



Frequently Asked Questions: Buying, Selling and Renting property

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Q: My second year University son is renting a house and wants me to be guarantor. Also what are the risks to me?

Most student landlords want guarantors because students have little if any credit history and have never lived away from home. There are definitely risks for you if the rental payments are missed. So before you sign up find out whether he will be the sole tenant or whether he will be sharing with friends. If your son is going to rent a property on his own then you will only be guaranteeing his liabilities for the period of the tenancy, so check the length of the agreement and any notice period. If he can't pay his rent, you will be responsible for his debt as well as the cost of any damage for as long as the tenancy continues.

If he will be sharing with friends then you need to be very careful that you only guarantee your son's liabilities and not the 'joint and several' liabilities of everyone. If one of his mates drops out for some reason, they will all have to pay a share until a new tenant is found and you will be liable if your son can't pay his share of the extra rent.

The last and maybe unforeseen risk is, of course, that of a family rift if it all goes wrong!

Q: We're thinking about installing solar panels on our roof. Are there any pitfalls we should know about first?

The first thing to do is find out whether planning permission may be needed, especially if your property is listed or is within a conservation area – so check with your local council.

If you choose to use a third party provider, the way it usually works is that the solar company will then sell any extra energy generated back to the grid under the Government's Feed-in Tariff (FiTs) subsidy.

Some solar panel companies may request that you agree to lease the airspace above the roof of your home, typically for 25 years. The provider will pay for any maintenance or insurance needed but they will also have the right of entry to your home to carry out such work. Bear in mind that solar panels can create problems when you wish to sell. Any buyer will be subject to the lease which will mean part of the property is used for business purposes and the potential purchaser may find that their mortgage lender could turn down the mortgage.

I strongly urge anyone looking to install solar panels or wishing to make an offer on a property with 'free' PV panels to seek legal advice beforehand.

Q: We're planning to move nearer to our daughter, should we sell up now or wait a while?

I believe the real question is whether house prices are likely to stagnate, decrease or increase. If this is determining your decision to move I am afraid that I do not have a crystal ball. There are many people putting their life on hold waiting, waiting and waiting! UNTIL the time is right!

I suggest you put your life on 'go' and decide to make the move nearer to your daughter otherwise you may be waiting for a good few years yet. Place your house on the market and see what the reaction is. You never know, you may be pleasantly surprised as there is still a reasonable amount of activity out there in the market if your property is correctly priced. With a complete chain this will give you a competitive edge on a property you may wish to buy.

So find yourself a good solicitor and an active estate agent, take some time to de-clutter and clean your home, look at it through the eyes of a potential buyer, tidy up the outside and be proactive.

Q: What are the advantages of remortgaging and how long does it take?

The main advantage of remortgaging is that it's often possible to find a new mortgage with a better rate of interest than you have now, which could bring good financial benefits, however if you make the wrong choice you could lose out. Another reason why some people choose to remortgage is because they may want to release some of the equity in their property.

The process of remortgaging should take between three and six weeks but this can depend on the requirements of the new mortgage lender and how quickly they conduct the valuation and issue the remortgage offer.

What you should do next:

You should pass your solicitor's details to the mortgage lender. The mortgage lender will instruct the valuation/survey to be carried out, charge you for this and then issue the mortgage offer to your solicitor.

Your solicitor will then obtain details of the amount outstanding on your existing mortgage and repay this on your behalf. Any money left over will be sent to you following payment of the fees.

Remember that using your home as collateral for borrowing more money can be risky. As with your current mortgage, if you default on repayments you may risk losing your home through repossession, so make sure you've thought it through properly and chosen the deal that is right for you.

Q: We're buying our first home so what should we expect?

