

Menneer Shuttleworth

Solicitors

Conveyancing – The Basics

The Legal process of buying and selling property, whether residential or commercial, is known as "Conveyancing". Conveyancing means the transfer of title in land from one person (usually a seller) to another person (usually a buyer).



The document or Deed transferring title used to be known as a Conveyance. These days, most land is registered and the document transferring title is known as a Transfer.

In England and Wales, land is either Freehold or Leasehold, although rarely it might be Commonhold. For most purposes Commonhold can be ignored as, since it was introduced, there has been very little interest in the concept.

Freehold means ownership of land upon which a property is built. Most houses are freehold, i.e. the building and the land are owned together. In some parts of the country (Central London for example) many houses are owned leasehold. The majority of flats, both in converted buildings or purpose built, are leasehold. Occasionally flats are freehold, known as Flying Freeholds. These are to be avoided because of problems in enforcing repairing obligations between owners. Mortgage Lenders are also reluctant to take freehold flats as security for loans.



All Leases over 7 years in length have to be registered at the Land Registry and the owner is said to have a 'leasehold title'. Leases of residential land are usually for at least 99 years and often longer. They are known as Long Leases. The rent payable is known as Ground Rent and is modest, generally not more than £200.00 per year and often as little as £25.00 per year for older Leases.

These days, the Freeholds of blocks of flats are often owned by the resident leaseholders through a Freehold Owning company. In many circumstances the residents have decided to dispense with Ground Rent altogether.

For further information with regard to Leases see our Fact Sheet ('Living in a Leasehold Flat') published by LEASE and our own Fact Sheets on 'Extending your Lease', 'The Right to Manage'

and 'Collective Enfranchisement', all available on our Website. You may also like to look at the LEASE website, www.lease.org.



Selling your Property

Before you can sell your property through an Estate Agent, a Home Information Pack (or 'HIP') must be available for buyers to view. We can arrange a HIP for you. If you own the HIP, rather than the Estate Agent, this gives you greater flexibility if you wish to move from Estate Agent A to Estate Agent B if Estate Agent A fails to sell your property as quickly as you wish.

HIPs for residential land must contain:-

- An Energy Performance Certificate (or 'EPC') which is prepared by an independent inspector who assesses the property from the point of view of energy efficiency;
- A Sale Statement – which sets out the terms of the transaction proposed;
- Standard Searches – replies to standard questions to the Local Authority and the Water and Drainage Company;
- Evidence of the owner's title to the property – usually a copy of the land register maintained by the Government
- A Property Information Questionnaire – questions about the property

For leasehold properties, in addition, a copy of the Lease is required as well as information on service charges etc.

Once the HIP is in place, hopefully you will soon have a buyer for your property. If you are moving to a new property you will now need to find a property to purchase. Most people prefer to move from one property to the other. This, of course, is not always possible. For example, you may be waiting for a new property to be built or you may only be able to sell without being able to find a suitable property to purchase. Obviously, the state of the housing market is relevant as is the availability of a Mortgage, if required.

When a buyer is found the Estate Agent sends us details of the sale price, any special conditions, the name and address of the buyer and their conveyancer.

For what happens next, please refer to our Fact Sheet 'Buying or Selling your Home – The Process' available on our Website.

Buying a Property

Before you make an offer to buy a property, you will need to make sure that you have an offer in principle from a Mortgage Lender unless you are a cash buyer or you are trading down, i.e. selling a more expensive property than you are buying.



You may want to see the HIP as well as looking at the Agent's Particulars.

Before committing yourself you may well want to discuss the property with us if there is a particular aspect, such as a right of way, that you are unsure about.

Assuming your offer is accepted, the Estate Agent will send us details of the purchase price, the seller's name and address and the name and address of their conveyancer. We will then contact them to obtain the draft Contract and supporting papers. If you require a Mortgage you should now contact your Lender who will probably ask you to pay a valuation fee for their valuer to assess the security of the property in relation to the amount you wish to borrow. This is known as the 'Loan to Value Ratio'.

We always advise buyers to have a survey as well as a valuation as the latter is mainly for the benefit of the Lender. Admittedly a survey is not always necessary when you are buying a new property. If you are having a valuation sometimes it is possible for the valuer appointed by the Lender to carry out a survey for you at a discounted price. If you are not having a Mortgage we can recommend a surveyor to you.

When the Lender is satisfied as to the value of the property and your ability to repay the loan they will send us a copy of the Mortgage Offer sent to you and instructions to act on their behalf in relation to the Mortgage. Occasionally (but rarely as we are Panel Solicitors for the majority of Lenders) the Lender appoints independent solicitors to act for them and we then have to meet their requirements. The cost of all work done on behalf of the Lender is payable by the buyer.

Whilst the Mortgage process as described is underway, we will be carrying out the work described in our Fact Sheet 'Buying and Selling your Home – The Process' to which you should now refer.

Fundamentals

Before you instruct us you will need to know how much everything will cost. We will provide you with a written estimate setting out our charges for the work we will be doing and the amounts payable to the Government in respect of VAT, Land Registry fees, Stamp Duty Land Tax and amounts due to any third party, such as Managing Agents in relation to leasehold properties.

If you decide to instruct us we will confirm the estimate and provide you with our Terms of Business setting out what work we will be doing for our fee and pointing out what might have to be charged separately.



We will ask you for a payment on account to cover the cost of Searches if you are a buyer.

We will ask you to identify yourself to enable us to comply with our obligations to the Government under Money Laundering and Proceeds of Crime Legislation.

We will also inform you of the name and status of the person responsible for your matter .

The above can only be a brief summary of our Conveyancing service. Members of our Conveyancing Department have a wealth of experience which will be at your disposal if you decide to instruct us.

We hope we can make what at first sight may seem a daunting and anxious experience, as smooth and as trouble free as possible.

For further information please contact us at either of our offices:-

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