

Northwest Territories Association of Realtors

Consumer Relationships Guide

Real estate professionals have a regulatory requirement to present and discuss this Guide with you.

Understanding the legal relationship with your real estate professional

Buying or selling a property is probably one of the most important financial decisions you'll make. This Guide explains the different relationships you can have with a real estate professional. Each has its own legal meaning and responsibilities, so it's important to understand them. A real estate professional must give you this Guide and discuss it with you.

What this Guide explains

There are three kinds of relationships you can have with a real estate professional.

1. A real estate brokerage* can act as your agent. This is called a common law agency relationship and it includes all brokerage real estate professionals and staff.
2. An individual real estate professional can act as your agent. This is called a designated agency relationship.
3. You can be a customer to a real estate professional.

The Guide also explains what happens when the buyer and seller have the same agent.

*A brokerage is the organization your industry professional works for.

Choosing to have an agent (also called an agency relationship)

An agent is someone who acts on your behalf with your permission. If the agent is an individual, the agency relationship is between the individual and you. If the agent is a brokerage, the agency relationship is between the brokerage and you. When you appoint an agent, you'll be asked to sign a written agreement that explains both the agent's responsibilities and yours.

An agent's responsibilities to you

A sole agent acts for either the buyer or the seller in a trade or possible trade, and has a duty to protect that client's interests. In this relationship, the real estate professional has the highest level of legal responsibility to you. These responsibilities include:

1. **Undivided loyalty** The agent must act only in your best interests and put them above their own and those of other people. The agent must avoid conflicts of interest and must protect your negotiating position at all times.
2. **Confidentiality** The agent must keep information confidential, even after your relationship ends. Confidential information includes your personal information, information about the property, and information about the transaction (except information the law says must be disclosed or information you agree to disclose).
3. **Full disclosure** The agent must tell you, in writing, about the services they will provide. They must also tell you everything they know that might affect your relationship or influence your decision in a transaction, even if they don't think it's important. This includes any conflicts of interest, for example when they act (or are planning to act) on behalf of any other person in a transaction. The only information they can't give you is confidential information from another agency relationship.
4. **Obedience** The agent must obey all your lawful, reasonable, and ordinary instructions. If you insist on something unlawful, the agent must refuse and consider ending your relationship and the agreement.
5. **Reasonable care and skill** The agent must exercise reasonable care and skill in all their duties. They must meet the standard of a reasonable and competent member of the real estate industry.
6. **Full accounting** The agent must account for all money and property they receive while acting on your behalf. Everything a client puts in the care of an agent—for example, money, keys, or documents—is returned when the agreement ends.

Your responsibilities to the agent

You must:

- give the agent any information or facts that could affect the transaction or their ability to act as your agent.
- pay the fees you've agreed to pay your agent. Your written agreement will list these fees.
- pay the agent's expenses as outlined in your agreement.

Having a customer relationship with your real estate professional

You can choose to represent yourself in a purchase or sale when a real estate professional represents the other party. In this case, you have a customer relationship with the real estate professional. They can't give you the services they give when acting as your agent, but they can help make the purchase or sale happen. For example, they may agree to give you statistics or the names of appraisers, mortgage brokers, or other service providers. They may also help you complete standard forms. When a real estate professional works with you as a customer, they have a responsibility to act honestly, use reasonable care and skill, and make sure any information they give is correct.

Conflicts of interest—what happens when the same agent represents the buyer and seller

In some cases, the same real estate professional or brokerage represents both the buyer and the seller. The people involved can decide to handle this several ways:

1. Either the buyer or the seller can get a different agent.
2. The buyer or the seller can stay with the same real estate professional, but in a customer relationship. The professional can give information and help without acting as an agent. See Having a customer relationship with your real estate professional.
3. The agent can help facilitate the transaction, without acting in the interest of either side. This means the professional has reduced agency responsibilities to the buyer and seller. All parties must understand and agree to this change of relationship in writing, before either side presents or accepts the initial offer on the property.

Working on the transaction, not for one side or the other

When the agent facilitates the transaction, their responsibilities are to:

- be impartial in dealing with both sides
- not give confidential advice, support only one side, or use judgment or discretion that benefits one side over the other
- give both sides real estate statistics and information, including comparable property information from listing services and local databases
- give you agreements of purchase and sale, lease, and other relevant documents, according to your instructions
- promptly give you all offers and counter-offers to and from the other side, even if there is already a contract to buy or sell the property
- pass on all information to you that the other side wants you to know
- keep you informed of progress
- do anything else to serve both sides, as long as the agreement with each side allows it

Making an informed choice about your relationships

Your real estate professional must explain the responsibilities and limits of these relationships to you. To review:

- A real estate brokerage can act as your agent.
- An individual real estate professional can act as your agent.
- You can be a customer to a real estate professional.
- In a conflict of interest when the buyer and seller have the same agent, a real estate professional can facilitate a transaction between two sides with their permission.

The Northwest Territories Association of Realtors

is the ethical standards-setting body for members of the Canadian Real Estate Association in the NWT.

Executive Officer, Pat Moore
nwtreal@offcomp.ca
(867) 920-4624

Director – Public Safety Division

Government of the Northwest Territories

is the governing body for real estate salespeople and agents in the NWT.

Ivan Russell
Ivan_Russell@gov.nt.ca
(867) 767-9161 extension 21020

Signing that you've read and understood this Guide

I/we acknowledge I/we have read the Guide, discussed it with the real estate professional, and got satisfactory answers to my/our questions. I/we know I/we will be asked to sign documents about the type of relationship I/we choose with my/our real estate professional(s).

Signed on _____, 20____.

Consumer Print Name _____

Consumer Print Name _____

Consumer Signature _____

Consumer Signature _____