BACKHOUSE
SOLICITORS

YOUR GUIDE TO MOVING HOME

Everything you need to know about the legal process

THE LAW SOCIETY ACCREDITED Conveyancing Quality

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EXPERT HELP WITH YOUR HOME MOVE

Are you buying or selling your home? Would you like a fixed price service from an expert conveyancing solicitor? We can help.

Get an Instant Conveyancing Quote

If you just want a quote for your property sale or purchase then click here for our Instant Quote page.

Buying and Selling your Property

If you are buying your first home, moving property, or purchasing a holiday home, you need an expert conveyancer to make the process as straightforward as possible. We know that moving house can be a stressful experience, so our goal is to keep the legal side progressing smoothly and at the high standard you can always expect from Backhouse Solicitors. We are here to protect your interests at every stage from making an offer to receiving the keys and moving in.

We are very transparent with our fees and will gladly provide a fixed price quotation to help you budget for your move. We will give you a detailed explanation of the costs and expenses involved, including items such as Stamp Duty, VAT, Land Registry fees and Search fees.

Our conveyancing team were the first in Chelmsford to qualify for the Law Society's Conveyancing Quality Scheme Accreditation (CQS), the mark of Excellence for the conveyancing process. We are also members of all the major mortgage lender panels. You can rest assured that your conveyancing will be handled to the highest standard by our specialist conveyancing lawyers, and reliable and friendly advice is guaranteed.

Other Property Services we offer

As well as conveyancing, we can also advise on most areas of property law for individuals, including:

- Registering your property with the Land Registry – don't risk losing your property Deeds (see p27)
- Transfer of equity between property owners (see p24)
- Re-mortgaging your property
- Transferring land
- Lease extensions

GLOSSARY OF COMMON TERMS

To make life simpler and to help you understand the process, we have put together a glossary of commonly used terms and expressions you are likely to come across during the moving process.

Bankruptcy Search
A bankruptcy search will need to be made both at the outset of the transaction and once contracts are exchanged in respect of each buyer and any other individual contributing to the purchase price either by way of gift or loan. The Bankruptcy Search Fee is currently £6 per name searched against.

Cash Buyer
A person who already has the purchase money saved or deposited in a bank or building society account is a GENUINE cash buyer. A person who can pay for the property with the proceeds from the sale of their own property and does not need a mortgage is NOT a genuine cash buyer.

Chancel Repair Liability
The property you purchase may attract a liability to contribute to the costs of chancel repairs in churches in and around the locality of the property. In the past, we would carry out a Chancel check, which is not a full Chancel Repair Liability Search, but would indicate whether or not there was a potential liability against the property. An insurance would then be obtained if a potential liability was disclosed. However, we have now established that it is more cost effective to our clients to not carry out the check, and to go straight to insurance. The cost of this is covered in the search pack which you pay for at the outset of the transaction.

Completion
This is when a sale / purchase is finalised and is usually your moving date. Monies are passed over and the buyer has the legal right to the property.

Covenant
A restriction or condition affecting the property which must be complied with.

Conveyancing
The legal transfer of property from one owner to another.

Declaration of Trust
A document setting out in what proportions joint owners own the property and what will happen to the proceeds of sale once the property is sold.

Deeds
These are all of the legal documents relating to ownership of the property. These are generally of limited relevance nowadays, as the ownership of the vast majority of properties is electronically registered at the Land Registry.

Deposit
This is a part payment of the agreed purchase price paid by the buyer on exchange of contracts. Most contracts provide for the buyer to pay 10% of the purchase price. If you feel you will be unable to pay a full 10% deposit you must let your conveyancer know at the beginning of the purchase process so that they can try to make other arrangements for you. This can frequently be arranged, especially where there is a chain of transactions involved. In the very rare event that a buyer backs out of the purchase after exchange of contracts, the full 10% would be forfeited.

Easement
A right over somebody else's property, for example a right of way over an access way.

Energy Performance Certificate (EPC)
In England and Wales when you are selling a property you are required to provide an EPC for that property. This gives details of the energy efficiency of the property. Your estate agent will normally arrange this for you, but if you do not have an estate agent, we can advise you in this area.

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 mean that, from April 2018, private non-domestic (and domestic) landlords must ensure that properties they rent in England and Wales reach at least an Energy Performance Certificate rating of "E" before granting a tenancy.

Environmental Search
This is intended to reveal such matters as whether the property is in an area subject to flooding, whether the property is built on contaminated land, and whether there are any other environmental considerations e.g. radon gas.

Exchange of Contracts
This happens when all necessary searches and enquiries have been satisfactorily concluded and when both parties, the buyer and seller of a property, have signed identical documents (contracts) and the purchaser has given the agreed deposit to their conveyancer/solicitor. Once exchange of contracts has been "formally" agreed, both sides are legally bound to complete the transaction.

