



Pre-Contract Enquiries and Searches

It is the responsibility of the buyer to satisfy themselves as to precisely what they are buying and what legal obligations or restrictions the property may impose on them before they enter into a binding contract to buy the property (exchange contracts)

A seller must not fraudulently conceal known defects or reply dishonestly to questions raised of them. Equally however they are generally under no obligation to volunteer information as to physical defects in the property.

Each property is different. There isn't a central register recording all legal obligations and restrictions which affect individual properties. This information can be obtained by:

- ⊕ undertaking searches on a property (please see our separate leaflet on searches)
- ⊕ raising enquiries (questions of the seller, etc.)
- ⊕ considering the survey on the property. That will assist a conveyancer in deciding what enquiries or searches need to be raised
- ⊕ the buyers own inspection of the property. Again this can provide some useful information to assist your conveyancer in deciding what further information may be required

One of the first matters your conveyancer will need to check is 'legal title'. This is to essentially confirm:

- ⊕ the seller is entitled to sell the property
- ⊕ precisely what is the extent of the property being sold
- ⊕ whether any one else needs to consent to the sale
- ⊕ whether there are any legal 'defects' in the title which need to be resolved pre-sale
- ⊕ whether there are any incumbrances on the property

If the property you are buying is registered land then much of this information can be provided by the Land Registry. If it isn't registered then your conveyancer will need to consider the deeds for the property.

The additional enquiries your conveyancer will need to consider raising will vary greatly from property to property. They will depend on a number of different factors which include but are not limited to the following:

- ⊕ what you intend to use the property for and whether you are allowed to do that. For example, can the property be used for holiday lets, divided into separate rented accommodation, provide work/living space
- ⊕ if you intend to make any alterations to the property whether they are prohibited either by planning laws or by other legal restrictions

- ⊕ what alterations have already been made to the property and whether the seller is able to produce all the necessary statutory consents (planning, building regulations, FENSA certifications, etc.) or third party consents where, for example, there is a legal restriction governing such works
- ⊕ if the property is either a Listed Building or contained within a Conservation Area and therefore whether even minor alterations/works require separate approval
- ⊕ can the seller provide evidence of complying with all the necessary regulations for any new boilers or electrical works
- ⊕ if work has been carried out to the property are guarantees for that work available and can they be transferred to the buyer. This could include building work, new windows, new boilers, treatment work to timbers, a new burglar alarm system, etc
- ⊕ have there been any disputes with neighbours relating to the property
- ⊕ does the buyer require a right of way over other land to gain access to or maintain any part of the property they are buying
- ⊕ will the buyer have a legal obligation to contribute to the costs of repairing and/or maintaining any other land

In addition to ensuring you are fully informed as to precisely what you are buying before you exchange contracts your conveyancer will also have an obligation to satisfy any mortgage provider on these various different issues. Sometimes it will be necessary for your mortgage provider to review these matters with their valuer. Whilst they endeavour to deal with those matters promptly it can cause delays over which your conveyancer may have no control.

Finally, sometimes it is possible to take out a policy of indemnity insurance to protect against any liabilities which may arise from, for example, a seller having breached restrictive covenants which govern a property (perhaps building an extension when consent from a third party was required). In many cases it would be reasonable to ask the seller to pay for the costs of that policy. Your conveyancer will consider this with you if necessary.