

## Question 12 - Meeting with Clients

Note: this survey was done prior to the COVID-19 pandemic.

1. How long is a meeting with the client (which is typically the sign-up meeting)?

### Results:

- Respondents indicated spending this amount of time with clients:
  - up to 15 minutes – 3%;
  - 15 – 30 minutes – 23%;
  - 30 – 60 minutes – 51%;
  - one hour – 17%; and
  - more than one hour – 6% .

### Working Group (WG) comment:

This is an important meeting and often the only in-person meeting with the client. Too often we hear of clients say that they never met with the lawyer, which in the WG's opinion, is simply inadequate. In addition to being a very informative and beneficial meeting for clients, this is the perfect marketing occasion when the lawyer can establish, cultivate and solidify client loyalty for repeat retainers and referrals to the client's family, friends and acquaintances. The purpose of the meeting is to ensure that the client understands the real estate closing process, the documentation being signed, the obligations the clients are taking on and answer any questions and concerns clients might have. An appropriate amount of time should be allocated to this meeting.

2. What factors would extend the time of your typical meeting?

### Results:

- Respondents indicated the following factors would extend the time of their typical client meeting:
  - 88% - demanding lenders;
  - 82% - multiple mortgages;
  - 71% - new construction;
  - 65% - rural property/cottage;
  - 44% - condominiums; and
  - 21% - other matters, including, client questions; first-time buyers; title or property issues; off-title issues; extra bank documents; demanding clients.

### WG comment:

These are all matters which would demand more of the lawyer's attention, ensuring the client gets all the necessary information and providing comfort to clients

who may be anxious about the process. Lawyers should remember that they provide a professional service and by being more personal and available to clients, they can distinguish themselves from their competition.

3. Do you typically have more than one meeting with the clients?

**Results:**

- Respondents indicated having these meetings with clients:
  - 94% - only had a sign-up meeting;
  - 55% - had a number of meetings by phone;
  - 43% - had a number of in-person meetings;
  - 12% - had an initial retainer meeting; and
  - 9% - if an issue arises.
- Many indicated having more communication with clients via phone and email, some even via video conferencing.

**WG comment:**

It is not the number of meetings but the substance of them and the access to a lawyer which is of greater importance. Clients should feel that they have the lawyer's attention and can get the information they need and comfort they require. This can be a very unnerving experience for clients, especially first-time buyers and they need guidance, information and reassurance while they go through the process. The personal attention to clients is one of the significant ways that lawyers can distinguish themselves from their competition.

4. Is the real estate agent typically present for the sign up meeting?

**Results:**

- 100% of respondents indicated that the agent does not attend.

**WG comment:**

This is to be expected but is one of the differences between the Canadian and American closing process. Unless there is a problem that could benefit from the agent being involved to resolve, agents should not be at this meeting due to privacy, solicitor-client privilege and other considerations.

5. How do you proceed if the client does not speak your language?

**Results:**

- Respondents indicated they:
  - 51% - get the assistance of client's family member;

- 25% - end the retainer;
- 6% - get an independent translator;
- 16% - had not had the issue arise.

**WG comment:**

It is essential for the lawyer and clients to be able to communicate and properly understand each other. Although recruiting a client's family member to act as a translator between the lawyer and the clients is a practical and inexpensive option, the WG cautions that this could raise issues and special attention must be exercised. If the lawyer does not speak or understand the language, there could be a possibility that the family member does not properly translate the lawyer's or client's communication, or that they may be exercising undue influence. It would be additionally important to make and retain good notes of the meetings, discussions, questions and participants if future consultation is required.

6. How do you get documents signed if the clients do not make themselves available (i.e. on vacation)?

**Results:**

- Respondents indicated they:
  - 71% - send documents to a solicitor near where the clients are;
  - 9% - use remote signature capabilities;
  - 6% - proceed with a power of attorney; and
  - 14% - other, including, getting signatures before they leave or a combination of the above.

**WG comment:**

It is always important to verify with the client, early in the process, their schedule at closing and to reinforce the need for them to be accessible to you for signing and to deal with any issues if and when they arise. Clients are much more mobile than before and so it is incumbent upon the lawyer to ensure their clients are available at critical times during the transaction (such as for signing documents, getting instructions, or ensuring that the clients undertake the necessary tasks they have to complete, for e.g. financing). Many lawyers deal with these issues in their retainer, initial correspondence with the client or in the intake questionnaire (for e.g. see WG's Client Information Form for condos at [www.lawyersworkinggroup.com](http://www.lawyersworkinggroup.com) in the condominium documents tab).