Buying your first home is a big financial decision, especially daunting if you are doing it for the first time. So here's what you can expect:

Get a mortgage offer in principle before you start hunting, it'll give you an advantage over other buyers - and just borrow a manageable amount. Choose a solicitor early then we can act for you immediately your offer to buy is accepted, subject to survey. Choose a local one that has a good knowledge of the area - you might be glad to be able to pop in and iron out any difficulties face-to-

face. Ask for a quote and check that there are no hidden extras. Moving house is an expensive time and you don't want any nasty surprises when the bill arrives.

We'll receive a draft contract from the seller's solicitors, then submit the searches and raise enquiries. Once we have the information and you have the mortgage offer and a completion date has been agreed, you will be able to sign the draft contract, ready for exchange. Tell us about any problems you may foresee and don't be afraid to contact us - we're on your side and we'll handle the conveyancing process, right up to completion when you can move in!

Q: We're buying a house; can you please explain what all the searches are for?

Searches are there to protect you against all sorts of eventualities and they're also needed by your lender. Your solicitor must make sure that there are no problems with the ownership of the property, rights of way and access that might affect the property. This is called 'making enquiries and searches'. There are a host of searches and reports covering pests, dry rot, radon, hazardous materials, landslides, flood plains, earthquake faults, crime statistics and more, but these are the ones I suggest you have before you can complete your transaction:

- Local Authority Search
- Environmental Search
- Water & Drainage Search
- Chancel Repair Search

We will also make enquiries of the seller about the property, boundaries, neighbour disputes, whether they have received any notices about neighbouring developments and fixtures and fittings that will remain in the property. There may also be additional questions that we think are necessary, such as the transferability of guarantees for any work done on the house, for example, a damp proof course.

If you are not obtaining a mortgage then we would still advise you to have the searches carried out, but this decision is ultimately yours.

Q: What help can first time buyers get?

If you are thinking of taking the plunge this year and buying your first home, then congratulations! It's a very exciting step to take, but if you're struggling to find enough savings for a deposit then you could consider one of the government schemes, such as FirstBuy. Under this scheme, you will need only 5% deposit, the government and selected house builders will offer you a 20% equity loan which will then enable you to take out a 75% mortgage on the rest of the property. You repay the loans when you sell the property, with the government's share available for reinvestment in more affordable housing. You can find more information about what's available locally by going to www.homesinhants.co.uk.

Our advice to you is be clear about how much you can afford and just borrow a manageable amount and get a mortgage offer in principle before you start hunting, it'll give you an advantage over other buyers. Government schemes can be complex transactions, so choose a solicitor early then we can act for you immediately you find somewhere – we offer fixed fees so there won't be any nasty surprises.

Q: We'd like to help our son buy his first house, how best can we do this?

Finding the deposit for a first home is often the hardest part and this may be where you come in. Your son may also be able to take advantage of the government initiative which enables first-time

buyers of new homes to borrow up to 95% of their value. It's a mortgage indemnity scheme, in which the government will underwrite part of the risk and it should lead to 16,000 new homes being built. It starts in July 2012.

If your son intends to buy with a friend or partner then he should consider how he can protect his share. Two or more people can own a property in a number of ways: 'joint tenants' and 'tenants in common' are two of them but by far the best safeguard for taking into account any inequality of contributions (from the bank of Mum and Dad perhaps) is to enter into a Declaration of Trust. This shows evidence of the shares that each have each contributed towards the purchase. This is a legal document which may be relied upon should a relationship unfortunately break down.

Look round some of the local new build developments, you'll find there are some attractive deals and innovative ways of financing the purchase.

Q: Why should I use a local solicitor to buy my new house when I can see online that I can do it less expensively? Or can I?

Well, the headline figure quoted online might lead you to believe that the costs are less, but beware of hidden fees that may not be apparent when you sign up. For example what looks like a low cost bargain may not include other legal fees that apply, such as fees to cover legal work carried out on behalf of the lender, admin charges and other third party fees. Apart from these fees which are not always obvious, you may not be happy dealing with a remote call centre and speaking to a different person each time.

