

Deposit Terms and Procedures

1. What is the Deposit?

The deposit is the sum paid by the buyer to the Seller upon acceptance by the Auctioneer of the Buyer's bid as a guarantee that the Buyer will proceed to completion of his purchase. If completion takes place without dispute, the sum becomes part payment of the purchase price.

The conditions of sale may provide that the deposit is either to be taken as agent for the Seller or that it is to be held as stakeholder.

Provided there are adequate funds in the account on which payment is drawn, Allsop accept payment of the deposit by any of the following means: cheque, debit card, banker's draft or buyer's solicitors' client account cheque. Cash deposits are not accepted in any circumstances.

2. Agent or Stakeholder – what does it mean?

2.1 If the deposit is to be taken as agent for the Seller

The agent must:

- act in the best interests of the Seller in relation to the deposit
- account to the Seller for interest on the deposit
- release the deposit to the Seller after the auction without further reference to the Buyer, whether or not the Buyer completes his purchase.

A deposit taken as agent will, in effect, belong to the Seller as soon as it is paid to him although the Buyer may have a right to recover the deposit from the Seller if the Seller fails to complete.

Any dispute regarding whom the deposit belongs to must be resolved between the Seller and the Buyer.

2.2 If the deposit is taken as stakeholder

The stakeholder:

- is effectively the agent of both Seller *and* Buyer in relation to the deposit
- must not release the deposit until completion takes place.

If Allsop take the deposit as stakeholder, we will keep any interest earned during the time it or any part of it is held by us.

3. Agent or Stakeholder – which capacity applies?

The conditions of sale usually specify how the deposit is to be held. At Allsop auctions, capacity may differ according to whether the property is offered at our residential or commercial auction.

3.1 Allsop Residential Auctions

At our residential auctions, the deposit will normally be taken by us as agent for the Seller.

However:

- this will *not* be the case where the Special Conditions of sale or the Addendum expressly state that it is to be held as stakeholder
- if VAT is applicable to the property, we will hold the deposit as stakeholder (this will usually be so even if the Special Conditions provide for it to be taken as agent for the Seller and is done in order to avoid creating a VAT tax point on auction day)

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3.2 Allsop Commercial Auctions

At our commercial auctions, we will normally take the deposit as

stakeholder. However:

- this will *not* be the case where the Special Conditions or the Addendum expressly state that the deposit is to be taken as agent for the Seller
- where VAT is applicable to the Lot, we will hold the deposit as stakeholder even where the special conditions provide for it to be taken as agent. This is done in order to avoid creating a VAT tax point on auction day.

4. Allsop procedures where the deposit is taken as agent

After the auction, we will release the deposit to the Seller, less all fees due, after 7 working days from the date on which the deposit cheque was received by our bank (unless we have been notified by the bank of any problems in the interim).

Release of the deposit will be without further reference to the Buyer, regardless of whether or not the Buyer completes the purchase of the Lot.

5. Allsop procedures where the deposit is taken as stakeholder

5.1 Where we hold as stakeholder, we will release the deposit to the Seller's solicitors on or very shortly after completion upon receipt from the Seller's solicitors of a letter in our standard form, warranting that completion has taken place. If completion is delayed for any reason, we will retain the deposit as stakeholder pending resolution of the delay. See below, under paragraph 5.3, for what happens to the deposit in the event of delayed completion.

5.2 Is the deposit to be transferred to the sellers' solicitor prior to completion?

Where a deposit is paid to us as stakeholder we are at liberty, if we choose, to transfer all or part of it prior to completion to the Seller's solicitors for them to hold as stakeholder in our place. Sometimes, the special conditions provide that we *must* do this. In all such cases, we will pass the deposit on after cheque clearance, net of any fees and commission that will be due to us from the Seller on completion. Any part of the deposit not so transferred will continue to be held by us in our stakeholder account pending confirmation of completion of the sale and purchase.

5.3 What happens if Allsop retain a stakeholder deposit where completion is delayed?

- It is not Allsop's responsibility to decide which party is in breach of contract, or which party has caused delay. Consequently, in any of these circumstances, we cannot decide which party is entitled to have the deposit released to them.
- In such cases, we will only release the deposit to a named party with the express consent and authority of both the Seller and the Buyer.
- If mutual consent is not forthcoming, or if there is a protracted delay in the matter being resolved, we may take out legal proceedings (known as interpleader proceedings) which will involve asking the Court to hold the deposit pending a Court decision as to whom is entitled to have it. If interpleader proceedings are issued, we would usually seek costs against the party found to be in default.

6. What happens if too much deposit has been paid?

Occasionally, an amount in respect of deposit monies that is greater than the contractually-required deposit is paid.

Please note that, in the interests of maintaining clarity in the auction buying and selling process, and for administrative ease, Allsop's standard policy will be followed in all cases where an amount in excess of the contractually-required deposit is received.

The policy is that any such deposit excess will be returned as soon as reasonably possible once the amount received is held in cleared funds. Monies will normally be returned by bank transfer to the account indicated by the bidder or (at Allsop's option and at their entire discretion) by bank transfer or cheque to the solicitors indicated as acting in respect of the purchase of the Lot.