



DEPOSITS IN SALE GENERALLY

The Incorporated Law Society of Ireland General Conditions of Sale provide that in a sale by Auction and a sale by Private Treaty, the deposit monies are to be paid to the Vendor's Solicitor as stakeholder.

It is the practice, in some instances, for the Vendor's Auctioneer or Estate Agent to hold the whole or part of the deposit monies pending the completion of the transaction. In these instances, the Vendor's Solicitor and the Purchaser's Solicitor must advise their respective clients of the provisions of the Contract for Sale relating to deposits and take instructions on whether or not the Auctioneer/Estate Agent is to hold any part of the deposit monies, pending the completion of the transaction.

The Vendor's and Purchaser's Solicitors must also advise their clients of the risk to the deposit monies in the event of the Auctioneer/Estate Agent becoming insolvent; in this regard it should be noted that Auctioneers and Valuers who are members of IAVI attract the protection of the IAVI Compensation Fund. Clients should also be advised that further protection may be afforded by having the Auctioneers/Estate Agent hold the monies in his possession as stakeholder.

It must be emphasised that if the instructions received vary the General Conditions of Sale relating to deposits, the contract should be altered to reflect those instructions.

The Professional Purposes Committee feels that it would be good and prudent for a solicitor to obtain an irrevocable authority and instruction from a client prior to discharging any outlays from the proceeds of sale whether they had been fees of an Auctioneer/Estate Agent, Engineer or otherwise.