Freehold
Buying a freehold property means that the property and the land on which it stands will be fully owned by the purchaser.

Help to Buy
A Government scheme to help first time buyers onto the property ladder. You may come across:

- **Help to Buy ISA:** If you are saving to buy your first home, save money into a Help to Buy ISA and the Government will boost your savings by 25%. For every £200 you save you receive a government bonus of £50 up to a maximum bonus of £3,000. For further information see: https://www.helptobuy.gov.uk/help-to-buy-isa/how-does-it-work/

- **Help to Buy Equity Loan:** With a Help to Buy Equity Loan the Government lent you up to 20% of the cost of your newly built home, so you only needed a 5% cash deposit and a 75% mortgage to make up the rest. The Scheme has now ended, but there are still those who have these loans to repay on the sale of their property.

Insurance
Your mortgage lender, if you have one, will usually discuss insurance with you. There are 2 types of insurance that you may need:

- **Buildings Insurance:** covers the bricks and mortar of your home – this should be at least as much as is necessary to rebuild the property if there is a disaster.
- **Contents Insurance:** covers your household contents. You will need to work out how much cover you need to replace your belongings.

A buyer of a freehold property should arrange insurance cover for their new property from the date of exchange of contracts when the purchase is legally binding. However, if you are buying a leasehold property the landlord will already have buildings insurance in place so you will not have to arrange this. You will still need contents insurance from when you move your belongings in.

Land Registry Search
This is a search carried out before completion to check that there have been no changes to the property title and to enable us to register you as the new owner of the property following completion. The Land Registry Search Fee is currently £7.

There are other searches available and we can discuss these with you in detail if we consider they are appropriate.

Leasehold
Buying a leasehold property means that your right to hold or use the property is granted by a lease from the freeholder for a fixed number of years. Ground rent on the lease is paid annually by the leaseholder to the freeholder. A service charge is also often payable. This is the contribution determined by and paid to the freeholder towards the cost of maintaining the building and/or estate that the property is in.

Lender
This is the bank, building society or other financial institution with which you arrange your mortgage. The lender is sometimes referred to as the Mortgagee. As the borrower you will sometimes be referred to as the Mortgagor.

Local Authority Search
Apart from local road proposals affecting land within 200 metres of the property, the Local Authority search will only give information about the property itself, concerning the effect of Town & Country planning legislation, liability for road charges, compulsory purchase or demolition orders, financial orders and other matters which could vitally affect it.

The search will not give information about other property, for example the development of neighbouring land. If you are concerned about the possibility of a development or any matters relating to other property or land in the neighbourhood then you should make enquiries yourself of the local authority before you consent to the exchange of contracts on your purchase. We can explain how this can be done.

Mortgage
This is a loan specifically to buy a property and is secured on that property. Most people will need to take out a mortgage when purchasing a property.

Simultaneous exchange of contracts and completion
This is where contracts are exchanged on the same day that you complete your legal sale or purchase of a property. This is not recommended unless absolutely necessary, as until contracts are exchanged either party can change their mind, leaving either seller or buyer with no legal recourse.

A simultaneous exchange of contracts and completion cannot take place where a Help to Buy equity mortgage is being obtained.

Source of Funds
This is where the purchase money is coming from, e.g. a mortgage, proceeds of sale of an existing property, savings, a gift, a private loan, from parents, or any combination of the above.

Stamp Duty
Stamp Duty or Stamp Duty Land Tax (SDLT) as it is properly known is a government tax charged on land and property transactions in the UK. It is paid by the purchaser and is calculated based on the purchase price.

Water & Drainage Search
This type of search will enable us to find out whether the property is connected to the mains drainage and mains water supply. It will also show whether there is a mains sewer passing through the garden of the property and if the property is on a metered water supply.

Will
A Will is a legal document that allows a person to make decisions about how his or her estate will be managed and distributed following their death.

Tip: As a homeowner it is advisable to make a Will or consider whether an existing Will needs updating.

INITIAL STEPS

I NEED A MORTGAGE - HOW MUCH CAN I AFFORD?

Whether you are a first time buyer or have a home to sell, if you are going to be dependent on a mortgage you need to know how much you will be able to borrow and how much the deposit on your new home will be. The best way to find out this information is to get a mortgage agreed in principle with a lender. This will not tie you into anything and you can always choose a different provider later, but it will ensure that you know how much you can afford to borrow right at the start of the moving process.

Even if you are a cash buyer you should also find out about the other costs you will incur when buying and selling a property so that there are no nasty surprises at the end of the process. These costs are outlined in this guide.

FIND A NEW HOME

Once you know the price range that you can afford and what your total costs will be you can start the search for your new home. This is the exciting bit! When you have found your dream home and are ready to "make an offer" your estate agent will ask you who your conveyancer is.

