

A guide to buying and selling property in Guernsey

Guernsey's system of conveyancing has only undergone subtle changes over the last few hundred years. The Seller and Buyer both give consent to the conveyance of the property in the Royal Court of Guernsey (Contracts Court) at 9.30am on most Tuesdays and Thursdays (not bank holidays or the day after a religious bank holiday).

1. The legal process – Conditions of Sale

Conditions of Sale are the main contract between the Sellers and the Buyers. Once the parties have signed the Conditions of Sale, the deposit has been paid by the Buyer and the Estate Agent has endorsed the Conditions of Sale confirming that the deposit has been received, the Seller and Buyer have a binding contract.

Conditions of Sale are sometimes signed unconditionally, in which case the next important date is the day the sale and purchase completes.

On other occasions the Conditions of Sale are signed conditionally upon the Buyer being satisfied as to certain things. Examples of such conditions are the Buyer (i) being satisfied with a survey (ii) being able to borrow the money to buy the property (iii) being able to occupy the property under the terms of a Housing Licence and/or (iv) being satisfied with advice from his Advocate regarding the title to the property. There may be other conditions to deal with matters which are relevant to that particular property.

If Conditions of Sale are signed conditionally then the parties will agree a date by which the Buyer must have satisfied himself as to those things – this date is called the Operative Date and is usually three weeks or so from the date of signing the Conditions of Sale.

We recommend that clients do not sign Conditions of Sale until we have reviewed them on their behalf.

2. The legal process - Sellers

When Ogier acts for the Seller we prepare draft Conditions of Sale for the Buyer's Advocate (or review them if they were prepared by the Estate Agent), deal with queries raised by the Buyer's Advocate and carry out any research required to address those queries.

We will also liaise with the Seller's mortgage lender to ensure that all mortgages and secured charges are settled from the sale monies and that the charges against the property are cancelled.

We review the draft conveyance prepared by the Buyer's Advocate.

3. The legal process - Buyers

Checking Title

When acting for a Buyer we check title to the property using the records of conveyances kept at the Greffe (a public registry) and records held at the Cadastre (another Guernsey records office). It is our responsibility to ensure that the Buyer receives good and clear title to the property.

Site Visit

Once title has been checked we attend on site to compare the physical boundaries with the description in title. We also ensure that the Buyer will have all the necessary rights to enjoy the property (such as rights of way over a shared driveway, or rights of access to maintain a gable wall).

Sometimes our site visit reveals that the owner of the property may not have the necessary rights to enjoy the property (for example, not having rights to pass over a neighbour's land to access a parking space).

If any defects are discovered we will explain the issues and discuss the available options. Sometimes it is necessary to the Seller to ask a neighbour to consent to an agreement to remedy a defect in title.

The Conditions of Sale

We will review the terms of the Conditions of Sale with you, explain the terms and answer any questions that you may have.

The Environment Department

We would normally recommend that you instruct us to obtain an Immunity Certificate from the Environment Department. The process of applying for an Immunity Certificate may reveal any issues with the planning history of the property. If you are borrowing from a bank to fund your purchase an Immunity Certificate is almost certainly going to be needed.

Timing of Completion

It usually takes three to five weeks to complete a conveyance. It is quite common to see Sellers and Buyers agree a date for completion some weeks ahead, and often this date is determined by the date of other sales and purchases in a chain.

4. General Information

Buyers and Sellers

Instructions and Requirements

We need to know the essential terms of the sale or purchase, for example the address of the property, your funding arrangements and the proposed completion date as soon as possible. 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.

If, as a buyer, you have any special requirements or concerns about the property, if you are acquiring it for a particular purpose, or if you are planning any extension or major alteration works, please tell us as soon as possible so we can make appropriate enquiries and advise accordingly.

Removals and Services

You will need to arrange your own removals and the transfer of utilities and services.

Attending Court

The Buyer and Seller must attend the Contracts Court to consent to the sale or purchase of the property (as the case may be). If you are unable to attend in person you can sign a Power of Attorney so a member of this firm can represent you.

A member of the Ogier team will attend Court with you to guide you through the process.

Vacant Possession and Keys

Keys are handed over in Court, but Buyers must understand that Sellers may have some items to remove from the property and it is typical to allow the Seller until late morning to completely vacate the property.

Buyers

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 you need to.

Survey

The Conditions of Sale will state that you acquire the property in its current condition, with all hidden or apparent defects. Ogier cannot provide professional advice as to the structural condition of any building nor as to its value and would always recommend that you obtain a survey of the property (a lending bank will require a survey from one of its own surveyors).

Insurance

The property should be insured in your own name at the point of completion, with the interest of any lender noted on the policy. You should make preliminary arrangements at an early stage, and confirm them closer to completion.

Wills

It is important to consider making or revising a Will when purchasing a property to ensure that it passes in accordance with your wishes.

Fees, Costs and Document Duty

Document duty is payable by the buyer on both the purchase contract and any registered mortgage. We can estimate the costs in advance to help you budget.

We must hold cleared funds equal to the purchase price, all document duty payable, our legal fees and disbursements (less the sum to be paid directly to this office by your lender) by the end of business on the day before completion. We will provide you with final figures as soon as your mortgage is finalised.

Sellers

Sellers should advise their lender at an early stage of their intention to sell the property. If we are instructed by a Seller we will obtain the redemption figure to allow us to pay off the mortgage from the proceeds of sale. Closer to the time of completion Sellers should provisionally arrange their removals and for meters to be read, confirming those arrangements when completion looks firm.

The information and expressions of opinion contained in this guide are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Contact Us

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