
Apr-Jun 2001	266,536
Jul-Sep 2001	308,323
Oct-Dec 2001	285,653
Jan-Mar 2002	229,609
Apr-Jun 2002	295,353
Jul-Sep 2002	328,188
Oct-Dec 2002	295,510
Jan-Mar 2003	217,263
Apr-Jun 2003	245,637
Jul-Sep 2003	290,639
Oct-Dec 2003	301,405

Jan-Mar 2004	243,914
Apr-Jun 2004	299,986
Jul-Sep 2004	309,101
Oct-Dec 2004	229,724
Jan-Mar 2005	159,116
Apr-Jun 2005	216,890
Jul-Sep 2005	261,481
Oct-Dec 2005	258,763
Jan-Mar 2006	218,770
Apr-Jun 2006	268,430

The information in this table was obtained from the Land Registry who produces a quarterly report covering residential house prices and the volume of sales. The reports also include a breakdown of the above by house type (detached, semi-detached, terraced and flat/maisonette) and by county and unitary authority as follows:

- January 1995 to March 1996 – figures available for individual counties
- April 1996 to March 1997 - figures available for individual counties and unitary authorities including the individual London Boroughs.
- April 1997 to date - as above but with the inclusion of some additional cities and larger towns
- NB Due to boundary changes it will not always be possible to compare figures for certain areas.

The reports can be viewed at [www.landreg.gov.uk](http://www.landreg.gov.uk) or copies can be obtained from the BIU.

In Scotland, the Registers of Scotland, [www.ros.gov.uk](http://www.ros.gov.uk), is the Executive Agency responsible for maintaining records relating to property.

## Appendix 5 – Selling Patterns

### Percentage of Sales Falling Through (3 Month Average)

January 2006	7.8%
October 2005	8.3%
July 2005	7.8%
January 2005	10.0%

<b>Month</b>	<b>Sale prices as a % of asking price</b>	<b>Time taken to sell (weeks)</b>	<b>Average number of viewings per sale</b>
November 2001	94.7	5	n/a
January 2002	94.7	n/a	n/a
February 2002	95.7	n/a	n/a
March 2002	96.5	n/a	n/a
April 2002	97.1	3.3	9.1
May 2002	97.4	2.8	9
June 2002	97.7	n/a	n/a
July 2002	97.4	3	9.2
August 2002	97.2	3.3	9.2
September 2002	96.8	3.6	9.5
October 2002	96.3	3.8	9.8
November 2002	96.1	4.1	9.9
December 2002	95.9	4.4	10.1
January 2003	95.8	4.8	9.9
February 2003	95.5	4.6	11.5
March 2003	95.0	5	12
April 2003	94.5	5.3	12.3
May 2003	94.4	5.5	11.8
June 2003	94.2	5.5	11.5
July 2003	94.5	5.5	11.6
August 2003	94.5	5.5	11.6
September 2003	94.7	5.3	11.2
October 2003	95.1	5.1	10.8
November 2003	95.2	5.1	11
December 2003	n/a	n/a	n/a
January 2004	95.2	5.3	10.4
February 2004	95.7	4.6	11
March 2004	96.2	4.3	10.4

April 2004	96.4	4.2	10.2
May 2004	96.4	4	10.1
June 2004	96.2	4.2	n/a
July 2004	95.5	4.8	n/a
August 2004	94.9	5.3	11.1
September 2004	94.5	5.8	11.4
October 2004	93.7	6.5	11.9
November 2004	93.1	7.1	12.5
December 2004	92.9	7.5	12.2
January 2005	92.7	7.7	12
February 2005	93.3	7.6	13.3
March 2005	93.4	7.4	13.2
April 2005	93.6	7.4	12.5
May 2005	93.6	7.4	12.5
June 2005	93.5	7.6	12.5
July 2005	93.4	7.8	12.5
August 2005	93.4	8	12.1
September 2005	93.2	8.1	12.4
October 2005	93.1	8	12
November 2005	93.4	8	11.9
December 2005	93.2	8.1	12.4
January 2006	93.9	8.1	10.9
February 2006	94.2	7.4	n/a
March 2006	94.3	7.3	11.2
April 2006	94.4	7.0	n/a
May 2006	94.7	6.6	11
June 2006	94.9	6.5	10.9
July 2006	94.9	6.5	10.8
August 2006	94.8	6.4	10.6
September 2006	95	n/a	11
October 2006	95	n/a	11

Source: Hometrack monthly surveys of the national housing market ([www.hometrack.co.uk](http://www.hometrack.co.uk))

## Appendix 6 – Average Commission Rates

Estate agents' average commission rates in England and Wales

Year	House Selling Price	Commission (£)	Commission (%)
1997	£80,000	£1,533	1.91%
1998	£80,000	£1,460	1.83%
1999	£100,000	£1,803	1.80%
2000	£100,000	£1,681	1.68%
2001	£100,000	£1,490	1.49%
2002	£150,000	£2,013	1.34%
2003	£150,000	£1,933	1.29%
2004	£150,000	£2,146	1.43%
2005	£200,000	£2,843	1.42%

Source: Cost of Moving Home Surveys, Woolwich and The University of Greenwich, School of Architecture and Construction

Note:

- Commission is based on sole agency
- The full survey quotes average estate agent fees for a variety of house sale price bands. The above table only reproduces those for the price band which is closest to the average UK house price in that year.

The TIP discusses in detail the levels of commission charged by estate agents. However as the date in the above table shows, the average percentage commission for those years is 1.57%. Careful review of businesses will be required to establish factors that have resulted in a lower than expected return for activities undertaken.

## Appendix 7 – Residential Lettings Survey

### Types of Tenant

Quarter ended	Percentage Share of All New Lets				
	Students	Social	Corporate	Private	Other
July 2002	3.1	4.4	8.9	82.4	1.3
October 2002	4.1	4.5	9.9	80.4	1.1
January 2003	1.9	5.4	8.8	81.5	2.5
April 2003	2.6	4.9	8.6	82.2	1.7
July 2003	3.1	5.2	10.2	78.5	3.0
October 2003	5.4	5.0	9.4	78.7	1.5
January 2004	1.9	5.5	10.0	78.8	3.9
April 2004	1.9	5.8	10.5	80.0	1.8
July 2004	2.8	6.4	10.5	79.0	1.4
October 2004	2.8	4.5	9.2	80.7	2.8
January 2005	2.8	6.3	9.5	79.3	2.2
April 2005	2.9	6.1	10.5	78.0	2.7
July 2005	3.8	5.3	9.0	78.6	3.3
October 2005	4.9	5.7	8.1	77.6	3.7
January 2006	3.0	5.7	11.0	77.9	2.5
April 2006	2.5	5.4	9.5	80.0	2.7
July 2006	3.3	4.5	11.8	77.7	2.7

Source: Royal Institute of Chartered Surveyors

NB figures may not sum to 100% due to rounding