INSTRUCT A CONVEYANCER / SOLICITOR

This is where we come in. You will need a conveyancer to take care of all of the legal aspects of buying your new home, and if you are selling, we can take care of that too. Our team specialises in conveyancing, which is what the property buying and selling process is called. Before we can act on your behalf, to comply with money laundering regulations, we will need to see proof of your identity.

MAKE AN OFFER

Now that you have found a property you want to buy and have a conveyancer to take care of the legal work, you can discuss your offer with the estate agent. Once your offer has been accepted, if you are not a cash buyer, you will need to arrange a mortgage.

ARRANGING YOUR MORTGAGE

There is a lot of choice when it comes to arranging your mortgage: which lender to choose, how to repay it, how the interest is calculated and so on. You should do plenty of research online if possible before choosing a lender and there are specialist brokers who can do this for you. They may also have access to mortgages which aren't available directly to the public. Whichever lender you choose they will require a valuation and survey of the property you intend to purchase before formally offering you a mortgage on the property.

We have already mentioned that we have to check your identity when we start working with you to comply with anti-money laundering regulations, but we are also required by your lender to obtain proof of your identity on their behalf.

If you are buying a property with a mortgage:

1. You must tell your lender the full purchase price of the property.

2. You must advise your lender of the details of any incentives that may have been offered to you by the seller. For example, if it is a new build property, some developers offer a discount on the purchase price for a quick completion.

3. If you fail to tell your lender about any discounts offered this can constitute a criminal offence and could result in any mortgage offer being revoked.

4. You must let your conveyancer know about any possible discounts that may have been agreed so that these can be confirmed with the seller's conveyancer and the correct procedures can be followed.

5. You must tell your lender and your conveyancer if any part of the balance of the purchase price is being provided by a third party, either by way of gift or loan.

    - If by way of loan, both you and the third party will need to confirm whether it is intended that the third party will require a charge registered against the property. The mortgage lender may object to such an arrangement, but even if they agree it, they are likely to require that the charge in favour of the third party ranks after their own mortgage. This means that if you are unable to maintain the mortgage repayments and your lender takes possession proceedings, the lender's mortgage would be repaid before the money owing to the third party.
    - If by way of gift, your conveyancer will need to obtain from the third party, written confirmation that they intend the money to be a gift, and to provide a copy of such confirmation to your lender.

6. Once you have received an offer of a mortgage from your lender, your conveyancer must also receive written instructions from your mortgage lender detailing the offer they have made to you and any special conditions that they may have imposed. They will not be able to exchange contracts until they have received your lender's written instructions.

7. Your mortgage offer may contain "special conditions" such as.
    - An existing mortgage or other loan must be repaid before the mortgage can be completed.
    - The buyer cannot let out the property without consent.
    - Additional surveys have to be carried out before completion.

    Your conveyancer will need to satisfy themselves that any special conditions imposed by the lender either have been complied with or will be, prior to your completion date. Your conveyancer will obtain your mortgage advance from your lender to complete your property transaction. You will then need to start paying your lender in accordance with the instructions they will give you directly.

8. Your lender will usually discuss property **insurance** with you. You should be aware that as soon as contracts are exchanged the buyer should insure the property (unless the property is leasehold).

ARRANGING YOUR VALUATION AND SURVEY

A valuation confirms to your lender that your new home is worth what you're paying for it and a survey checks the condition of the property. Your lender will organise these but you will need to pay for them.

COMPLETING THE LEGAL WORK

The conveyancing process can now begin and your conveyancer will step in to transfer the property from the seller to you officially. There are a number of important steps in this process, all of which are explained in this guide.

THE BUYING AND SELLING PROCESS

We will endeavour to ensure the transaction runs as quickly and smoothly as possible. We will keep you regularly updated on how your transaction progresses.

Tip: It is important to remember that there is reliability on other parties and a lot of work going on behind the scenes, so please be patient.

INFORMATION GATHERING

Once you have your offer accepted to purchase a property, we will start the conveyancing process – The legal bit!

We will ask you to fill in a brief questionnaire which will then enable us to give you an estimate of the costs involved in your move and ensure you can proceed as quickly as possible.

DRAFT CONTRACTS, SEARCHES AND OTHER INVESTIGATIONS

The seller's conveyancer sends the buyer's conveyancer two copies of a draft contract, together with a property information form completed by the seller. This gives information about the property, for example, which fences belong to the property and whether any alterations have been carried out in recent years which required planning consent. They also send a fittings and contents form setting out what is included in the sale price.

On receipt of these documents the buyer's conveyancer will send a local search request on the property to the relevant Local Authority and carry out the other searches and enquiries considered necessary.

