

Guidance Note for Conveyancing Solicitors

This guidance note has been written to assist you in your client's sale or purchase using the OPA365 Online Property Auction Service.

HOW THE ONLINE AUCTION WORKS

Essentially the online auction process is exactly the same as in any property auction, whereby a Seller provides details of the property and all accompanying legal documentation and bidders bid to purchase the property on those terms. At the end of the auction the highest bidder buys the property.

Where the OPA365 process differs from a physical auction is that exchange of contracts does not take place when the hammer falls due to the requirements of the Law of Property Act 1925 for all contracts in land to be in writing. Therefore the Seller and the successful bidder have five Business Days to exchange contracts following the end of the auction. Failure to exchange within this timescale will result in the defaulting party being liable to pay a fee, whether exchange subsequently takes place or not.

SELLERS

Your client has submitted their property for an online auction which will commence when all the required information is uploaded to our site by your client, their estate agent and/or yourselves.

You will be required to prepare:

- A suitable contract for sale;
- Copy title documentation;
- A HIP pack (if applicable).

We do not draft the sale contract or other legal documentation and cannot provide advice in relation to that. The purpose of this guidance is to provide you with background information in respect of the online auction process to assist you in drafting the necessary documentation and providing relevant information.

Your client will rely on you to draft appropriate contract documentation and to advise them as to what other information should be provided. As with all auctions, by providing relevant information at an early stage prior to the auction a seller reduces the risk of a prospective buyer either not bidding or putting in a lower bid than they otherwise might. It is worth bearing in mind that buyers are unlikely to have undertaken searches prior to the auction and may not have time to undertake all the searches they require prior to the online auction. You should advise your client as to what searches your client should provide.

We see no reason why the contract documentation need include any provision relating to the sale having been agreed by online auction. Essentially you need to prepare a draft contract in the same way as you would for any sale agreed by private treaty. The draft should be complete in all respects other than the details of the buyer and the price. You might also choose to leave out the amount of the deposit or express it to be in terms of a percentage of the price.



As the online auction process provides no mechanism for buyers to negotiate the form of contract prior to the auction, you should consider carefully with your client before submitting a form of contract which a buyer might consider to be unduly onerous.

We will not effect exchange of contracts. Effecting exchange will be your responsibility as will collection of any deposit payable at exchange and subsequently completion the sale. Should your client not exchange contracts within 5 Business Days of the end of the online auction then your client may be liable to pay a fee.

BUYER

Your client has registered their interest in purchasing property from the OPA365 Online Property Auction Service. Once your client has made a successful bid, then your client will be liable for a fee if exchange does not take place on the basis of the documentation provided by the Seller within 5 Business days of the end of the auction. We therefore recommend that you liaise with your client on potential bids prior to the end of an auction to ensure that this deadline can be met.