

Navigating the Increasingly Complicated World of Estate Agency Selling Agreements

I appreciate that the varying types of contracts used between estate agents and their clients is hardly the most fascinating topic to read about, however, over the last ten years the number of different ways estate agents can contract with their clients has increased hugely. This causes confusion for some sellers and can make comparing estate agents offerings difficult.



Having made the decision to sell your home the first thing most people do is invite estate agents to value their home and discuss their services. According to a national survey 25% of sellers invite one agent to value their home, 64% invite two or three agents and 11% invite more than three agents (I once visited a house and I was the 12th agent they had invited out!).

How the seller decides which agent to instruct will normally be a mix of the suggested asking price, the agent's quoted fee for selling, the reputation and brand awareness of the estate agency, a recommendation, any previous experience of using the firm and finally the rapport and confidence they have with the individual that visits them. Of these factors the two most measurable factors, and hence the easiest to compare, are the valuation of the property and the agent's fee. With regard to fees the best way to compare is to examine the differences.

No Sale - No Fee

Since the 1960's the norm has been for agents to only charge a fee if you actually move home. However, more recently many of the internet based agents quote a much lower fee, often as a fixed amount, that considerably undercuts traditional agents. This fee is normally paid upfront and is non-refundable. I am sceptical about these arrangements as they leave the agent with little incentive to find a buyer and provide a good service. In fact, it works to the agent's advantage to not sell the property as it will save them the task of co-ordinating the solicitors, surveyors and rest of the chain to a successful exchange of contracts! A recent survey by a London Investment House concluded that as little as 14% of properties marketed in this way were successful in securing a buyer.



Also be aware of some agents quoting a seemingly low fee alongside the claim of 'nothing to pay upfront'. This is correct but they hide in the small print that their fee becomes payable when a buyer is found or in nine months' time, whichever occurs first. We have been approached by several potential sellers wishing to change their agent to Plymouth Homes and not being aware that they had signed this type of legally binding contract.

Withdrawal Fees

A few Plymouth estate agents operate with a withdrawal fee (typically of about £500) within their contract. This states that if you take your property off the market for any reason you will need to pay this fee. Your reason could be a genuine change in circumstances that means you no longer wish to move home or simply that you have been disappointed by the service of the agent and wish to swap to a more pro-active one. In this circumstance you will be rewarding the agent for providing you with a poor service!

Lengthy Tie In's

In Plymouth the majority of agents will have within their terms and conditions a clause that ties you to that particular agent for a minimum term, typically 12 or 20 weeks. During this period you are legally tied to that agent and cannot change to a different agent. I feel this common practice is biased against the seller and can lead to complacency from the agent. What incentive does the agent have to secure a buyer or provide exceptional customer service if their client is legally tied to them and cannot leave under any circumstance? The arrangement has many advantages for the agent but the seller has nothing to gain.



Enhanced Marketing Packages

Several estate agents will encourage their clients to buy 'enhanced marketing' at a cost normally running to £300 - £400. The enhanced marketing can be a larger newspaper advertisement, more detailed description on the internet, a floor plan of the property or professional photography. I feel this is just a rouse used by the agent to take money from their client, irrespective of whether they find a buyer and in addition to their agreed fee! If I was offered these packages I would ask why the agent wasn't already doing these things if they make such a difference.

Agency Type

It is a legal requirement that an agent agrees terms with their client in writing when a property is placed onto the market. These are usually referred to as 'agency agreements' and this is where you may find some of the clauses discussed above. However, there are four different forms of agency agreement and it is fundamental that you understand the difference between these when appointing your agent. By far the most common type of agency is a '**sole agency agreement**'. This means that you can only have one agent market your home and you only pay them if they introduce a buyer that legally commits to a purchase (unless they have a withdrawal fee clause as discussed above!). This is normally the cheapest fee and the one most agents use as their standard agreement.



A '**multiple agency agreement**' is where you can have as many agents as you like market your home and you only pay the agent that introduces the buyer. This tends to be more expensive and can have a detrimental effect on your marketing. As most agents advertise in the same newspapers and on the same websites your property will be listed several times

and this may be confusing for a potential buyer. It may also make you look desperate to sell and lead to lower offers coming from potential buyers.

Occasionally an agent may recommend a '**joint sole agency agreement**' and this is where two agents market your home and when the property sells they will split the fee between them. The final form of contract used is a '**sole selling rights agreement**' (not to be confused with a sole agency agreement) and under this agreement, the agent is entitled to a fee if your property sells even if they did not introduce the buyer. I am aware of some sellers that ended up selling to friends or family members and they still had to pay their estate agent. Hardly fair and as far as I am aware only a few Plymouth estate agents use them – but be aware!

Doing the Right Thing!

When I established Plymouth Homes 18 years ago my passion for exceptional customer service combined with integrity and a simple desire to 'do the right thing' very much shaped the way the business was run. This has continued until today and is very much reflected in our agency agreements and relationships with our clients. We do not charge upfront or withdrawal fees, we do not tie clients into fixed term agreements, we do not charge for floorplans or photography nor do we have enhanced marketing packages – I like to think our marketing is first class for all our properties and not just the clients prepared to pay extra! We recommend sole agency agreements and discuss these in depth with every client before accepting their instructions to market their property.



I know this article is particularly lengthy and possibly not the most exciting read, but if you're about to place your home onto the market hopefully you will have found it informative and useful. I would encourage anybody selling to quiz their potential agent on the above points and make sure that you have an agency agreement that works for you and not the other way around!

With best wishes

A handwritten signature in blue ink, appearing to read 'Ian Mitchell'.

Ian Mitchell
Company Director