Once the buyer's conveyancer is satisfied that all checks have been carried out, signatures are arranged.

Tip: You should never sign any documents relating to your sale or purchase, other than your mortgage application, without your conveyancer confirming that it is OK to do so. Your conveyancer will go through all the documents with you and answer any questions that you may have.

When both the buyer and the seller are ready to proceed, the transaction can progress to **Exchange of Contracts**.

EXCHANGE OF CONTRACTS

This is the key point in the legal transaction. It is not the same as signing the contract. The buyer and the seller involved in the transaction each sign an identical copy of the agreed contract, but the contract is not legally binding just because it has been signed. The formal process of "exchange" has to take place for the parties involved to be legally bound by the signed contracts. Before contracts have been formally exchanged by the conveyancers, either party is free to withdraw from the proposed transaction.

A **deposit** needs to be paid by the buyer on exchange of contracts. In the very rare event that the buyer backs out of the purchase after exchange of contracts, the full 10% deposit is forfeited.

If you are buying a property with the assistance of a mortgage, then exchange of contracts cannot take place until:

- You and your conveyancer are satisfied with the answers to all enquiries raised about the property you are purchasing
- You have paid the required deposit into your conveyancer's bank account and these funds have been cleared by their bank. This is because your conveyancer needs to send the deposit to the seller's conveyancer at the time of exchange of contracts
- Your conveyancer has received written instructions from your mortgage lender and is satisfied that any special conditions have been complied with or will be before the completion date

If you are in a chain of transactions, you cannot exchange contracts until everybody in the chain is ready. This means you are completely reliant on the slowest person in the chain.

Tip: The buyer should arrange insurance for the property as soon as contracts are exchanged (unless it is leasehold). For example, if a property burns down between exchange of contracts and completion the buyer is still liable to pay for the property.

Just before contracts are exchanged the **Completion date** is agreed.

COMPLETION

This is the date that you will be looking forward to! On the completion date:

- the sale is finalised
- all of the monies are passed over
- you have the legal right to the property
- you get the keys!
- you usually move house

Where there are several people in the chain it can take some time to arrange this date and it isn't possible to arrange a moving date for a Saturday, Sunday, or public holiday. Traditionally the completion (moving) date was always 28 days after exchange of contracts but these days it is possible to complete a lot sooner.

It is only when the balance of the money for your purchase has reached the seller's conveyancer that completion of your purchase can take place. Where there is a long chain of transactions (multiple buyers and sellers) your conveyancer has no control over how quickly the balances of the purchase money pass down the chain as it depends upon the co-operation of the parties in the chain and the banking system.

We normally expect that completion of your purchase will have taken place by lunchtime on the day of completion, although on some occasions it may be delayed until later in the afternoon.

KEYS

Once the transaction has completed, you will be able to pick up the keys to your new property!

Tip: Never hand your own house keys over to your buyer until your conveyancer advises you to do so. In many cases you will leave your keys with the estate agent, who should not release them until we authorise them to do so. We will only do this when all the sale proceeds are safely received.

THE COST OF MOVING HOME

We will give you an initial estimate of all your costs, including SDLT and expenses, at the beginning of the process and will tell you what we will need paying for in advance. If a sale or purchase does not complete, then the fee we will charge will depend on the amount of work which we have carried out at the time the transaction becomes abortive. We will discuss this with you.

BUYING A PROPERTY – YOUR PURCHASE EXPENSES EXPLAINED

Conveyancer's Fees
Your conveyancer will quote a fee for carrying out the legal work necessary for you to be able to buy your new property. This is normally a fixed fee.

Expenses
When you are buying a property there are a number of searches and checks that your conveyancer must carry out on your behalf. Your conveyancer will charge you whatever they have to pay (these are usually called expenses or disbursements) to carry out these checks. We ask our clients to pay in advance for these expenses, which is standard practice.

Searches may include:

- Local Authority Search
- Environmental Search
- Water and Drainage Search
- Chancel Repair Liability
- Bankruptcy Search
- Land Registry Search

Please see the Glossary of Terms at the beginning of this guide for an explanation of the different searches and what they might reveal.

Stamp Duty Land Tax (SDLT)
SDLT is a progressive tax based on a percentage of the purchase price of a property. There are reliefs available for first time buyers purchasing property up to £625,000.

Land Registry
There are also Land Registry Registration fees which are paid through your conveyancer to register your ownership of the property with the Land Registry. The scale of fees is fixed by the Government.

The Land Registry fees are currently as follows (effective 31st January 2022):

Value or Amount Paid (£)	Postal Fee (£)
0 to 80,000	45
80,001 to 100,000	95
100,001 to 200,000	230
200,001 to 500,000	330
500,001 to 1,000,000	655
1,000,001 & over	1,105

Different fees apply for other applications such as transfers, surrenders of leases, voluntary first registrations and re-mortgages. The appropriate fee will be provided to you with your quotation.

