



First Time Buyer Legal Guide



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Becoming a home owner is an exciting time, but for a first time buyer it can seem a daunting experience. From saving for a deposit and finding the right mortgage, to finding your dream home and completing all of the legal paperwork.

As one of the most significant investments you will make it is important to get the right advice from the outset. With Kirwans you have access to a dedicated and experienced team of property lawyers and advisors who are on hand to guide you as you take your first step on the property ladder.

Our expertise is well established locally and nationally and we have extensive knowledge and understanding from working alongside various property agencies, brokers and investors throughout the UK.

Kirwans is an all servicing law firm which means you have the benefit of accessing other service areas, including our specialist litigation team who can assist with any contentious property matters including boundary disputes and rights of way.

We deliver practical and professional advice in a straightforward way. Our team are on hand to guide and support you on your legal journey and to ensure that the property transaction is as seamless as possible.

This guide has been produced by our property experts to provide you with helpful information on the key stages of the home buying process and offers top legal tips to help you along the way.

Why Kirwans?

- Specialists in all aspects of property law including, Sale and Purchase, Remortgage, Transfer of Equity, Shared Ownership and Right to Buy 24/7 access to property legal specialists
- Offer day to day legal support with direct access to property experts
- Accredited by the Law Society Conveyancing Quality Scheme
- Provide concise and honest advice tailored to your needs
- Transparent pricing with no hidden costs

Stage One - Events Leading Up To The Exchange

Contracts - The seller's solicitors will prepare a form of contract and submit this to your legal team for approval, along with 'title' detail of the property. You should receive copies of the relevant papers/documents. It is important to review these and ensure all the details are correct.

Searches - Before the exchange of contracts a search with the Local Authority needs to be undertaken. This involves checking a variety of potential issues which, if not investigated, could lead to expensive decisions later on or affect any potential extension plans you may have in the future for the property.

Queries can include:

- Is the road adopted and maintained at public expense?
- Are there any road proposals within 200 metres of the property?
- Are there any planning decisions relating to the property?
- Does the Local Authority have plans which may affect the property?

It is important to note that the Local Search will not disclose information about neighbouring properties, including any planning applications they have made. Therefore if you do have any concerns about this it is advisable to visit the Local Authority Planning Office before the exchange of contracts. Alternatively, your legal team can carry out an additional search on land you have concerns about.

If the property is situated within a coal mining area it is always advisable to make a search with the Coal Authority. It is also necessary to make enquiries with the Water Company to ascertain that the property has the benefit of mains drainage. You should also consider having an Environmental Report carried out against your property. In view of the recent environmental legislation this issue needs to be given careful consideration. The report will cover such matters as landfill and waste sites and contaminating and polluting processes e.g. power stations, chemical manufacturers and processors.

Enquiries - Where enquiries are raised on the property with the seller's solicitors ensure you obtain a copy along with the replies.

The sellers will produce a 'Fixtures Fittings and Contents Questionnaire'. This will detail what items are included in and those excluded from the purchase. The questionnaire will be added to the contract as a formal record of what is included in the purchase price. It's important to check its accuracy.

If you decide to purchase any additional contents from the seller make sure you inform your legal team so it can be recorded in the contract and the additional sum can be collected from you prior to completion.

Know Your Boundaries - Wherever possible, review a plan showing the boundaries of the property. You should check the physical boundaries against the plan and inform your solicitor of any discrepancies. In addition, if there are any shared facilities such as a common driveway, inform your legal team to ensure your "rights"/"easements" have been properly protected.

Co-Ownership - When purchasing a property in joint names, you need to choose from two options as to how you will hold the legal title:

1. Joint Tenancy - this legal term means that neither of you will be entitled to a distinct or separate proportion of the property: each of you owns all of it. Consequently, if either of you were to die, the deceased's interest would automatically pass to the surviving co-owner, irrespective of what your Will may state. It is common for most married couples, or couples intending to marry, to hold the property in this way.

2. Tenants in Common - this term means that each of you would hold a proportion of the property, i.e. 50/50, 60/40 and so on. If either of you were to die, the deceased's interest in the property would not automatically pass to the surviving co-owner, but would be subject to the conditions of that person's Will or the rules of intestacy. If you are not contributing to the purchase price or mortgage repayments in equal shares you may want this to be reflected in your deeds.

Surveys and Inspections - You will need to know whether the house is structurally sound and, as neither the sellers nor their estate agents are obliged to point out any defects you should have an independent survey completed before exchange of contracts. There are three options available:

Option One: Rely on the mortgage valuation made by your Lender

If you are obtaining a mortgage, your Lender will require a mortgage valuation. The Lender will normally allow you to see the Report but it is only a valuation. It is the result of a superficial inspection of the property and not a survey. A valuation alone may be considered adequate where you are purchasing a newly built property which is to be covered by the National House Building Council 10 Year Guarantee.

Option Two: Commission a 'Home Buyers Survey and Valuation Report'

This option is a half way choice between a mortgage valuation and a full structural survey. It is often done by the surveyor who carries out the mortgage valuation, saving time and money. It will provide information about the general condition of the property, factors likely to materially affect the value of the property and the value of the property on the open market. The HBSV report is intended to point out in a concise report format, significant but not minor defects.

Option Three: Instruct an independent surveyor to carry out a full structural survey

A full structural survey is conducted by a Chartered Surveyor and is undoubtedly the most expensive option but is the most thorough investigation of the property. The inspection will take several hours and should provide a detailed examination and report on all visible parts of the property, subject to accessibility. If you decide on this option, you should ensure that the surveyor is correctly instructed to investigate all aspects of the property.

Repairs - If your survey or inspection reveals the need for repairs, you should obtain estimates. If you feel the seller ought to make a contribution, let your legal team know as they may be able to negotiate an allowance. Should your mortgage offer stipulate that repairs are needed to the property, it's important to discuss this with your solicitor to ascertain whether you require them to be carried out before or after completion. Your lender may retain a percentage of your mortgage advance until the repairs are carried out.

Stage Two – Exchanging Of Contracts

Signing The Contracts - Once all of the pre-exchange investigations have been carried out and a satisfactory mortgage offer has been received, you will be asked to sign the contract. At this stage you should discuss a completion date with the seller's estate agents.

Completion usually takes place one to two weeks after exchange, but this can vary if all parties agree and provided sufficient time is allowed for the legal work to be completed.



If you have a related sale then the completion date will also have to be agreed with your buyer.

The fact that the contract has been signed does not mean that it is legally enforceable. The contract only becomes binding when formally exchanged between the legal teams. Once contracts are exchanged you cannot change your mind!

Stage Three – Completion

Completion date has arrived. The balance of the purchase monies is transferred to the seller's solicitors. After registering your ownership at the Land Registry the title deeds and documents will be sent to your Lender. At Kirwans, if you have paid cash for the property we can, depending on your instructions, send them to you or hold them on your behalf, free of charge.

Congratulations! You are now a home owner.

For all your property needs contact our team today

E: info@kirwans.co.uk T: 0800 525 035

www.kirwans.co.uk

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