The real benefits to you of engaging a local solicitor are that we understand the local property market; the fees quoted upfront are transparent so you won't have any nasty surprises; we're regulated and insured should anything go wrong and, most importantly, you'll always be able to speak to and meet your local solicitor. Personal service counts for a lot these days, especially as your house purchase may well be the biggest investment you'll ever make. So our advice is, choose a local firm that's a member of the Law Society's Conveyancing Quality Scheme, awarded as a mark of excellence for the home buying process.

Q: I'm confused by all the different types of ownership – what's the difference between freehold and leasehold?

Freehold is the most common type and means that you have full ownership of the property and the land on which it stands until you decide to sell it. Very often freehold properties are houses with gardens.

If you buy a leasehold property, it means you have the right to live there for the time fixed by the lease, so check how long the lease has to run before you decide. Your landlord will own the freehold of the building. There are many more restrictions on leasehold properties than on freehold, so it's best to ask your solicitor to check how much any extra charges may be, such as service charges and who's responsible for repairs and building maintenance.

'Whichever type of ownership you go for', says Alex, 'always check it out with your solicitor who'll make sure it's watertight!'

Q: My fiancé and I are thinking of buying our first home, do you have any tips for us?

Zoë Baxter answers: Buying your first home is a very exciting step to take so congratulations. Here are my top tips for first time buyers:

Get a mortgage offer in principle before you start hunting, it'll give you an advantage over other buyers.

Be clear about how much you can afford and just borrow a manageable amount.

Choose a solicitor early then we can act for you immediately you find somewhere – we offer fixed fees so there won't be any nasty surprises.

Once you have decided on a property, you can make an offer on it, subject to survey, which the vendor can accept or reject. Offers are not legally binding.

View your house/flat more than once – in daylight and dark, at busy and quiet times.

Tell us about any problems you may foresee and don't be afraid to contact us - we're on your side and we'll handle the conveyancing process, right up to completion when you can move in!

Q: What help is there for first time buyers?

Alex Preshaw answers: Many young buyers get help from the 'bank of Mum and Dad' to raise the hefty deposit required to buy their first house. But just this month the government has launched a new scheme which is aimed at helping first time buyers to get a foot on the property ladder. It's called FirstBuy and it replaces the previous scheme HomeBuyDirect which closed last year. Put simply, the government and certain housebuilders will provide buyers with an equity loan of up to 20% which means that first time buyers need only put up a 5% deposit to qualify for a 75% mortgage.

The government is making £500 million available which it expects will help 10,000 new buyers in England. Around 100 housebuilders have signed up to the scheme and some of the most well known banks have signed up to offer the 75% mortgages. The loans will have to be paid back when the property is sold but the government's share will still be available for reinvestment in more affordable housing. We expect the first homes to be available in September. Check with your local HomeBuy Agent for more details, then we'll help you with the legal side.

Q: I fancy a new build apartment but my boyfriend wants an old one, so what's best?

Answer: Zoë Baxter, solicitor at Phillips, answers:

It sounds like you need to do some more talking with your boyfriend before you decide on one or the other! But here are some things you should talk over before going any further. Old properties may have history, charm and character, possibly more space and they may be easier to sell in the future than a new home. But unless your boyfriend is a practical person, you may find you'll have to spend a lot of money on paying people to update your plumbing, wiring, heating and decorations. There can sometimes be restrictive covenants or difficulties with rights of way as well.

For you I suspect the dream is to move into a home that doesn't need any money spent on renovation and that you can move into straightaway. New-build homes also have to be built in accordance with current building regulations so they will be more energy-efficient and have fewer carbon emissions. If you do go down this route, check the apartment has a warranty, run by the NHBC, which will protect your money if the builder goes bankrupt after exchange of contract.

Whichever you choose, you'll have to find a deposit and mortgage so get that sorted first. Some developers are offering help with mortgages and deposits so shop around.

The disadvantages of buying an older property can usually be overcome with time, effort and money but the transaction does usually involve a chain, which a new-build does not; so if you need to swing the argument in your favour then the prospect of losing a huge chunk of stress may help!