7. What do you review with the clients during your meeting (or have reviewed since retained)?

**Results:**

- Respondents indicated reviewing the following with clients:
  - 100%
    - Particulars of mortgage(s)
    - Manner of taking title (joint tenants, tenants in common and percentage interest)
  - 97%
    - Client names, DOB and address for service on documents to be registered
    - Statement of adjustments
    - Arrangements for keys
    - E-Reg Acknowledgment and Direction
  - 94%
    - Statement of funds and funds to close
    - Land Transfer Tax Affidavit
    - Unique property issues (e.g. cottage, rural, etc.)
  - 92% - Original client ID (likely done earlier) and keep copy in file
  - 89%
    - Standard charge terms as a separate document from the mortgage
    - Title insurance policy
  - 83% - Tax certificate or arrangement for upcoming tax payments
  - 77% - Search of title
  - 74%
    - Results of off-title searches or fact not proceeding with search(es)
    - Status certificate
  - 66% - Pre-closing inspection, if new construction
  - 60% - Discuss when they will get their report
  - 49% - Survey
  - 40% - Home/fire insurance
  - 34% - Discuss why they need a will/Powers of Attorney
  - 14% - Other, including, search of title, if interested; block map or other plan if no survey; HST and the complete file.

**WG comment:**

In view of the above answer of the time spent with clients at the signing meeting and the number of documents reviewed, it seems that the time noted in Question 1 above was under estimated. These matters deserve the necessary attention.

8. Do you have client initial lot(s) or dwelling unit(s), parking and/or storage units on a survey/plan?

**Results:**

- The majority of respondents indicated that they do not have clients initial the document for the location of the property, but many did note having the discussion with the client.

**WG comment:**

There is no requirement to get anything initialed by the clients, however, the WG notes that in the event of a dispute as to the location or the discussion of the location of the property at a later date, having a copy of a plan, with the property highlighted, initialed by the client would prove very useful to determine the matter. It is an easy and effective way to confirm and document the conversation about reviewing the property location with the client and avoid any future questions.

9. Do you have a checklist of documents to be signed and matters to be reviewed?

**Results:**

- 51% of respondents indicated they had a checklist to assist at the closing meeting.
- Most indicated having a standard checklist that they customise to the needs of the transaction/clients.

**WG comment:**

With the number of matters to be reviewed, documents to be signed and the number of transactions and clients lawyers have, the WG suggests it is a best practice to have a checklist for the closing of the transaction that is started at the beginning of the transaction and evolves during the entire process to ensure that all matters of importance are dealt with prior to the closing, and to ensure any post closing matters are also addressed (such as reporting letters, etc.).

10. Do you make any notes of your meeting with the client, their concerns, matters discussed or reviewed to be kept in the file?

**Results:**

- 77% of respondents indicated they make notes of their discussion with the clients during the signing/closing meeting.

**WG comment:**

The best defence a lawyer can have when a matter is later questioned is to have evidence of the matters discussed with clients. Clients can have a different perception

or recollection of the discussion and if lawyers have no notes to refresh their memories from the multitude of similar meetings and number of clients they have had through the years, courts tend to then side with the client if they are an otherwise credible witness. Of course, any matters of concern should have been dealt with previously and noted in correspondence. A checklist and an initialed plan showing the location of the property are simple ways to document the conversation/transaction. A comprehensive report can provide some support. It is good practice to record discussions with clients in case the lawyer needs to refresh their memory, often years later.

11. What do you give the client at the end of the meeting?

**Results:**

- Respondents indicated they give clients the following:
  - 48% - Copy or info on next payments (e.g. taxes, first mortgage payment);
  - 48% - Status certificate/condominium documents package (original);
  - 32% - Original documents;
  - 6% - Report;
  - 45% - Other, for example, statement of adjustments; statement of funds; all documents signed at meeting; mortgage documentation; survey; title insurance policy; relevant title information; retainer and invoice.
- No respondent indicated that they presented a gift to the clients.