Bank Transfer Fees
On completion we will transfer the purchase monies from our account to the seller's solicitor's account by CHAPS which will incur a bank transfer fee.

Additional Work
Occasionally, additional work of a non-routine nature may be required, such as:

- Lease Extensions
- Attending to First Registration
- Drafting a Deed of Postponement
- Drafting a Declaration of Trust
- Drafting a Statutory Declaration

Should any of these items of work be needed, we will advise you of the impact on costs and expenses.

SELLING A PROPERTY - YOUR SALE EXPENSES EXPLAINED

Conveyancer's fees
Your conveyancer will estimate a fee for carrying out the legal work necessary for you to be able to sell your existing property. This is normally a fixed fee.

Estate Agent's fees
These are traditionally charged at a percentage rate of the final sale price of your property, although fixed fees are becoming more common. You will need to agree the rate or fee with your estate agent at the outset.

Tip: If you change your estate agent, you should also check their terms and conditions carefully so that you don't inadvertently end up paying fees to more than one agent.

Expenses
When you are selling a property there are a number of expenses (or disbursements) that your conveyancer will incur on your behalf. Your conveyancer will charge you whatever they have to pay, so these expenses will generally be the same whichever conveyancer you choose to work with. Such expenses may include the cost of:

- **Official Copies of Your Registered Title** - We will need to obtain up to date official copies of your title from the Land Registry. The Land Registry currently charges £7 for this. Subsequent title documents may need to be obtained from the Land Registry if they affect your title. We will advise you of this at the time, if applicable.

- **Leasehold Information Pack** - If you are selling a leasehold property, we will need to apply to the Management Company for their Management Information Pack which provides replies to specific enquiries and details regarding service charges and buildings insurance etc. This expense varies depending on the Management Company in question.

Bank Transfer Fees
If you have a mortgage, we will need to send the money from the proceeds of the sale on completion to your mortgage company by CHAPS which will incur a bank transfer fee.

Additional Work
Occasionally, additional work of a non-routine nature may be required such as:

- Removing a second mortgage from the property
- Drafting a Statutory Declaration
- Removing other charges from the title to the property, such as cautions, notices, or restrictions

Should any of these items of work be needed, we will advise you of the impact on costs and expenses.

PROOF OF IDENTITY & SOURCE OF FUNDS & WEALTH

In order to comply with Anti-Money Laundering (AML) Regulations and our professional conduct rules, we must satisfy ourselves as to your identity before we can act on your behalf in the sale or purchase of property, or in any other circumstances in which property is changing hands or being mortgaged.

We must also establish the source of wealth for any funds passing through our Client Account and obtain proof of those funds. Source of Wealth (SOW) and Proof of Funds (POF) are terms you may see us reference when asking you for the required documentation.

We will normally need to see copies of your documents as follows:

1. Your passport or photographic driving license
2. Proof of address – usually a recent utility bill or bank/building society statement

In most cases we will be asking you to carry out your AML checks online, which will require you to upload these documents to an online location as part of that process. Sometimes, however, we will ask you to provide us with the documents so that we can carry out the checks ourselves in another way (usually an electronic ID process), rather than you going through the online checks yourself. In those circumstances we will ask you to provide the documents to us by email, by post or in person.

We will ask you to provide us with documentary evidence to show the SOW and POF for any balance of purchase monies (including the deposit, costs and expenses of the transaction and Stamp Duty) which is not being raised by a mortgage or coming from the sale of an existing property.

We will request to see:

- 6 months bank statements
- Payslips (if applicable)
- Any other relevant documentation to evidence the SOW (e.g. evidence of sale of previous property, evidence of funds inherited, evidence of sale of shares)

If you are purchasing with the aid of a mortgage, your lender also requires us to check this information, despite the fact that you may have already produced documentation to your lender as part of your mortgage application process. If any of the above is relevant to your transaction, we will discuss these requirements with you in more detail after you have provided initial information. A Source of Funds form will be provided to you at the outset to enable you to set out how you are paying for the property (on a purchase).

SHOULD YOU ARRANGE A SURVEY OF THE PROPERTY YOU ARE BUYING?

The seller is under no obligation to disclose to you any faults that the property you are purchasing may have. We therefore advise every buyer that they take a significant risk if they do not have a survey carried out before purchasing a property.

TYPES OF SURVEY

1. **Valuation Survey** – this type of survey reveals very little about the structure of the property and is usually carried out for mortgage valuation purposes only.
2. **Home Buyer's Survey** – this is the minimum type of survey we would recommend and gives more detail about issues that are found so you can decide whether to investigate them further.
3. **Full Structural Survey** – this type of survey should go into considerable detail so that you know the exact nature of any possible problem or fault found regarding the property.