Q: My buyer wants to renegotiate the purchase price. What do I do?

That depends on why your buyer wants to renegotiate the purchase price. If your buyer has had a survey done which reveals serious building faults then you may need to reach a compromise, with either you rectifying the faults and keeping the price the same, or you reducing the price by an agreed amount and your buyer putting the faults right after completion.

If your buyer is asking for a serious reduction in purchase price for no particular reason then you can decline to accept it, put your house back on the market and hope that another buyer will come along soon. Legally both parties are entitled to renegotiate the price or withdraw from the transaction at any time before you exchange contracts without risk of penalty, but once contracts are exchanged the final selling price is fixed and cannot be changed.

Unfortunately the housing market is still in the doldrums and whilst the available supply of properties is exceeding demand from buyers, you may have to be more realistic about your price if you want to keep your buyer. Spring is traditionally a good selling season but serious sellers would be well advised to price their houses more keenly if they want to sell and move any time soon.

Q: What happens if the buyer or seller pulls out of the deal?

The key thing to remember is that buyers and sellers are entitled to withdraw from the transaction at any time prior to the exchange of contracts without risk of penalty. But, once both parties have exchanged contracts then the deal is legally binding and there's no going back without consequences.

The contract confirms the sale/purchase of the property and is prepared in draft form by the seller's solicitor and sent to the buyer's solicitor. Once all the queries have been answered, the seller and buyer both sign a separate but identical contract. This is the moment when everyone in the chain is ready and on exchange the transaction becomes legally binding. At this point your solicitor will carry out the exchange by telephone and hand over the buyer's deposit to the seller's solicitor to keep until completion day. Both parties must then honour the contract's obligations otherwise you will be liable to breach of contract.

If you are the seller and your buyer pulls out after exchange of contract, you would be able to keep the buyer's deposit; similarly if you are the buyer and your seller backs out after exchange of contract, you would be able to insist on the return of your deposit.

My advice, says Zoë, is don't make any financial commitments for moving until your contracts have been safely exchanged and a definite completion date has been agreed.

Q: I want to buy a flat with my boyfriend, how can I protect my investment?

Buying a property together is very exciting but it's a huge step, so it's important to be sure you're doing the right thing before you commit yourself.

Two people can own a property primarily in one of two ways: a 'Joint Tenant' agreement means that you both own the whole property equally and are both responsible for any liabilities against it. You share the bills, split the mortgage and divide the spoils when you sell.

A 'Tenant in Common' agreement may however be more appropriate if you have contributed to the purchase in different shares. This means that when the property is sold your initial investment will be protected. To do this it is advisable to sign a simple agreement confirming your relative contributions.

No one wants to consider the downside if your relationship fails but you can protect yourself by having a cohabitation agreement that specifies what happens to any money you have contributed if you do part company.

Buying a house together doesn't need to end in disaster. It should be fun, a chance to share something really special, so make the right decisions early on.

Q: I can't sell my house, would it be a good idea to take it to auction?

If you need to sell your house quickly then selling at auction may be a good option for you, although it can be more expensive than selling in the usual way through an estate agent.

Of course, you can never know how much your property will sell for. An auction is a highly volatile marketplace and if there is no demand on the day of your sale, you might end up selling it below its true market value.

If you've never been to an auction before then it's a good idea to attend a couple so that you can see what happens before you commit. Make sure you choose a good auction house that can increase your chances of getting a favourable deal. Get a property valuation before you decide on the reserve price in order to protect yourself against an unfavourable sale.

Instruct your solicitor to prepare a legal information pack which contains the terms and conditions of the sale and which will be available to potential buyers. Be prepared to open your house for viewings by surveyors and potential buyers.

At the auction remember that when the hammer falls the sale is official and legally binding – the buyer will have to pay you 10% of the agreed sale price immediately and the outstanding amount within 28 days so pack your bags ready to hand over the keys 28 days later!

