

# Legal Jargon

## Adverse possession

Occupying of land without legal title for long enough to be recognised as the legal owner ("squatter's rights").

## Assent

An Assent is the name of the legal document utilised to transfer legal ownership of property or land out of an Estate of someone who has died into the name of the new owner. The Executor/s of the deceased's Estate authorises the Assent of the property to the Beneficiary.

## Building Regulations Approval

Any work of a structural nature must have approval from the Local Authority e.g. the building of an extension to the property/loft conversion/erection of a conservatory. If Building Regulations Approval has not been granted then your Solicitor will recommend that a Lack of Building Regulation Approval Indemnity Insurance Policy is obtained from the Seller at his/her expense to protect you when you come to sell the property in the future.

## Caveat Emptor

"Let the buyer beware". It is the responsibility of the buyer to establish detailed information about the property they are buying.

## Chain

In reality, the majority of people moving house will be selling one property and buying another and will want the two transactions to be completed contemporaneously. There may be several people in this situation and therefore a chain is formed. A long chain can take longer to reach an Exchange of Contracts as everyone in the chain will have to wait for the last person to be ready.

## Completion Certificate

This document confirms that building work to a property has been carried out in accordance with Building Regulations. It is issued by the Local Authority.

## Completion Date

This is the date when the balance of the purchase price is paid to the Seller and the Legal

Title to the property passes from the Seller to the Buyer. It is also the day on which you move home. It is advisable not to make any firm commitments such as giving notice or booking removals before Exchange of Contracts takes place and the Completion Date is set. The Completion Date will not be set without your Solicitor discussing and agreeing this with you first. If you are a part of a chain of sales and purchases, the Completion Date must be agreed between all the parties involved in the chain so a date will need to be found which is convenient for everyone involved in the chain.

### **Completion Statement**

A Completion Statement is usually prepared by your Solicitor after Exchange of Contracts and before the Completion Date. The Completion Statement outlines all the sums of money that have been handled during the property transaction including all costs and disbursements. There will be an amount (balance) reflected in the Statement in order to Complete the transaction which can either be an amount payable by you or an amount due to you to Complete. E.g. If your Solicitor requires money from you to Complete, you will be required to send the funds by telegraphic transfer to reach your Solicitor's bank by no later than the day before Completion.

### **Covenants**

Deeds may contain covenants which essentially are a promise to do or not to do certain things on the land. Your Solicitor will make you aware of any such covenants that affect the property you are buying. Some examples of these are Restrictive Covenants e.g. you may not be permitted to use the property you are purchasing for any trade, business or manufacture but will use the same as a private residence only. Each Successor in Title will be expected to adhere to such covenants or restrictions which are referred to in the Deeds.

### **Curtilage**

Land around a dwelling house used by the Occupants for their enjoyment or work.

### **Deeds**

Deeds are the documents which prove who legally owns the property. If you have a Mortgage, the Deeds are usually held by the Lender (your Bank or Building Society). If you own your house outright, you may have the Deeds in safe-keeping at home otherwise they may be kept in Safe Custody with your Solicitor. Deeds also contain lots of information about the property including any restrictions or covenants. The bundle of Deeds may also contain

copies of Planning Permissions/ Building Regulation Approvals and Certificates/Guarantees relating to the property.

### **Deposit**

Upon Exchange of Contracts, part of the purchase price is paid by the Buyer to the Seller which is held by the Seller's Solicitor until Completion. The deposit amount is typically 10% of the purchase price although it may be the difference between the purchase price and the amount of your mortgage advance. If you are simply buying a property without a related sale the deposit will usually be paid before Contracts are Exchanged. If your transaction involves both a sale and purchase then the deposit received from your buyers' Solicitor can be used for your onward purchase.

As the Buyer, if you fail to Complete (and it is not the fault of the Seller), you will forfeit the deposit. If the deposit amount is less than the full 10% you will have to provide the difference. You may also have to pay compensation costs to the Seller if they lose out through your failure to complete.

### **Disbursements**

These are fees that your Solicitor will have to pay out during the course of the property transaction e.g. Local Authority Search Fees, Land Registry Fees.

### **Draft Contract**

This is a legal document drawn up by the Seller's Solicitor and is based upon the information contained in the Deeds. The Draft Contract will contain details of the full names of both the Buyer and Seller together with the Title Number, the description of the property and the selling price. It also lists any special Terms that have been negotiated and deals with what will happen if something goes wrong. The Contract is drawn up in two identical parts each of which is signed by both parties. When both parties are ready to commit themselves the signed Contracts are then Exchanged by the Solicitors acting for both parties.