WHICH ONE TO CHOOSE?

If you are obtaining a mortgage your lender will normally insist that a valuation and survey of the property (which you will need to pay for) is undertaken on your behalf. If your lender allows you to choose the type of survey, then we would recommend that you opt at the very least for the Home Buyer's Survey, unless they advise that a Full Structural Survey should be obtained. This will very much depend on the circumstances (age, condition etc.) of the property you are intending to buy. You should discuss your options with your mortgage lender.

If you are a cash buyer, we would recommend that, at the very least, a Home Buyer's Survey is carried out. We can help you by providing a list of independent surveyors if needed. If you are instructing a surveyor yourself, it is helpful if you can arrange for a copy of the survey to be sent to your conveyancer at the same time as a copy is sent to you.

STAMP DUTY LAND TAX EXPLAINED

WHAT IS STAMP DUTY?

Stamp Duty or Stamp Duty Land Tax (SDLT) as it is properly known is a tax charged on land and property transactions in the UK, payable by the buyer. SDLT is a progressive tax on the purchase price of a property and is charged at different rates depending on the portion of the purchase price that falls within each rate band. The tax that is charged depends on both the purchase price and the nature of the buyers.

No duty is payable for purchases of property under £40,000 or purchases of caravans, mobile homes and houseboats.

STAMP DUTY RATES – MAIN PROPERTIES

Where the buyers are private individuals and do not already own, or partly own, another property which is not being sold at the same time the following rates apply:

Please note that from 1st April 2025, new rates apply as set out in the table below.

CURRENT SDLT RATES (as of 1st April 2025)

Purchase Price	% Rate
Up to £125,000	0%
£125,001 - £250,000	2%
£250,001 - £925,000	5%
£925,001 - £1.5 million	10%
Above £1.5m	12%

STAMP DUTY RATES – ADDITIONAL PROPERTIES

In respect of "additional properties" such as buy-to-lets and second homes, currently 5% SDLT is payable on the first £125,000 of the purchase price (correct as at April 2025). Anything above £125,000 is subject to higher SDLT rates (see below table).

Please note that from 1st April 2025, new rates apply as set out in the table below.

CURRENT SDLT RATES (as of 1st April 2025)

Purchase Price	% Rate
Up to £125,000	5%
£125,001 - £250,000	7%
£250,001 - £925,000	10%
£925,001 - £1.5 million	15%
Above £1.5m	17%

A calculator is available on the Gov.UK website which calculates the amount of SDLT due on purchases of additional residential properties.

UNMARRIED COUPLES

An unmarried couple can acquire one property each, or an interest in one property each, without the higher rates of SDLT becoming payable.

For married couples or civil partners buying a property the higher rate of SDLT may apply to that purchase where one already owns a property/an interest in a property. This is because, for the purposes of the SDLT regulations, all property owned by either party to a marriage or civil partnership is deemed to be jointly owned, unless the parties are living apart from each other in circumstances in which the separation is likely to be permanent.

REFUNDS

Where a party purchases a property but does not sell their main residence at the point of completing the new purchase, there is an opportunity to claim a refund from HMRC of the additional SDLT paid if the previous home is sold within 3 years of the purchase of the new one.

WHY DO I HAVE TO PAY STAMP DUTY?

When you buy a property the change of ownership of the property has to be registered at the Land Registry. The registration process requires a certificate which is issued by His Majesty's Revenue and Customs (HMRC). HMRC will only issue this certificate on receipt of the Stamp Duty due on the purchase price of the property.

PAYMENT OF STAMP DUTY

You will need to ensure the money to pay your Stamp Duty has been credited to your conveyancer's / solicitor's bank account before completion. Your conveyancer will send your Stamp Duty payment to HMRC on your behalf as part of the process of buying your property.

STAMP DUTY RELIEFS

Relief from the Higher Rates of SDLT will also be granted in the following cases:

- A court order issued on divorce or dissolution of a civil partnership prevents someone from disposing of their interest in a main residence
- A spouse buys property from their spouse
- A person buys a property in a child's name or on a child's behalf, where they are doing so in their capacity as the deputy of that child
- A purchaser adds to their interest in their main residence

In order to receive relief from the Higher Rate SDLT on the replacement of a main residence, an individual will be required to dispose of their entire interest in their former main residence to someone other than their spouse.

STAMP DUTY FOR NON-UK RESIDENTS

From 1 April 2021, a surcharge is payable to purchasers of residential property who are not resident in the UK. The rates are 2% than the rates that apply to purchases made by UK residents. The surcharge applies to purchases of both freehold and leasehold property.