Q: How should I choose the right solicitor to help with my conveyancing?

There is so much choice, but you could start by looking up solicitors on the Internet and visiting their websites, which can tell you a lot about the firm. You can also see from the team lists who are the appropriate people to contact and email them directly with a summary of what you want to do and ask for a quote. Or if you ring one of their team you'll get a good feel for how well they treat their clients. Solicitors who are local to your purchase will have good local knowledge that can be vital in aiding your transaction and minimising delays.

The way conveyancing solicitors charge their clients may vary. Some will charge a fixed fee, whereas others will charge a percentage of the purchase price of the property. Most commonly, solicitors charge a fixed fee, subject to the payment of any disbursements (such as VAT, Land Registry fees) and any additional unforeseen costs. Compare all the quotes, but don't be tempted to simply go for the cheapest one; be on your guard and employ a solicitor you trust, even if he or she costs more; someone who will offer you a good service at a reasonable price will be able to alert you to any legal difficulties with your sale or purchase and look after your best interests.

Q: We want to set up home together, should we buy or rent?

Conventional wisdom says that it's better to buy rather than rent, says Alex, but the choice today is made more difficult as there is so much uncertainty about the economic impact of the government's spending cuts, which will affect both lenders and borrowers.

Mortgage lenders typically require 20-25% deposit but if you can't raise enough deposit for your first home or get a mortgage at an affordable rate, then renting is an option, although rents are increasing as demand for rented accommodation is at record levels. Renting is sometimes regarded

as money down the drain, but it can be simpler to move, your landlord will be responsible for repairs and you won't be in danger of falling into the negative equity trap.

If you're finding it difficult to even get on the first rung of the property ladder, then consider a 'shared ownership' scheme. This allows you to buy a percentage of your home, and pay rent on the remainder, with the option of increasing your share as and when you can afford it. Many of these homes are new-builds, with initial shares starting from around 25%, with the eventual option of owning the whole property.

One of the attractions of buying, concludes Alex, is that you are paying towards finally owning your own property, and that's just the point, it is your own place which you can decorate and truly make your own. Just make sure you choose a mortgage you can afford.

Q: We're planning to sell our house soon, how can we do this with the least amount of stress?

For most people, buying or selling their home can be one of the most stressful times of their lives but it doesn't have to be. Usually, conveyancing involves a chain of transactions which extends beyond your immediate control. So instruct your solicitor from the very beginning, before a price is agreed, then your solicitor will be able to obtain full instructions and manage the proposed transaction for you. He can then ensure that all the contract papers are ready to be forwarded to your buyer's solicitors, as soon as a buyer is found, which will help to avoid any delays. After all, timing and the ability to negotiate all play a vital part in achieving a successful outcome for you.

Always remember that you can withdraw from a transaction at any time before contracts are exchanged and that there is normally NO obligation to pay any fees to the other side whatsoever. Be open and honest with your solicitor and don't leave anything to chance – if you're not sure what to do or what happens – simply ask us.

The property market has always been one of Britain's national obsessions but it is proving to be very difficult to predict. Confidence in the property market is wavering due to fear of job losses, interest rate hikes and a scarcity of mortgage availability so it might pay to act fast.

Q: I want to sell my house but my neighbour is arguing about one of the boundaries and it's only a foot wide. What can I do to make sure my buyer is not put off?

Boundary disputes are horrendous as emotions and feelings can run high and to obtain a settlement via the courts is not only costly (sometimes running into thousands of pounds) but also time consuming and very draining.

This could therefore be tricky as very few buyers would wish to buy a house, knowing that they may immediately be in dispute with their new neighbour. You MUST resolve the dispute before you put your house on the market. If you can't settle, then you need to tell your potential buyer about the dispute. It may be that without the personal involvement the buyer will look at the dispute in a new light.

