



TimpanyWalton
LAWYERS

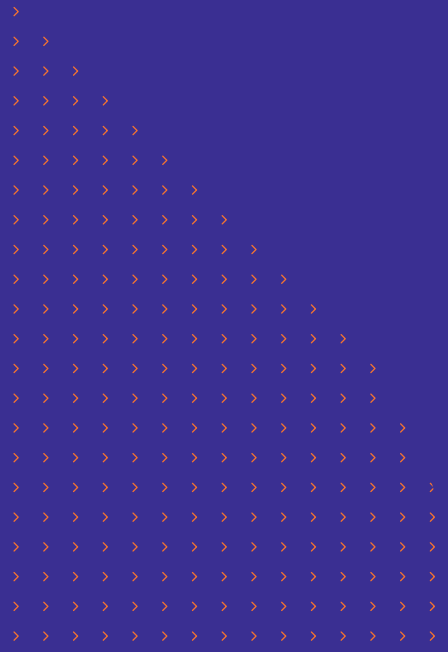


Looking
to buy your
first home?



Whether you're looking for your dream home, or you're ready to make an offer, we can help at every stage.

First Home Buyers Fixed Fee Options	3
Finding a home	4
Agreement conditions	5
After the agreement is signed	6
Settlement	7
Buying your home with Kiwisaver	8
Wills	9
Relationship property	9
Our first home buyers team	10





First Home Buyers Fixed Fee Options

We have now introduced a new fixed pricing policy to assist First Home buyers in budgeting for their first home.

1. For a first home buyer using their kiwisaver funds and a homestart grant \$2,000.00 (including GST and disbursements) plus LIM fee.
2. For a first home buyer not using kiwisaver or a homestart grant \$1,850.00 (including GST and disbursements) plus LIM fee.

LIM fees are as follows:

- a. Timaru District \$305.00 (\$415.00 for non residential)
- b. Waimate District \$350.00 (\$500.00 for non residential)
- c. Mackenzie District \$310.00

Finding a home

Your house purchase is probably the biggest and most expensive single transaction you have undertaken. Because of that, it is important that your interests are safeguarded and we suggest that before you look for a house to buy or if you have found one but before you make an offer you discuss matters with your lawyer. They can help make sure that your interests are protected.

When looking for a house the two most common ways of finding a home are:

1. Going house hunting yourself by looking in the paper or online for private property sales; or
2. Contacting a real estate agent and locating a property through them.

Once you have found a home you would like to buy the next step in the process is making an offer. The general rule is that any agreement for sale and purchase of land needs to be recorded in writing. If you have found a property to purchase privately then the general rule is that the purchaser's solicitor prepares an Agreement for Sale and Purchase recording the purchaser's offer to the vendor. If using a real estate agent, the agent will then usually prepare the agreement. Either way, most of the time either your solicitor or the real estate agent will use a standard form Agreement for Sale and Purchase. This is the Agreement for Sale and Purchase developed and approved by the Real Estate Institute of New Zealand and the Auckland District Law Society. This form is updated and reviewed regularly to take account of changes in the law and general practice.

You should always remember that the Agreement for Sale and Purchase is not a preliminary arrangement or an option to buy but a final contract and is one that is binding on you. If you have any doubts over the agreement you should see your lawyer before signing it.

Before you sign the agreement a lawyer will protect your interests by doing a number of things:

1. Making sure the agreement means what you think it means. Recently we have noticed there has been some confusion regarding the deposit. The Bank will refer to a deposit, for example 10% or maybe 20%. This is referring to your equity and is different to the deposit to which a Real Estate Agent may refer to. On the agreement there is often a deposit which is payable on confirmation of all the conditions, this is what the Real Estate Agent refers to as a "deposit" and is part-payment of the purchase price. You will need to have access to these funds on confirmation of your agreement so it is important to make sure the correct amount is provided for as a deposit in the agreement.
2. Searching a copy of the title for the property to make sure that you get the property you think you are buying and the person selling it actually owns the property and can sell it.
3. Tell you about your legal rights and any restrictions on the property for example any right of way easements, building restrictions and so on.

There are new rules regarding non-New Zealand citizens or permanent residents buying land in New Zealand. If this affects you, let your lawyer know. <https://www.newzealandnow.govt.nz/living-in-nz/housing/buying-building>

Where
expertise
meets
experience

Agreement conditions

Often when signing an agreement it is advisable to make the agreement subject to a number of conditions, which have to be satisfied by a certain date. These kinds of conditions can include:

- Obtaining satisfactory finance – it is normal for the purchaser to require finance to make up the purchase price of the house and often the bank will require an Agreement for Sale and Purchase be signed before giving any approval.
- The purchaser's solicitor's approval of the agreement and the title.
- A satisfactory building report on the property.
- A LIM report.
- Making the agreement subject to you obtaining satisfactory insurance on the improvements on the property.
- There are a number of other conditions that you may wish to insert depending on the nature of the property, its age, and whether there are any particular works or matters that you wish to have attended to.

If the conditions are not satisfied within the time allowed, the agreement can be cancelled. If you sign an agreement for purchase of a property with no conditions then that agreement will be a final and binding contract and if you are unable to eventually settle, or complete the purchase, you will be in breach of the contract. The vendor will have a large number of remedies against you, the most common of which is a right to retain your deposit if you have paid one, to cancel the agreement, and to sue you for any costs including a loss on sale if they sell to someone else at a lower price. We would never usually recommend that you sign an unconditional Agreement for Sale and Purchase, and certainly not before you have spoken to your lawyer about it.

