

# Conflicts of Interest

## Fact Sheet

### Can an agent<sup>1</sup> or someone related to them make an offer to buy my property?

An agent who is working for you under an Agency Agreement can offer to buy your property (or business) themselves. However, if the agent, or someone related to them does want to make an offer to buy your property or business, the Real Estate Agents Act 2008 sets out the requirements that they must follow.

The procedures set out in the Act are intended to protect your interests. You should ensure that you receive the information that is set out below. If an offer is made and you are unsure of your rights, or need further information, you should consult your lawyer before signing anything.

### What must the agent do?

Before inviting you to sign a Sale and Purchase Agreement, the agent must first:

- Obtain your informed consent by giving you a consent form to sign: this must be in the form that is set out in regulations and you can view a copy at [www.reaa.govt.nz](http://www.reaa.govt.nz); and
- At the same time, give you a valuation of your property or business.

The valuation **must** be made by an independent registered valuer, or in the case of a business be made by an independent chartered accountant. This valuation is not the same as the market appraisal that the agent originally gave you when you listed the property for sale.

The valuation must be made at the agent's own expense.

You can insist on seeing the valuation before you consider signing the consent form and the Sale and Purchase Agreement.

If you decide to sign the consent form before receiving the independent valuation, the agent **must**:

1. Give you a provisional valuation (this is not the same as the original market appraisal); and

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<sup>1</sup> Agent is a general term that refers to an agent, branch manager or salesperson.

2. Give you the valuation made by an independent registered valuer or chartered accountant within 14 days of you signing the consent form.

If the independent valuation is greater than the provisional valuation, you can cancel the contract for the sale of your property (if you have already signed one).

## Who is covered by the above requirements?

The Real Estate Agents Act 2008 sets out all of the persons to whom the above requirements relate. If any of the following want to acquire your property or business or have an interest in it, the agent must obtain your consent and provide a valuation as covered above:

- a) an agent, branch manager or salesperson working for you under an Agency Agreement
- b) if the agent is a company, every officer and shareholder of that agency company
- c) a business partner of any of the persons in (a) and (b)
- d) an employee of any of the persons in (a) and (b)
- e) a branch manager or salesperson engaged by an agent
- f) the spouse, civil union partner or de facto partner of any of the persons in (a) or (b)
- g) a child, grandchild, brother, sister, nephew or niece of any of the persons in (a) or (b), or a child, grandchild, brother, sister, niece or nephew of their spouse, civil union partner or de facto partner
- h) any other child who is being, or is to be, cared for on a continuous basis by any of the persons in (a) or (b) or by their spouse, civil union partner or de facto partner
- i) any parent of the persons in (a) or (b) or of their spouse, civil union partner or de facto partner
- j) any entity that has an interest in any of the persons in (a) or (b) or any entity (that is not an entity listed on the New Zealand Stock Exchange) in which any of the persons listed in (a) or (b) has an interest.

## Real Estate Agents Authority

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To the best of the Real Estate Agents Authority knowledge, the information in this guide is accurate at the date shown below. However, the requirements on which this information is based can change at any time and the most up-to-date information is available at [www.reaa.govt.nz](http://www.reaa.govt.nz) [Version 1.0, 17 November 2009].