Alternatively you could mark the boundary where your neighbour believes it to be and proceed with the sale on this basis. You have indicated that it's only a foot wide and your buyer may be happy to go ahead and/or rely upon the land registry plan and take the matter up with the next door neighbour if needs be at a later date. So my advice is, unless the buyer is happy to proceed, settle the dispute (via the Courts if necessary) and then sell.

Q: I own a leasehold property – can you tell me what happens when the lease ends?

Leasehold property has always been complicated and obscure but now it's even more of a nightmare. Very few homeowners read their lease but if you are a qualifying tenant and the lease is a long tenancy, one that exceeds 21 years, then in principle you have a right to renew the lease when it expires. In general the lease needs to exceed the period of 60-70 years when purchasing, in order to satisfy most mortgage lenders, but if you have occupied the property for at least 2 years then you should be entitled to extend / renew.

A common problem for leasehold property owners is that the value of their property diminishes every year as the term of the lease runs down. 'Qualifying' leaseholders actually have a legal right to compel their landlord to sell them an extension; another option is for leaseholders of flats to join forces with neighbours to collectively buy the building freehold, but this is fraught with complications.

Terms of renewal are subject to negotiation between landlord and tenant but should there be a dispute, the matter can be referred to the Lands Tribunal. Avoid this if you can by taking legal advice before you get this far.

Q: Why does the conveyancing process take so long?

We all know how exciting it can be to sell your house or buy a new home. Naturally you want everything to move quickly, but this is a huge transaction and there are a lot of different parties involved. Solicitors, estate agents, domestic energy assessors, local authorities, lenders, the Land Registry, the Inland Revenue and sometimes landlords, are all required to supply information and work towards getting everything ready for exchange of contract. If buyers and sellers change their minds, then the chain can fall apart and the negotiations have to start all over again. Finally, says Alex Preshaw, there are many chances for things to go wrong and we cannot always prevent the delays and difficulties that arise but, when the unexpected does crop up, we use our considerable breadth and depth of experience to come up with the right solutions and help you move as quickly as possible.

Q: I'm confused by all the different types of ownership – what's the difference between freehold and leasehold?

Freehold is the most common type and means that you have full ownership of the property and the land on which it stands until you decide to sell it. Very often freehold properties are houses with gardens.

If you buy a leasehold property, it means you have the right to live there for the time fixed by the lease, so check how long the lease has to run before you decide. Your landlord will own the freehold of the building, but there are many more restrictions on leasehold properties than on freehold, so it's best to ask your solicitor to check how much any extra charges may be, such as service charges and who's responsible for repairs and building maintenance.

Leaseholders may buy out the landlord and convert to commonhold but this is quite rare.

'Whichever type of ownership you go for', says Alex, 'always check it out with your solicitor who'll make sure it's watertight!'

Q: What is shared ownership and what are the benefits?

Shared ownership is a scheme for helping people who cannot afford to buy a home outright or who don't want to pay high rents to private landlords.

When you buy a shared ownership property, you only buy a percentage stake in the property – typically from a housing association, or the government's scheme if you are a key worker. You pay the shared ownership mortgage, for the percentage of the property you will own, and the rent payable to the housing association for the lease on the remainder.

The main benefit is that you won't have to take out a huge mortgage, because you will only be purchasing a certain percentage of the property. It can be complicated so choose a firm like Phillips who have lots of experience.

Q: My partner and I are first time buyers and my parents are contributing £15,000 to the deposit. Can I protect my share, in case my partner and I split up?

Indeed you can and this is how.

Two people can own a property in one of two ways. Firstly, if you own the property as 'joint tenants' it means that both of you own the entire property and, upon the death of one party, the share automatically passes to the survivor.

If you own the property as 'tenants in common', it means that your specific share is treated as separate, which may take into account any inequality of contributions you've each made. However, in exceptional circumstances, the Court can disrupt this if there's an argument.

The best safeguard is to enter into a Declaration of Trust which shows evidence of the shares that you have each contributed towards the purchase. This is a legal document which may be relied upon should your relationship unfortunately break down.

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