

A Guide to Conveyancing

Key Terms

Whether you're a first-time purchaser or seasoned investor, the terms used during the conveyancing process can be daunting.

This guide has been designed to assist you in that process to give you a greater depth of understanding of your property purchase.



Agreement

Commonly used as another word for contract.



Assent

The formal document needed to transfer the ownership of a property to a person entitled after the death of the owner.

Breach of Contract

If contracts have been exchanged, and either party pulls out and does not complete the conveyancing process they will be in breach of contract and the non-defaulting party could legally seek reparations.



Boundaries

Boundaries define the extent of the property and are usually marked with fencing, hedging or walls. They are usually detailed clearly by a red line on the filed deeds plan.

Building Insurance

With effect from exchange of contracts, you will become responsible for the new property's building insurance. This must cover the cost of rebuilding the whole property if it is destroyed. Your mortgage lender will probably want to see proof of this insurance.

Caveat Emptor



Caveat emptor is a Latin term that literally means 'let the buyer beware'. The legal principle that dates back centuries is still relied on in the modern conveyancing process. It places the onus on the buyer to discover if there are any physical defects in the property or legal issues relating to the property. The main reasons why caveat emptor still applies are: the seller is not obligated to reveal defects in the property and the buyer's purchase is not protected by a warranty. The buyer must commission and be satisfied with their own surveys against the property prior to an exchange of contracts.

Chain

A property chain is when home buyers and sellers are linked together because their purchase or sale is dependent on another transaction. This is most relevant to home movers who will be buying a new home and selling their current one at the same time.

Charge

A debt secured against a house or another property that you own.

Chattels

Chattels is the legal term for what is usually described as house 'fittings'. When a property is sold, chattels are not included in the transaction. They are personal property items which means that the seller may agree with the buyer to leave specific items in the property. These are detailed on the Fixtures, Fittings and Contents Form.

Client Care Letter

A client care letter will be sent by your solicitor for you to sign and return. It is a formal contract and must be read carefully. It will detail what services you will be provided and a breakdown of the cost, plus the solicitor's complaints procedure.

Coal Mining Search

If the property is located in a coal mining area this search will be conducted by the property lawyer to discover if coal mining activities will affect the property in the future.

Commons Registration Search

A search conducted by local authorities to check if a property is registered as common land or connected to a village green, resulting in third party rights over the property.

Completion

The point at which the buyer becomes the owner of the new property and the seller ceases to own the property. At the point of completion the buyer will transfer the remaining purchase funds and the seller will hand over the keys to the property. The completion date is the date completion takes place and is fixed on formal exchange of contracts.

Completion Statement

A statement of all the payments due and expenses payable at completion. This includes items such as estate agent's fees, solicitor's fees, disbursements and Stamp Duty Land Tax.

Compulsory First Registration (CFR)

Compulsory first registration is the process which transfers property from the Registry of Deeds to the Land Registry. If a property is being purchased and the title is currently within the Registry of Deeds, compulsory first registration will be activated and the property must, at the completion of the purchase, be registered by the Purchaser's Solicitor in the Land Registry.

Conservation Area

If the property to be purchased is situated in a conservation area protected by a local authority, it could be subject to exterior planning restrictions to preserve the look of the area.

Contract

A contract is the legally binding document, which is signed by both the seller and purchased separately. For most residential property transactions, the contract is governed by the Law Society, General Conditions of Sale. The sellers Solicitor will draft the contract, sending this to the purchaser's Solicitor for their approval and addition of any special conditions pertinent to the transaction.

Covenants

A covenant is a provision, or promise, contained in a deed to land. A covenant may restrict the use of the land or require you to seek permission of the covenantor before carrying out alterations to the property. This is intended to retain uniformity of the appearance of properties within an estate of houses for example. A covenant can be really important as it may affect the value of land or its intended use.

Conveyance

A common term for the legal document that officially confirms the sale or purchase of a property or land. The transfer is conducted using a Transfer Deed/document however in some cases a conveyance may be used.

Conveyancing

The legal process of transferring the title of a property from one person to another.

Conveyancer

The lawyer that deals with the conveyancing process. Most conveyancers are regulated by CILEX, CLC or the Law Society.

Declaration of Trust

A document which is usually prepared by a solicitor, to ensure it is valid, which co-owners of a property enter into to establish the shares in which they own the property as Tenants in Common.



