

Buying or Selling a Property

Legal Terms Explained

Bankruptcy Search - a search to check whether a buyer has been declared bankrupt.

Boundaries - usually marked by fencing, walls or hedging. Boundaries define the extent of the property.

Chain - a word used to describe the situation where there are a series of sale and purchase transactions dependent upon each other.

Chancel Repair Search - shows if the property is located in the parish of a church, which could compel all the residents of the parish to contribute to the repairs of the church.

Completion date - the date when the purchase or sale is finalised and all monies are paid over. The keys are released from the seller to the buyer and the seller must move out of the property and the buyer can move in.

Completion Statement - the final financial account which the solicitor prepares. It will detail the solicitor's fees and monies which the solicitor has paid for example for search fees. The statement is usually sent after exchange and before completion.

Conservation Area - an area protected by the Local Authority. Properties in a conservation area may be subject to planning restrictions particularly relating to the exterior of the property.

Contract - the document prepared by the seller's solicitor which sets out the terms and conditions relating to the sale. The contract will include details of the buyer, the seller, a description of the property and the sale price.

Covenants and Restrictive Covenants - obligations or restrictions contained in the deeds to the property. An example would be an obligation to maintain a specific boundary or a restriction on whether certain structural alterations can be made to the property, or if there are restrictions on how the property is to be used.

Deposit - at the point of exchange of contracts the buyer pays a non-refundable deposit which is usually equal to 10% of the purchase price.

Disbursements - expenses the solicitor pays on behalf of the client such as searches and Land Registry fees. The solicitor will usually ask the client to pay disbursements in advance.

Drainage & Water Search - provides details of:

- Whether the property is connected to the mains water supply.
- Whether surface water and foul water drain from the property to the public sewerage system.
- Whether there are any public sewers within the boundary of the property.

Easement - a right over adjoining property or land. The most common easements are a right of way or access, a right of drainage or a right to a water supply.

Enquiries - questions raised by the buyer's solicitor to the seller's solicitor about the contract, title deeds and search results.

Exchange of Contracts - the process by which the contract between the seller and buyer becomes legally binding. Normally, once exchange has taken place, the seller and buyer can no longer withdraw without incurring financial penalties.

Environmental Report - reveals information about the property and the surrounding area in terms of contaminated land and environmental controls.

It also provides:-

- Information on landfill sites within the area.
- Incidents of pollution or other environmental damage in the area.
- Whether the property is considered to be in a flood risk area.
- Information on whether there are any overhead cables or mobile phone masts near to the property.
- The approximate location of any proposed renewable energy sites.

Fixtures and fittings list - a list of the items that are or are not included in the sale of the property.

Freehold - means the owner owns the property and land. The freehold will be affected by easements and covenants contained in the deeds.

Ground rent - the rent stated in a lease which is paid by the lessee to the owner of the freehold and is applicable when a person owns a leasehold property.

Indemnity Policy - an insurance policy taken out usually by the buyer to protect against a problem arising in the future. An example of this would be where there was a defect in the title when correct building regulations consent had not been obtained for alterations.

Joint Tenants - where property is held as a joint tenancy. The effect of a joint tenancy means that if one owner dies the property passes to the other owner automatically outside of a Will.

Land Registry - a government department that holds the records of all registered land and property in England and Wales.

Local Authority Search - provides details of:-

- Planning decisions and applications relating to the property. It will also reveal if the property is or has been subject to enforcement action by the local authority for breach of planning or building regulations conditions.
- Proposed traffic and road schemes.
- The existence of any tree preservation orders.
- Whether there is a likelihood of a high level of radon (radioactive gas) at the property.
- Whether the road which the property borders on is a public highway.

Lease - an agreement to use a property for a period of time without owning it outright, for example for 99 years.

Lessor - a person who grants a lease.

Lessee - a person who takes a lease.

Leasehold - refers to a property which is subject to a lease.

Listed building - a property or building which has been placed on the Statutory List of Buildings of Special Architectural or Historic Interest. The property will normally be subject to stringent planning conditions imposed by the local authority.

Management Company - a company or body of people appointed to deal with the day to day running and maintenance of the development. The management company collects a service charge from the property owners to pay for their services and for the upkeep and maintenance of the building.

Mining Search - provides details of:

- Whether the property is likely to be troubled by past present or future underground or opencast mining.
- Whether there are any shafts close to the property.
- Whether any subsidence claims have been noted against the property.

Mortgage Offer - the formal confirmation by a mortgage lender that it will lend money to the buyer. The mortgage offer will set out the conditions upon which the mortgage money will be lent. The borrower must comply with these conditions.

Mortgage Deed - the document signed by the borrower in which the borrower agrees to the terms set out in the mortgage offer. On completion, this deed is sent to the Land Registry and the mortgage will be registered on the title deeds to the property.

Mortgage Valuation - an inspection carried out by the lender to check the value of the property. A mortgage valuation will not deal with the physical condition or other aspects of the property.

Property Information Form - a form that is completed by the seller giving details about the property. The answers in the form are binding on the seller.

Shared ownership property - a property which is usually purchased from a local authority or housing association whereby a buyer owns a part of the property and pays rent on the remaining part to the local authority or housing association.

Stamp Duty Land Tax (often written as SDLT) - a tax paid by the buyer to the Inland Revenue. The amount is based on the purchase price of the property.

Survey - an inspection of the property carried out by a qualified surveyor to check the physical condition of the property and its value.

Telegraphic Transfer Fee - a bank charge for sending money from bank to bank.

Tenants In Common - where property is held by two or more owners and each owner owns a fixed share. The share can be any amount (for example 25%) and will not automatically be passed to the other owner or owners on death. In the case of tenants in common it is important to make a Will.

Transfer Deed - the document that both the seller and buyer sign which transfers ownership of the property from the seller to the buyer. This deed is sent to the Land Registry after completion.

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