### **Easement**

An Easement confers the Right to one Landowner to use the land of another in some way or to prevent it being used in a certain way (the right to cross the land of another). This can be for example a Right of Way or a Right of Light (the right to have light pass into a defined aperture from over the land of another without that light being blocked). Your Solicitor will make you aware of any such Easements that affect the property that you are buying.

## **Environmental Search**

In addition to the Local Authority Search an Environmental Search will usually be carried out. This Search contains information about contaminating and polluting processes past and present, landfill and waste treatment sites in the immediate area, the risk of subsidence and flooding, nearby sources of toxic or explosive substances, areas of ground that may have been filled in the past and the probability of radon gas seepage.

## **Exchange of Contracts**

When Contracts are Exchanged, the transaction becomes legally binding. Effectively, this means that from this moment on the Seller must sell and the Buyer must buy the property at the price set out in the Contract and this must happen on the fixed Completion Date as laid out in the Contract. Until Contracts are Exchanged, there is no binding agreement and either party can walk away from the deal without any legal consequences. Just prior to an Exchange of Contracts, the Buyer and Seller will need to agree a suitable Completion Date which will then be inserted into the Contracts by the Solicitors acting for both parties at the time of Exchange.

Once the Contracts are Exchanged the Buyer should arrange for insurance of the property immediately.

On Exchange of Contracts a Deposit is paid to the Seller's Solicitor with the balance of the purchase price being paid upon Completion.

## **Fixtures & Fittings Form**

This is a form for the Seller to complete which details all the items to be left at the property upon completion. If you are buying a house you will be provided with a copy of this form which will have been completed by the Seller.

## **Freehold Title**

Freehold Title gives the owner outright ownership of the land and buildings subject to any covenants or restrictions affecting the property.

## **Free of encumbrances**

No one else has any rights over property.

## **HM Land Registry**

The Land Registry keeps a record (Register) of who owns what land and updates such records

when a property transaction has been effected. An up to date Title Information Document (TID) will be sought by the Buyer's Solicitor from the Land Registry to ascertain what entries are present in that Title document e.g. who now owns the land, if there are any Charges reflected in the document i.e. Mortgage Charge over the property.

### **Indemnity Insurance Policy**

An Indemnity Insurance Policy protects the Buyer from certain property risks. E.g. A relatively small Insurance Premium can provide cover for a home buyer against legal action which may arise from a breach of Planning Permission or problems with the Title to the property etc.

### **Joint Tenancy**

This is effectively a co-ownership of the property which typically applies to married couples, civil partners and those who are in a permanent relationship. Upon the death of a Joint Tenant, the property automatically passes to the surviving partner. Joint Tenants always have equal rights in the property irrespective of their contribution to the purchase price. (See Tenants in Common – respective shares of the co-owners of the property).

### **Land Registry Fees**

A Land Registry Fee is payable to the Land Registry when your Solicitor Registers the Title to your property following Completion. This fee will usually be quoted by your Solicitor as a disbursement at the beginning of the property transaction and will be reflected in your Completion Statement.

### **Legal Title**

Legal Title to land is divided into that which is registered at HM Land Registry (known as registered land) and that which is not (unregistered land). The Land Registry is a public register of Legal Title. An extract of the Title to a property from the Land Registry will reveal information such as :-

- The name of the registered owner;
- The name of anyone holding a mortgage over the property or any other interest in it;
- Whether the property is Freehold or Leasehold;
- The details of any Leasehold interests granted (Freehold property) has anyone been granted a Lease over it;

- The quality of the Legal Title – e.g. “Title Absolute” is the best Title quality to possess whereas “Possessory Title” is a claim based upon occupation for 12 or more years only and is capable of being challenged.

### **Leasehold Title**

Flats are typically the subject of a Lease which sets out the responsibilities for maintenance etc. affecting the property. All Leasehold properties have a set term which determines when the Lease will end at which time it reverts back to the Freeholder or a Lease extension may be negotiated with the Freeholder.

### **Linked Transaction**

With a linked transaction i.e. the Seller simultaneously buys another property using the proceeds of sale towards buying the property, it is the objective of the Solicitor to make sure that at no time is their client without a home and that both sale and purchase are fully synchronised.

### **Local Authority Search**

This is a list of enquiries made by the Buyer’s Solicitor to the Local Authority for the property you are buying. The Search will provide much detail about the Planning history of the property and will confirm whether there are any existing breaches of Planning Control that could potentially lead to problems for the Buyer. E.g. an extension may have been built without obtaining necessary Planning Permission or Building Regulations Approval. The Search will additionally reveal whether the roads giving access to the property are adopted and maintained by the Local Authority or not. The Search is made against the property only and will not cover the surrounding areas of the property. If there is the possibility of development within the nearby area of the property which may affect the property, an additional Development Planning Search may be carried out.