Deeds

These are the official documents confirming who owns a property. Most properties are now electronically registered and therefore no longer have paper deeds.

Deposit

The amount payable by the buyer to the seller under the terms of the contract when the contract is signed. This is often 10% and non-refundable if the buyer fails to complete on the deal.

Disbursements

Disbursements are third party expenses or fixed costs incurred by the conveyancer undertaking the conveyancing process on your behalf, which are then charged on to you. These can include, for example search fees and registration fees. Your conveyancer will generally ask for these upfront.

Drainage Search

A check that is conducted during the conveyancing process that ensures a property is connected to fresh and foul water sewers. It is also to confirm whether there are any sewers within the boundaries which we would advise you cannot be built over without consent of the relevant water authority.

Easement

A nonpossessory right to use and/or enter onto the real property of another without possessing it.



Encumbrance

This is an issue with your property that reduces its value or makes it less marketable.

Equity

The difference between the value of a property and the amount owed to the mortgagee.

Exchange of Contracts

Contracts are signed and exchanged via your property lawyers. This is the point where the process becomes legally binding. After this point neither the buyer nor seller can withdraw from the transaction without potential legal consequences.

Fixture, Fittings and Contents Form

This is a form provided by the seller's property lawyer. It outlines what parts of the property are included in the sale and must be completed and signed off by the buyer before purchase (e.g. curtains, light fittings, etc.)



Freehold title

A type of title over property in England & Wales. It is the highest class of title possible, a freehold interest means that the owner of the title holds the title free from the hold of any other person and in the title is held indefinitely. The owner of the title, subject to legal and planning restrictions, can do as they wish with the property.

Ground Rent

Ground Rent is a periodical payment, often paid annually by the owner of a Leasehold property to the Freehold Owner or Superior Leasehold Owner (Landlord). The ground rent amount is outlined in the lease.



HM Land Registry

The HM Land Registry is a non-ministerial department that registers the ownership of land and property in England and Wales (but not Scotland and Northern Ireland). Land Registry gives property owners a land title guaranteed by the government, plus a title plan that indicates the property boundaries. When a property is entered into the register, the Land Registry records any ownership changes, mortgages or leases affecting it.



Indemnity Insurance

Legal indemnity insurance is a specialist type of insurance policy used in conveyancing transactions where there is a kind of legal defect which cannot be resolved quickly and which is reasonably unlikely to cause any actual loss but does have the potential to cause significant loss. Usually only one premium will need to be paid.



Index Map Search

A search undertaken at the Land Registry to determine whether a premises is registered or unregistered.

Land Certificate

The official certificate that is issued by the Land Registry when a property is registered showing ownership and interest in the property without any legal charge.



Leasehold Title

A type of title over property in England & Wales. The owner of the leasehold (the tenant) has the right to occupy, use and (subject to the terms of the lease) sub-let the property. At the end of the lease the title goes back to the freeholder (however it is possible in some circumstances to extend a leasehold term).

Local Authority Searches

These searches are conducted at the early stages of the conveyancing process and are there to protect you from any council plans that could affect the state of your property once you've moved in. This only refers to things affecting the land up to the legal boundaries of your property. For a more comprehensive check a solicitor may perform a planning search at your specific request.

Management Company

An organisation set up to meet a landlord's obligations under a lease.



Mortgage

Funds lent to a buyer by a mortgage provider (usually a bank or building society) to buy a property and which are secured by way of registration of a charge over the property.

Negative Equity

Negative equity is when the total borrowing secured against your home is greater than its value. You cannot be in negative equity if you own your home outright with no mortgage or other loans secured on it.



NHBC

National House Builders Council provide 10 years' warranty and insurance for new homes.

Occupier's Consent

This is needed when a person lives at a property but will not be signing the mortgage deed. Consent is requested to allow the mortgage being taken out by the owner, agreeing to move out if the mortgagee takes possession due to the default of the mortgage.



Office Copy Entries

An office copy entry is officially known as an Official Copy of Register of Title, also as a title register. It is the certified, current equivalent of the old Title Deeds, physical documents which were used in historically to prove ownership of property and the ownership chain.

Ordnance Survey Map (ACE MAP)

'Address centre extract'- this map is provided by Ordnance Survey and is centred on the address of a property.

