



The Professional Purposes Committee has made the following recommendations to Undertaking Solicitors.

DO

1. DO ensure that the consideration for giving the Undertaking is accurately expressed.
2. DO obtain from your client an irrevocable authority in writing to give the Undertaking.
3. DO obtain where appropriate, the consent of the spouse and ensure that such spouse understands the nature and effect of such consent, if necessary by separate advice.
4. DO ensure, before giving the Undertaking that:
 - (a) You are personally capable of performing the Undertaking.
 - (b) The Undertaking is sufficiently qualified with reference to matters which are not within your direct control at the time the Undertaking is given. Words such as “on completion to pay over the net proceeds of sale when received” “to lodge with you or furnish you with the Deeds/Discharge/Release, etc. when received” should be included where appropriate.
5. DO consider the advisability of making an appropriate Search in the Registry of Deeds/Land Registry before giving an Undertaking (a clear Search does not of itself mean that an unqualified Undertaking can be given).
6. DO ensure, where an Undertaking is given to a Bank or Lending institution, that the monies or deeds, the subject of the Undertaking, actually pass through your hands. An Undertaking relating to monies should be expressed to be binding only so long as the finance actually passes through your hands.
7. DO adopt the appropriate internal procedure. It is recommended that a precise record of all Undertakings given be kept and, in particular, a copy on your file, a copy with the original Deeds and a copy with a Central Register to be opened in your office.

DON'T

1. DON'T give or accept Undertakings in ambiguous or obscure terms which may well be construed to your detriment.
2. DON'T give Undertakings in terms which are too general, such as to discharge a client's general indebtedness or to discharge any specific sum of money, or stated amount of money on behalf of a client.
3. DON'T allow Undertakings to be given unless the person giving the Undertaking has authority to bind you, or your firm.
4. DON'T give or accept Undertakings from a colleague where either you or the colleague are not personally capable of performing them, e.g. an Undertaking to obtain Land Commission Consent, Planning Permission, or Bye-Law Approval, Revenue Exemption Certificate etc.

NOTE: As a matter of professional conduct (as opposed to legal obligation) a Solicitor may be held personally responsible for the performance of an Undertaking given on behalf of a client unless personal responsibility is expressly disclaimed in the Undertaking itself.

LETTER OF UNDERTAKING