There are some provisions entitling the purchaser to reclaim the surcharge. Please see the following link:

https://www.gov.uk/guidance/rates-of-stamp-duty-land-tax-for-non-uk-residents

(note – this information is correct as at January 2024)

STAMP DUTY HELP FOR FIRST TIME BUYERS

From April 2025, first time buyers paying £300,000.00 or less for a residential property will pay no Stamp Duty Land Tax (SDLT).

WHO IS A FIRST TIME BUYER?

A first time buyer is defined as an individual or individuals who have never owned an interest in a residential property in the United Kingdom or anywhere else in the world and who intends to occupy the property as their main residence. Property previously gifted or inherited will mean that the relief cannot be claimed. There is a small exemption for inherited property but each case has to be looked at individually.

First time buyers purchasing property for more than £500,000.00 cannot claim the first time buyer relief.

If there are joint buyers, both must be first time buyers to enable the first time buyer exemption to be claimed.

STAMP DUTY RATES – FIRST TIME BUYERS

First time buyers paying between £300,001.00 and £500,000.00 will pay SDLT at 5% on the amount of the purchase price in excess of £300,000.

Purchase Price	% Rate
£0 - £300,000	0%
£300,001 - £500,000	5%

Example – A first time buyer purchasing a normal property for £500,000
The stamp duty liability will be:

- Nothing on the first £300,000 = £0
- 5% on the amount between £300,000 and £500,000 (£200,000) = £10,000

Total stamp duty you pay = **£10,000**

PURCHASING PROPERTY IN JOINT NAMES

There are two normal ways of owning a property in joint names, which are called:

- Joint Tenants; and
- Tenants in Common

JOINT TENANTS

If the owners are joint tenants, the main consequences are that:

- the ownership shares are not declared, with the presumption being that the property be shared equally
- if one owner dies, the survivor will automatically become the sole owner of the whole property, whatever any Will of the deceased owner might say

TENANTS IN COMMON

The alternative way of owning the property is more common in unmarried relationships and in second marriages/civil partnerships than it is in first marriages/civil partnerships. The main consequences of this are:

- that each owner can leave their share in the property by Will to somebody other than the other owner
- that the parties can declare the shares in which they own the property (e.g. 75% to A, 25% to B). This may be particularly useful where there is an unequal contribution to the cost of purchasing the property.

It is preferable to specifically declare the shares as the absence of a precise declaration increases the risk of expensive litigation if the parties are unable to agree how the equity in the property should be shared. Litigation could also result in an outcome which might not have been the outcome the parties would have expected or intended at the outset

CHANGING THE MODE OF OWNERSHIP

In a joint tenancy, either party can, without the other's co-operation, convert the joint tenancy into a tenancy in common. This is known as severing the joint tenancy. The other party has to be informed of what is happening, but his or her permission is not required. The severance of the joint tenancy is then noted on the Title Deeds or at the Land Registry.

It is sensible to combine the severing of a joint tenancy with the making of a Will. This ensures that on death the share of the property goes to the person to whom the deceased intends it to go, particularly if the proposed beneficiary is not the other party's next of kin. If no Will is made, then the Law of Intestacy will decide what happens to the deceased's estate. This means that the beneficiary might be somebody that the deceased would not have chosen themselves had he or she made a Will.

DETERMINING DISPUTED SHARES IN PROPERTY

In the event of a dispute arising over the shares in the value of a property, it will be up to the Court to make a final decision.

Where the owners **are in a marriage or civil partnership** and the dispute arises because of a divorce or dissolution then the Court is not bound by any previously declared ownership arrangements. Within an overall settlement the Court can make a variety of orders, for example immediate sale, transfer from one owner to the other, adjustment of the ownership shares, deferred sale, etc. The Court can look to the future as well as to the past, with the objective of doing what is fair having taken into account all of the circumstances of the case.

Where the owners **are not in a marriage or a civil partnership** the Court will not have the same wide-ranging discretion. If the parties have specifically declared their financial interests in the property, then the Court is unlikely to interfere with this. If the parties have not declared their financial interests in the property, then the Court's role, unlike within the termination of a marriage or a civil partnership, is limited to looking back in time to determine what it believes the parties intended.

It is possible for the Court to find that the parties have changed their common intention any time after completion of the acquisition of the property. A change of intention may be found:

- by reference to specific declarations by the parties of a revised agreement
- by the Court inferring a change of intention as to property shares from the statements or the actions of the parties, even if there is no formal declaration of such change
- by the Court imputing an intention to the parties where the statements and/or actions of the parties do not provide sufficient evidence for a Court to infer what their intentions were. In effect the Court decides what it believes to be a fair outcome, having regard to the circumstances of the case.

MORTGAGE

It's important to understand that whatever form of co-ownership is chosen, you will each be liable to the mortgage lender for the full amount outstanding under any mortgage. This is known as "joint and several" liability, meaning you each individually and together jointly are legally responsible to repay the amount outstanding to your mortgage lender at any given time.