Power of Attorney

This is a document which allows somebody to act as a legal representative of somebody else with their consent. These are regularly used to protect the financial interests of the elderly or ill.



Pre-completion Searches

These searches are undertaken by your conveyancing provider before the contracts are exchanged. They check to see if you have been made bankrupt and that the property is legally owned by the seller. Sometimes known as priority searches.

Priority Searches

A priority search is an important search undertaken in the process of conveyancing. It is conducted by the buyer's solicitor after the exchange of contracts. This is conducted immediately before the completion.

Property Information Form

A form which the seller completes and sends to the buyer before to exchange. The form outlines key information about the property. This may include information such as boundary information, legal rights and restrictions, ongoing or potential disputes and details of the services the property uses such as utilities.

Redemption Settlement

This is the sum of money transferred to a lender if you decide to pay your mortgage back early. This consists of the outstanding lump sum balance in addition to a penalty fee charged to cover the interest the lender will subsequently lose out on.



Registry of Deeds

A registry of deeds is a place where documents which establish ownership of property are officially recorded. These documents are normally the deeds to the properties, although they can also be documents containing information about mortgages or real estate contracts. They are often maintained by county officials or public officers, and are available to the public in the event that a deed or property ownership is questioned.

A registry of deeds can sometimes be called a “register of deeds” or “recorder of deeds.” The registry is important in terms of providing information and support for real estate purposes.

Reparations

The compensation or remuneration payable if there is a breach of contract.

Report on Title

A report the buyer’s conveyancer will prepare before exchange of contracts. The report includes everything the buyer needs to know about the property purchase and should be read carefully by the buyer.

Reservation Fee

An administration fee charged to cover the cost of reserving a mortgagor’s entitlement to a loan on certain terms or a fee paid to a builder or property developer to reserve a new property.

Rent Charge

This is similar to a ground rent but is charged on freehold properties. Rent charges will be extinguished in 2037 if they still exist at that time. No new rent charges can now be created. Rent charges are particularly common in the Manchester area.

Searches

A number of searches will be performed by the buyer's conveyancer against the property to advise their client of any problems prior to the exchange of contracts. Usual searches would include a local authority search (e.g. which advises of any planning applications or contaminated land) and a water and drainage search to ensure the property is connected to the sewerage system.



Service Charge

A service charge is a payment made by a homeowner towards the cost of services and repairs beyond those just for their house or flat. Service charges are normally payable in advance and at the frequency stated within your lease. This is typically annually, bi-annually or quarterly.

Solicitor

The legal conveyancing process is normally undertaken by a solicitor who acts on your behalf once instruction has been received. Conveyancing is one of the services that a solicitor can offer.

Stamp Duty Land Tax (SDLT)

Stamp Duty Land Tax is a tax paid by the buyer on the purchase of the property based on the purchase price. The amount payable is calculated as a percentage of the entire value of the property and the percentage rate payable is graded into certain bands. (as the cost of property rises so does the % of SDLT payable). Different rules do apply for first time buyers, home purchasers, commercial purchaser and purchases of second or third homes.

STC

This is the abbreviation for Sold Subject to Contract.

Solicitor

A qualified lawyer who is authorised to practice conveyancing.

Subject to Contract

A term used during contract negotiations, nothing is legally binding until contracts are exchanged.

Subsidence

Subsidence occurs when the ground underneath your house sinks. As the ground moves lower the foundations of your house can become misaligned. It is particularly problematic when the ground under your property is sinking at different rates.

Tenure

Freehold or leasehold property ownership.



Third Party Rights

When someone other than the legal property owner has the right to use or control the land of which they have no ownership.

Title Deeds

Title deeds show the ownership of a specific property. When a property changes hands, a new title deed is needed to note the transaction and change of ownership. Before entering into the contract to purchase the purchaser's solicitor will analyse the title deeds provided by the Sellers Solicitor They will check the title is correct and there are no legal issues in the deeds which need to be raised or investigated.

Transfer Deed

The document which transfers the property ownership from the seller to the buyer. It is sent to the Land Registry after completion in order to effect the registration of the property into the buyer's name.

Wayleave Agreement

A formal agreement with a property owner enabling a service provider (electricity or telephone company) to install piping or cabling through or over the property.



my legal co.