

MANDATES EXPLAINED

A mandate is an instruction or authority from a client to an estate agent, to render a particular estate agency service. It is a legally binding contract between the estate agent and his client, that need not be in writing unless in the case of a sole and exclusive mandate, or a power of attorney to conclude certain transactions on behalf of the client. It is always a good idea to record all mandates in writing anyway.

There are three different kinds of mandates:

Open Mandate

Many different estate agents can have a mandate to market your property, meaning that one estate agent cannot claim to have the sole right to market it.

Sole Mandate

Giving an estate agent a sole mandate to market your property, means that you cannot confer a similar mandate on another estate agent before the expiry of a determined period. If another estate agent sells or lets your property during this period, the estate agent with the sole mandate can claim damages from you, which may be equal to the commission that he could have earned if he sold the property.

You, however, can sell or let the property yourself without any implications during this period as long as you make sure the wording in the mandate does not state that the estate agent has 'sole and exclusive selling rights' or 'sole right to sell' or 'sole authority to sell'.

Sole and Exclusive Mandates

Nobody (including you), except for the estate agent holding the sole and exclusive mandate, is allowed to market your property before the expiry of the determined period of the mandate. This means that should anyone other than the mandated estate agent sell your property, you will still have to pay commission to that estate agent.

The estate agent, to whom the sole- or sole and exclusive mandate was given, is still entitled to his commission if he introduced a buyer to your property during the mandated period, depending upon the wording of the mandate document, and this buyer only purchases your property after the expiry of the mandate, perhaps through you as the owner or through another estate agent.

There are benefits of signing a mandate with an estate agent:

- It provides the estate agent with time to secure the highest price.
- It is safer to have a limited amount of people through your home and the estate agent with your mandate will ensure to their best ability that the prospective buyers are "real"
- It creates a moral commitment between the agent and the seller and motivates the agent to sell your property.
- The agent will most likely provide you with regular activity reports.
- The agent is more eager to spend his advertising budget on your home.
- You avoid the risk of double commission claims.