After the agreement is signed

If your agreement is subject to conditions you will have a certain period of time within which to confirm those conditions. When the Agreement for Sale and Purchase is provided to your lawyer they will take a careful note of these dates and should be in touch with you to confirm the dates for confirmation of the various conditions.

You will need to make sure you take careful note of these dates. If you are not going to be around on these confirmation dates you will need to let your lawyer know straight away. The conditions must be confirmed by the due date or else you run the risk that the agreement might be cancelled.

Generally speaking once the conditions of the agreement are confirmed then a deposit is payable. It is important that you do not pay the deposit before all the conditions are confirmed. If you pay the deposit that can be taken as confirmation of the special conditions. If you pay the deposit without intending to confirm the conditions you may have lost the opportunity to object to certain matters or cancel the agreement. You should always check with your lawyer before paying the deposit.

You should make sure that you do any work required to confirm the conditions within the time allowed – this may extend to meeting with the bank to sign loan applications, applying to Housing New Zealand for a HomeStart Grant, or engaging a builder or electrician to prepare reports.

Once all of the conditions of the agreement are confirmed then you are bound to proceed with settlement. Settlement is the date on which you pay the purchase price and have the property transferred to you.

In the time between confirmation of conditions and the settlement date there will be usually loan and mortgage documents and other settlement documents for you to sign with your lawyer. You should be in touch with your lawyer well before the settlement date to make sure that you have plenty of time to get these documents signed.

You may also wish to undertake a pre-settlement inspection prior to the settlement date. In the standard terms and conditions of your agreement is a right to one inspection of the property prior to settlement. That means you have the right to go and check through the property before settlement to check everything is still the same as when you signed the agreement and there is no damage to the property. If you do not inspect the property prior to settlement and then discover a problem when you move in, it may be too late to take any action in this regard.

Settlement

Settlement is the process whereby you pay the money for your property and that property is transferred to you and you take possession including getting the keys for the property. Usually settlement happens at the same time as you take possession, although you may arrange with the vendor to take possession later than settlement, or sometimes earlier than settlement but only by special arrangement.

We note that you are not entitled to possession of the property, that is the keys, until you have actually paid for the property. That means that if for example there are problems with the bank getting mortgage money through to your lawyer, you must wait until that money arrives and settlement can happen before you can obtain the keys.

Once settlement has occurred then the property can be transferred into your name. Once your name and your mortgage is entered on the title to the property then you will officially be the owner of your new home and your mortgage will be registered.



Buying your home with Kiwisaver

There is now assistance available using the HomeStart Grant through Housing New Zealand and using funds from your own KiwiSaver Scheme to purchase a property. This assistance is available to first home buyers, but also to “second chance buyers” who are people who have previously owned an interest in property but are in the same financial position as a first home buyer would be.

It is important to realise that buying your home with KiwiSaver involves applications to two separate places, being to Housing New Zealand for your HomeStart Grant and to your own KiwiSaver provider. There are different forms to use and slightly different criteria for each application. If possible, it is a good idea to get

a pre-approval of your HomeStart Grant, which can cut down on the time needed to process the grant once you've found a property to buy. <https://www.ird.govt.nz/kiwisaver/kiwisaver-individuals/getting-my-kiwisaver-funds-early/getting-my-kiwisaver-for-my-first-home>



Wills

Once you own a property it is a good idea to have a Will as well. Your property lawyer will be able to talk with you about making a Will and about documents called Enduring Powers of Attorney. Generally, the cost of a Will is in

addition to the cost of your purchase, but it can work out cheaper to make a Will when dealing with the purchase of a property as you'll be seeing your lawyer anyway so there's some time efficiency.

Relationship property

You need to be aware that under relationship property legislation, if you are in a relationship for three years or more, or if there's a child of the relationship sooner than this, if you break up then you automatically share equally in any equity in the property.

The only exception to this is if you make an agreement between you. In order to be binding, that agreement must be in writing with each of you having had independent legal advice.

You should think about making such an agreement carefully, especially if one of you is contributing much more than the other to the purchase, or if one of you is getting a gift of money from your family.

Our first home buyers team



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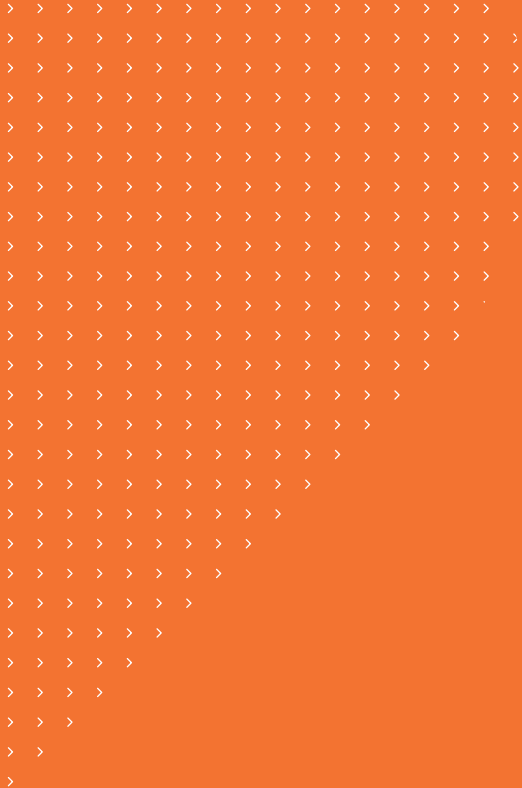


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Let's talk.



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