

Selling points

Bedell Cristin partner Advocate **Guy Le Sueur** offers some guidance on engaging an estate agent



WHEN looking to sell your property, the estate agent will be one of the first people you will consider engaging and certainly the most important person involved in the process of securing the best price for your property.

Anyone can set themselves up as an estate agent and there are no formal qualifications required to trade as an agent. However, a number of agencies, usually specialising in commercial property, will employ chartered surveyors who are members of the Royal Institute of Chartered Surveyors.

As usual, recommendations from friends and family are likely to be the most reliable.

One of the first issues to decide is how many agents to appoint and then you need to consider for how long should the appointment last and what will trigger a commission payment and to whom?

An early decision will need to be made on how many agents to instruct. A number of variable factors will need to be taken into account, for example, whether one is looking to sell the property discreetly without the neighbours knowing and the time frame for the sale.

The more agents instructed, the greater the risk of your intention to sell becoming public knowledge. On the other hand, if you are looking for a quick sale then it probably makes more sense to appoint more than one agent. The more agents instructed, the greater the potential exposure. The price range and location of your property will affect the likely time frame for a sale.

Where only one agent is appointed, this is known as a sole agency – although, confusingly, you can have a joint sole agency where two or more agents act on a sole agency basis.

The sole agent will look to have an exclusive period, usually about three months, during which the agent has the absolute right to sell your property. In return, the fee paid for a successful sale during this period should be lower than that for a multiple agency. With a joint sole agency, the agents will divide one fee between themselves with the successful agent taking the lion's share and the unsuccessful agent still receiving something.

Be aware, in particular, that if you appoint an agent on a sole agency basis and, say, a friend offers to buy

the property, the agent will still be entitled to receive full commission even though they played no part in introducing the friend to the property.

Multiple agencies are where more than one agent is instructed and only the agent who succeeds in introducing the purchaser receives the commission. There is usually, but not always, a larger commission payable on multiple agencies. When agreeing terms with your agent, ensure that all the terms discussed and agreed are put in writing and do not sign them until you have read them carefully and, if necessary, taken legal advice.

Be certain about what the agent actually has to do to claim commission. Is commission payable only once the property has been sold, or is it payable if the agent introduces someone ready, willing and able to purchase? In the latter case, you would risk paying the agent commission if you decided to pull out of the sale after a buyer had been found.

Discuss at an early stage, too, the marketing strategy for the property. This might be a simple case of the agent initially making contact with existing clients on his books or it might involve advertising in some of the media.

Discuss the asking price and a realistic achievable sale price. If the latter seems high, discuss it with other agents and see what they think. If you are still tempted to go with the high valuation, then why not include a sliding scale commission downwards if the agent fails to live up to his or her own expectation of the market and their ability to sell at that price?

The agent should notify you of all offers received and ideally, as part of your terms, you should ask that written notification is provided. It is remarkable how many home owners have no record of just who has been shown around their homes by the agents. It also helps to resolve any competing claims by agents as to who was responsible for introducing a purchaser.

Be wary of an unsolicited approach from an agent who tells you that they have a person interested in purchasing your property. The agent may give the impression that he or she has a client and that they are acting for the purchaser. If the agent was the effective cause

of the introduction, you could be liable to pay their fees even where there was no contract in writing. If you had a sole agent instructed at the time, you might end up paying two lots of commission.

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