

Choosing - a conveyancer or a lawyer?



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LEGAL MATTERS

K asks what the differences are between a lawyer and a conveyancer.

When people buy and sell property, the transaction is often referred to as conveyancing. Such transactions are undertaken by a lawyer or a registered conveyancer.

A registered conveyancer completes a two-year polytechnic course to receive the diploma of conveyancing or, if they have 10 years' conveyancing experience (for example they have worked as a legal executive), they can apply through the New Zealand Society of Conveyancers under an equivalency assessment.

Once qualified, registered conveyancers can only work under supervision for the first two years. They can then apply through the Society of Conveyancers to practise on their own account.

Conveyancers are governed by the Society of Conveyancers and can practise either on their own

or under the umbrella of another law entity (such as a law firm).

A conveyancer's primary focus is conveyancing matters and property law.

To become a lawyer you need to study for four to five years through a university to gain your law degree. Lawyers then work under supervision for three years before they can apply to work on their own account. They must also pass an additional course before they can be approved to practise on their own.

Lawyers are governed by the New Zealand Law Society and deal with all matters of the law, not just property, and can provide

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a wider range of advice when completing a conveyance, such as advice on ownership structures or estate and asset planning.

They can also witness documents and take declarations.

When a person is buying and

selling property, the lawyers and/or conveyancer involved is required to provide certain undertakings to the other side for the transaction to proceed.

A lawyer's undertakings are enforceable, but a conveyancer's undertakings cannot be enforced and therefore cannot be relied upon by a lawyer acting on the other side of the transaction. There is a system in place between lawyers and conveyancers to ensure that sale and purchase transactions can proceed. That means that if a conveyancer is acting for a vendor, the conveyancer needs to provide a "reverse undertaking" and release the title documentation to the purchaser's lawyer before the purchase funds have been received.

If a conveyancer refuses to provide a reverse undertaking, it can result in delays with settlement and can cause undue stress for buyers and sellers.

Reverse undertakings are not required when lawyers are acting. They do not need to release the title documentation to the purchaser's lawyer until after they have received settlement funds, which is the normal practice.

Conveyancing transactions often involve loan documentation, such as bank guarantees, and may also involve Enduring Powers of Attorney. Lawyers can advise on



It would be as well to understand the differences between lawyers and conveyancers when buying or selling property.

and witness these documents.

Conveyancers cannot advise on or witness Enduring Powers of Attorney and some loan documentation. That means that if you chose a conveyancer to handle your sale/purchase, you will need to see a lawyer as well if this

additional advice is required.

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