Tip: It is for this reason that many people take out life insurance to repay the mortgage without having to sell the house in the event of one owner's death.

FURTHER ADVICE

If you are unsure how you would like to own the property in your particular transaction, we are able to offer specific advice about your options.

THE BANK OF MUM AND DAD

GIFTED DEPOSITS

The term “Bank of Mum and Dad” is traditionally used to describe a parent lending or gifting their child money to help them get onto the UK property ladder.

If you are having difficulty securing a mortgage and you have decided to seek help from your parent/parents, by asking them to contribute some money towards the purchase, you need to understand if the money is a gift with no strings attached, or do you need to ensure that it will be repaid to them if you decide to sell the property at some point in the future?

Your solicitor and mortgage company need to know the conditions of the gift/loan, as they are both required to investigate the source of the funds being used to buy the property. If the money is not a gift but is to be secured in some way, this may affect a mortgage company’s willingness to lend.

If it is decided that the money is an outright gift (not repayable under any circumstances), there will be no security registered against the property title for the money and the “Bank of Mum and Dad” will not be legally entitled to ask for the return of the money, even when the property is sold. They will undoubtedly be required to provide a “gifted deposit letter” confirming the sum being gifted and that they will have no legal or financial interest in the property being purchased.

If the money is simply to help with the purchase and they would like it repaid at a future date, the situation is different. They may wish to enter into a formal agreement to record the terms on which the loan is being made, which events would trigger repayment of the loan, and to have their interest in the property noted on the Land Registry title to protect their investment.

YOUR TITLE DEEDS

WHAT ARE TITLE DEEDS?

Title Deeds are physical documents which traditionally proved ownership of your property or land. They show a history of the land or property ownership that can sometimes go back over the last 100 years and beyond. The deeds also show that you have a right to be in possession of the land. Historically, if you had a mortgage then your lender would keep the title deeds to your property as security until the mortgage was paid off.

THE LAND REGISTRY

For the last 90 years or so the Land Registry has been compiling a central register of property and land in England. It is now compulsory to register any sale, purchase, deed of gift, mortgage, new lease or assent with the Land Registry. This has been phased in gradually in different areas of the UK over the last 30 years or so. In the Essex area compulsory registration was introduced in 1986, so if you purchased your property or land in this area before 1986, it is likely that your title to your land or property is unregistered.

All titles to registered properties can be accessed online via the Land Registry's "Find a Property Service". You can check whether your land or property is registered by visiting www.gov.uk/search-property-information-land-registry

IF YOUR PROPERTY OWNERSHIP IS REGISTERED

If your property title is registered with the Land Registry then you are in a good position. You do not need to worry about keeping your title deeds safe as they no longer have any legal value. Any legal charges on your property will also be registered so your mortgage lender will not want your deeds.

Important advantages of having a registered title are:

- Security of title
- A plan produced by the Land Registry showing the extent of the land
- The "deeds" are held on a central Government record and cannot be lost
- The register for each property clearly sets out any rights or interests
- It protects against anyone applying to hold your land under "squatters' rights"
- Any future sale is less likely to be affected by difficulties relating to ownership

IF YOUR PROPERTY OWNERSHIP IS UNREGISTERED

If your property title is not registered with the Land Registry, then it is very important to keep your title deeds safe as they are the only proof of your ownership. Many people store their deeds with a solicitor, mortgage lender or bank.

Tip: We do not recommend storing them at home in case of theft, fire or simple loss over the years.

LOST TITLE DEEDS

If your deeds were to be lost, damaged, or destroyed then it could be a difficult, lengthy and a potentially expensive process to prove your ownership of the property. An application would need to be made to the Land Registry with evidence of who lost the deeds and details of when and where they were lost.

If you are able to supply enough evidence of ownership to convince the Land Registry, then they will create an entry with a title number showing "Title Absolute" which means the Land Registry guarantees the land is correctly owned by you.

If there is insufficient evidence to prove ownership the Land Registry may award you with "Possessory Title". This means that the entry on the central register is created subject to any unknown rights or interests and the title is not guaranteed by the Land Registry. This may cause problems when you come to sell the property in the future.

To minimise the risk of future problems, Backhouse Solicitors strongly recommend that if your property is currently unregistered, that you apply to the Land Registry for what is called "first registration". We can assist you with this.

Tip: If you would rather not register your property, then we are able to store your title deeds in our secure strong room for a small annual fee.

The Small Print

The figures and content quoted in this guide are for general information only and are correct at the date of first publication (Jan 2024) and as subsequently updated from time to time. This guide does not constitute legal advice. We recommend that specific professional advice is obtained on any particular matter. We do not accept responsibility for any loss arising as a result of the use of the information contained in this guide.

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