**WG comment:**

The practice of document delivery varies from lawyer to lawyer. There is no requirement except the need to provide clients with the information and documentation of their transaction as soon as possible after the closing. The practice of piling closed files to be reported on later and accumulating large stacks of files that are reported on months after closing is problematic. It is difficult to ensure that all matters and issues dealt with in the transaction are incorporated in the report when done a long time after the transaction has closed. Clients draw negative conclusions about their lawyers when they receive a report long after closing. A final report produced closer to the date of closing will better serve to protect the lawyer in the event a question arises later. Luckily, with the advent of technology and the document preparation programs, reports are easier to prepare and critical matters and issues dealt with can be added contemporaneously to the event to ensure they are properly reflected in the report.

12. Who meets with the client for the sign-up meeting?

**Results:**

- 97% of respondents indicated that lawyers met with the clients.
- 9% had both the lawyer and clerk/assistant meet with clients.
- 6% indicated only the clerk/assistant met with clients, but generally only when the lawyer was not otherwise available.

**WG Comments:**

The WG is pleased to see that the vast majority of lawyers meet with the clients. The Law Society prohibits a non-lawyer to deal with many issues that arise in the meeting, such as insurance considerations, matters of opinion, etc. Again, this meeting is an excellent marketing opportunity for lawyers to create or reinforce the relationship with the clients. It is also a great opportunity to learn of the client's further legal needs. Often, a real estate transaction will lead to a request for a will and powers of attorney and those can solidify the loyalty of the client for future work.

13. Do you do remote sign-up meetings?

**Results:**

60% of respondents indicated that they do not do remote sign-ups. This survey was largely open prior to the COVID-19 pandemic.

**WG Comments:**

Today, during COVID-19, we know that most lawyers are meeting clients via video conferencing capabilities. It will be interesting to see whether this practice continues after the COVID-19 emergency measures are over. Of course, some legal requirements will revert to how things were before the pandemic and we will have to see if temporary changes become permanent.

14. Which documents do you send to clients before your meeting?

**Results:**

Respondents indicated providing clients with the following documents prior to the closing meeting:

- 83% - Statement of Funds;
- 66% - Statement of Adjustments;
- 29% - Survey;
- 9% - Charge(s);
- 14%
  - Standard Charge Terms
  - Mortgage commitment/instructions;
- 9% - Acknowledgment & Direction (For Transfer / Mortgage / other documents);

- 9% - Standard Closing Documents (such as Direction re Funds; Vendor's Closing Certificate; Direction re Title; etc.);
- 14% - Other, for example, status certificate, rules and regulations for condos, restrictive covenants and anything requested by the client (usually adjustments, and trust statement and account); title insurance documents; complex or unusual title matters (e.g. major easements, restrictions); and
- 14% - do not send any documents to the clients before the meeting.

**WG Comments:**

The closing meeting can be an intimidating experience for clients and often may be difficult for clients to fully assess and absorb the amount of information dealt with. Sending material documents, and in particular transaction accounting, ahead of the meeting gives clients the ability to review them beforehand and have a better understanding. This practice could in fact shorten the meeting as clients can make themselves comfortable with the documents and their content prior to the meeting.

15. When and how do you collect the balance due on closing?

**Results:**

The responses received indicated closing funds are:

- 97% - received at the sign-up meeting;
- 69% - by certified cheque or bank draft made payable to your firm in trust;
- 29% - delivered by clients at another time;
- 29% - wired funds into the trust account;
- 23% - direct deposit to the firm trust account;
- 6% - collected by sending a courier;
- Other: some will only allow institutional lenders to wire or direct deposit funds to the trust account; some will only accept an email transfer.

**WG Comments:**

The process of receiving closing funds remains a challenging issue for real estate closings. The prevalence of fraud and the uncertainty by our banking system as to the status of funds received, make this an issue lawyers must specifically turn their minds to. Good old common sense should be the first test applied to any funds received to assess the risk the firm is undertaking.

The Law Society of Ontario sets out (under its practice management topics on managing money), that if you permit funds to be deposited directly to your trust account: "To fulfill your financial record keeping obligations, you should obtain from the third party payor a copy of the confirmation documents generated when the funds are transmitted. The confirmation should document the financial institution and account from which the



funds were sent, the financial institution and account in which the funds were deposited (i.e. your trust account), the amount deposited, and the date and time of the transmission of funds. Prior to accepting a third party deposit to your trust account you should confirm in advance and in writing that you are permitting the deposit of funds for that particular instance, and that the third party agrees to provide you with a copy of their transmission confirmation as described above.”

See: <https://iso.ca/lawyers/practice-supports-and-resources/topics/managing-money>