

A Guide to Buying a Share Transfer Apartment in Jersey

Buying an apartment by “share transfer” is very different to a freehold purchase and involves buying a block of shares in a company which give rights of occupation to an apartment. As there is no need to attend the Royal Court, completion can take place on any day.

1. Negotiations to purchase share transfer property

You can commit yourself either verbally or in writing to purchase share transfer property. Although sellers and agents will usually accept that negotiations are always “Subject to Contract” you should be careful to ensure that any agreement is conditional upon survey, title, finance and, where relevant, the sale of your existing property.

2. Instructions and requirements

We need to know the main terms of the transaction, i.e. the address of the apartment, your funding arrangements and the proposed completion date as early in the process as possible. If you require the apartment for a particular purpose (for example renting it out, or if you wish to keep a dog or cat), this should also be made known to us as some uses may be restricted or prohibited by the Articles of Association of the company.

Survey and valuation

The contract will provide that you acquire the apartment in its current condition. You will have a joint responsibility with the other shareholders in the company for the structure and exterior of the property as a whole, so you should be concerned not only with the apartment itself but with the whole building in which it is situated. Ogier cannot provide professional advice as to the structural condition of any property nor as to the value of a property and would always suggest that you think about obtaining a full survey of the property.

Mortgage

Delay in finalising the mortgage is a common cause of postponed completion.

It is important to make your arrangements as early as possible and that you supply any supporting documentation to your lender promptly. Always ask us for help if necessary.

Insurance

The main buildings and common parts will be insured by the company, therefore you only need to insure the contents of the apartment including all internal wall, floor and ceiling finishes, kitchen and bathroom fittings and appliances, doors and windows and the decorative finishes.

Your insurance should be in place at the point of completion so you should make preliminary arrangements at an early stage and confirm them closer to completion.

Wills

Share transfer property forms part of your movable estate.

It is important to consider making or revising a Will so as to ensure that the appropriate arrangements have been put in place for the shares to be inherited by the person or persons who you wish to benefit.

Contents

The agent usually prepares an inventory of contents. Please check it carefully to ensure that it includes all of the items you expect to be included and ensure that you inform the agent if there are any discrepancies.

Removals and services

You must arrange your own removals and the transfer of services, such as electricity, water and telephone into your own name.

Fees and land transaction tax

Land Transaction tax ("LTT") is payable on a residential property bought by share transfer and on securing a mortgage over the shares. The amount of LTT is the same as the amount of stamp duty that would be payable on a freehold purchase. Ogier must hold cleared funds sufficient to meet the consideration payable (less the net amount of any loan) and our legal fees and disbursements in good time prior to completion.

Qualification

No consent is required under law to buy shares but occupation is almost always regulated and a buyer will need to be able to demonstrate their entitlement to occupy by producing a valid and up to date registration card. We will provide advice specific to each transaction.

3. Memorandum and Articles of Association

Because the transaction not only involves a property but also a company, additional checks are made by us to ensure that the company and its records are in order.

The memorandum and articles of association are the constitutional documents of a company and set out the rights and obligations of the individual shareholders of the company.

We will check the memorandum and articles of association to ensure that they are in an acceptable format and correctly describe the apartment and any other areas (such as gardens, parking areas, garage, etc.) that may come with it

We will highlight any areas of difficulty or ambiguity and may ask the seller's lawyer to arrange for any defects to be addressed.

4. The company's records

Every company must keep records regarding shareholders, directors, secretary and decisions made by its shareholders and directors. We will check all of these records and inform you of any issues.

5. Checking title

We will check that the company has a good marketable title to the property free of charges and ensure that the details in the company's contract regarding boundaries and servitudes are correctly recorded.

6. The site visit

We will attend at the property to ensure that the company's contract of purchase corresponds with the circumstances on site. If any defects are found then we will explain the issues to you and discuss whether or not any remedial action is required.

7. Sale agreement

The seller's lawyer will prepare a draft agreement providing for the sale of the shares, including certain "warranties" to be provided by the seller, relating to the company and its property. We will explain the terms of the agreement in detail and report on any areas of concern.

8. Completion

We normally advise clients not to sign the share vending agreement until they are ready and able to complete the transaction and move into the apartment, unless there is to be a delayed completion, where payment of a deposit might be appropriate. Ogier must hold the purchase price balance in cleared funds on the day before a purchase completes. Any payment by cheque must be received and banked by us one week before completion.

9. Vacant possession and keys

The estate agent usually negotiates the exact time at which you will take possession of the apartment.

Keys are provided by the seller's lawyer on the day of completion.

10. Timing of completion

It usually takes three to five weeks to complete a transaction.

As it is not possible to guarantee completion on a particular date (i.e. due to mortgage complications, chains etc.) you should treat tentative completion dates with caution.

Please remember that providing early and full instructions helps us to help you. You should feel free to contact us at any time to discuss the progress of your transaction.

11. Parish Rates

The owner of any property as of 1 January in any year will be responsible to pay the full amount of annual rates to the Parish but your share purchase contract will provide for the rates to be apportioned, and therefore a contribution will be payable by you as new owner.

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