### **Mortgage Advance**

This is the amount of money your Lender (Bank/Building Society) will provide to assist with the purchase of your property. Your Solicitor will arrange for these funds to be paid to them in time for Completion.

### **Mortgage Deed**

The Mortgage Deed is a document supplied by your Lender which records your Loan of

money with them and “Charges” your new property as security for the Loan. This document must be signed by all parties to the mortgage before Completion.

### **Mortgage Offer**

If you need financial assistance to buy your property you will most probably have applied to a Bank/ Building Society (The Lender) for a Loan. This Loan is “secured” on the property so that you cannot sell it without first repaying the Loan. Your Solicitor will not Exchange Contracts until the Buyer has received a written Mortgage Offer confirming that the Lender is prepared to lend part of the purchase price.

Official Copy of the Register (or TID - Title Information Document)

This is the document issued by the Land Registry to show that you own your house and if you have a mortgage that your Lender has a “Charge” over it.

### **Planning Permission**

Planning Permission must be obtained for building works carried out to a property which can include the erection of new buildings and alterations to existing buildings.

### **Property Information Form**

This is a form for the Seller to complete which provides details about the property which may not be evident or clear in the Title Deeds. This document will usually form part of the “Contract Pack” drawn up by the Seller’s Solicitors and should be completed to the best of the Seller’s knowledge, information and belief.

### **Redemption Statement**

If you have a mortgage on the property you are selling, your Solicitor will be required to obtain a Redemption Statement from your Lender prior to the preparation of the Completion Statement. The amount that is outstanding on this existing mortgage or “Charge” must be paid off from the proceeds of sale upon completion.

### **Registration of Title**

Ownership of unregistered land is proved by showing its recent history as recorded in the Deeds. Proof of ownership or Title to land now has to be registered at the Land Registry following completion of a purchase.

### **Report on Title (or Certificate of Title)**

This is the confirmation that your Solicitor will give to your Lender that the property you are

buying is good security (in legal terms) for their Loan. Your solicitor will need to satisfy very strict and extensive conditions and requirements which all lenders require. This is also the document that requests the drawdown of your Loan in time for the Completion Date.

## Restrictions

Restrictions on Title are in effect protecting interests in a property.

Check with your Solicitor whether there are any Restrictions/Covenants in the Title to the property that you wish to purchase that may affect future plans you may have such as further development/extensions. Be aware that some Covenants may require you to contribute towards the upkeep and maintenance of shared driveways or communal areas.

## Stamp Duty Land Tax (SDLT)

The Government charges a Tax on all property sales exceeding £125,000.00. Stamp Duty Land Tax (SDLT) is charged on land and property transactions in the UK. The Tax is charged at different rates and has different thresholds for different types of property and different transaction values.

The Tax rate and payment threshold can vary according to whether the property is in residential or non-residential use and whether it is a Freehold or Leasehold.

Speak to your Solicitor if this is a “second home” purchase as there is currently a 3% surcharge to be applied (see the higher rates of stamp duty on additional residential properties - under [Links](#) -HMRC). *(Always check the HMRC website for updates).*

## Successors in Title

The successive ownership of Land and Buildings held under Title (the property passes from Seller to Buyer).

## Survey

This document is prepared by a qualified Surveyor. A House Buyers' Report is fairly common these days which is usually sufficient to satisfy the requirements of the Mortgage Lender although most Lenders will carry out their own Survey and Valuation. A full Comprehensive Structural Survey can be carried out if necessary but this can prove to be costly and is not always necessary. If you are a “cash” buyer then your Solicitor will usually recommend that an



independent Survey is carried out at the property which may “flag up” any potential problems.

### **Tenants in Common**

Unlike a Joint Tenancy whereby the interest of a deceased owner automatically gets transferred to the surviving partner, a Tenancy in Common makes provision for two or more people to own an interest in a property in equal shares or disproportionate shares. Each owner has the right to leave his or her share of the property to any beneficiary upon the owner's death.

### **Terra**

Land

### **Timescale**

In general, a standard conveyancing transaction from start to finish is usually between 8 to 12 weeks however the timescale is flexible and completion can take place sooner or later dependent upon a number of factors which can include but are not limited to time taken to satisfactorily answer enquiries raised against the Title, results of Searches, time taken to receive a Mortgage Offer which can depend on the results of a Survey for example and the amount of people involved in the “chain”.

### **Transfer Deed**

This is a Land Registry document that formally transfers ownership from the Seller to the Buyer. It must always be signed by the Seller and sometimes by the buyer. The Transfer Deed must be signed prior to Completion.

### **Vacant Possession**

This means that the Seller must ensure that the property to be sold to the Buyer will effectively be vacant upon the Buyer taking possession of same. All items and furniture must be fully cleared from the property including loft areas and out-buildings before the Buyer moves into the premises.