



# Delayed Settlements

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Australian College  
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# Delayed Settlements

Delayed settlements are frustrating for all parties involved in a sale/purchase, especially for the agent who has waited for their commission, even though their part of the process was completed almost two months previously (or possibly longer).

Unfortunately, delays to settlement are common and can be caused for a variety of reasons which may include:

- Incoming bank has not completed the mortgage process,
- Outgoing bank has not completed the discharge of mortgage process,
  - ◊ It should be noted that almost all banks at this moment in time are having difficulty meeting their timeframes, approvals for loans are taking a significantly longer time than normal and discharges of mortgages are equally effected in time. This is partly due to Covid-19 issues and also due to the high increase of people in the market at this time.
- Rubbish has been left at the premises or damage has been caused which is identified at the pre-settlement inspection,

- Vendor's solicitor or conveyancer do not hold a copy of the Certificate of Title
- Certificate of Title has been lost and needs to be reissued

If the delays lie at the fault of the purchaser (or their side, conveyancer, solicitor or bank), the vendor has the right to charge a penalty for the delay. This penalty is usually a special condition within the contract that may say something like:

In the event that completion is not effected on the nominated date due to the purchaser's default, the purchaser shall pay to the vendor on completion, in addition to the balance of the purchase price, 10% interest per annum calculated daily on the balance of the purchase price.

An example of how costly penalty interest can be to the purchaser is:

Purchaser has bought a property for \$4,000,000 with a standard 10% deposit, leaving a balance of \$3,600,000. Settlement does not occur on the pre-arranged and agreed settlement date because the purchaser's finance has not been completed (you may be surprised at how often this is occurring at the moment). Settlement does not take place for a further five (5) weeks.

Penalty interest in their contract was 10%. This is calculated as 10% of the



purchase price calculated on a daily basis, so \$360,000 divided by 365 = 986.30. This is the amount of penalty the purchaser must pay on a daily basis, for every day they are late to settle.

Settlement occurred 35 days after the original settlement date, so the penalty payable is \$34,520.54, which must be paid to the vendor as compensation for the delay in settlement.

Interestingly on the other side of the contract, if the delay is caused by default from the vendor's side, the purchaser is not likewise entitled to penalise for compensation.

Whilst it is not the agent's responsibility to manage, or even be involved in the settlement process, it is good practice to check in with your purchaser close to the settlement date to prompt them to check with their solicitor/conveyancer that everything is in order for settlement to occur on the nominated date.

[Rosy Sullivan](#)  
Director | College Principal

## From the office

As the days get shorter and colder, our trainers are still excited to be out on the road running training in our regional areas.

Michael has been in Port Macquarie last week and Andy has been running stock & station licensing training for a new group of people working in the rural sector. Not to mention that our 9 hour CPD days are being received extremely well by agents. We weren't sure that these would work, but based on requests from agents, here we are running 9 hour CPD days in our Sydney CBD office and also throughout the regions. Bring it on. This week has also seen a large new group of students completing their Certificate of Registration Assistant Agent program. Many of the class are now ready to go searching for employment – so if you are looking for new recruits who will be eligible for government funding and government incentives for traineeships – look no further.

From our social perspective, ACOP has had a HUGE fortnight. Everyone knows how much we like our cakes.... well we went into overdrive and had a magnificent high tea catered by Flavours Catering. We celebrated with a baby shower for our two (yes two) expectant mums-to-be, Rachelle and Megan. There is so much baby talk in the office at the moment, and we are all wondering how long it will take before we can have the new little ones join the team. So, cakes, scones, jam, cream, sandwiches, and lots more fancy little bites were enjoyed and much enjoyment in the predictions that were made for both Rachelle and Megan. Bring on July and August for us all to meet our newest ACOP family members.

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