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Collas Crill explains... The Guernsey conveyancing process

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This is part of a series of guides in which we examine areas of Guernsey law that frequently arise in practice. Further guides will be released weekly; click here to subscribe to receive Collas Crill news and insights by email.

This week we provide a step-by-step guide of the conveyancing process in Guernsey when buying a property.

1. Offer accepted!

Once you have an offer accepted on a property, the estate agent will prepare draft conditions of sale which form the contract for your purchase. An inventory of items to be sold with the property will be compiled by the agent, with the input and approval of the vendor (seller).

The conditions of sale will include the details of each party, the value of the building and will include a separate price for the contents of the property. It will also note the value of the deposit to be paid on signing conditions of sale, which ordinarily is 10% of the total value of the property, unless otherwise agreed.

The document will include a completion date and an operative date. The completion date is the date the purchase is due to complete in court. The operative date is the end of a timeframe set by the estate agent for the purchaser to attend to all matters required in order to be ready to purchase, for example finance, survey or legal property report. If the purchaser does opt to sign conditions of sale immediately, then the operative date provides the option to withdraw from the transaction before completion, without penalty. Purchasers tend to wait until all information is gathered, before signing the conditions of sale.

Conditions of sale are not binding until both parties have signed and the deposit (if any) has been paid.

2. What next?

Your appointed conveyancer will guide you through the purchase process. Initial investigations will include the following:

- Applying for an immunity certificate – this will provide you with immunity from enforcement against any breaches or suspected breaches of the planning law which occurred before the date of issue.
- Searches – title searches against the current owners of the property to ensure they haven't sold any parts of the property, bond searches to see if there is any outstanding borrowing against the property and general rights searches.

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- Site visit – researching the neighbouring boundaries against the title and ensuring they match on site.

Whilst your conveyancer carries out their checks, you will be finalising your finances. The bank will initially agree finance in principle, but you will need to have a survey on the property before the bank will give final approval of lending. The bank will instruct an approved surveyor of their choice, but you will need to pay for the survey.

It is important to note that, from the point your offer is accepted on the property through to completion, you accept the property with both the obvious and hidden defects. The maxim *caveat emptor* (buyer beware) applies, which is why a bank will insist on a survey and why we strongly suggest obtaining a survey, even if you are not borrowing.

3. Review of legal title

The title documents of a property form the story of the house, who it was owned by, the boundaries of the property and what rights or obligations may attach to it. We carry out searches against the property, which tell us if there are any rights or servitudes that might apply to the property, for example a right of way over a driveway.

Research of the Cadastre system and documents at the Greffe (deeds registry) will be carried out prior to a site visit. When carrying out a site visit, we check that descriptions of boundaries in title documents match what is on site.

If any issues are found following a site visit, these will be explained to you by the conveyancer, who will also go through the options available to you at this stage.

4. Investigations complete

When all investigations are complete, your conveyancer will meet with you to go through their findings and report on title. They will highlight any issues or concerns they have with the property and if by this point the immunity certificate has been received, everything is in order and finance has been confirmed, you are ready to sign the conditions of sale.

5. Signing conditions of sale

The detail of and general conditions contained in the conditions of sale will be explained to you by your conveyancer in order to ensure you understand everything involved in the purchase before proceeding to signing, for example what 'vacant possession' means. The purchaser will sign first and pay the agreed deposit, then the vendor will sign, at which point the contract is binding.

6. Funds

The conveyancer will provide you with a completion statement which details the fees due to be paid in order to complete the transaction. This will include your legal fees, document duty and court and registration fees, as well as an apportionment of rates and taxes.

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If you are selling a property, then a search will be carried out to see if there is any borrowing secured against the property. If there is a bond (mortgage) still outstanding then this will need to be cancelled (vacated) on completion of the sale. A redemption fee will be obtained and payment made to clear the debt on your behalf.

7. The conveyance

The conveyance is drafted by the purchaser's advocate. This is the document that transfers the title of a property from vendor to purchaser. Once drafted and approved, a copy of the conveyance will be provided to the vendor's advocate for their approval, as well as the lending bank if there is one. The conveyancer will go through the document with you prior to court. If you wish to rename the property, this can be included in the conveyance.

8. Court and completion

Your conveyancer will agree a date and time to meet with you in order to attend court to complete the property transaction. You are expected to attend in person. However if this is not possible then Power of Attorney to act on your behalf will need to be obtained.

The Contracts Court sits at 09:30 each Tuesday and Thursday, subject to public holidays. The conveyance will be presented to a Jurat by an advocate or the conveyancer, where both parties will consent to the transaction. Any keys held for the property will be handed over at this point.

After court, the document is processed by the Greffe, where they ensure the correct amount of fees and document duty has been paid for the transaction. Provided all is in order, the document will be registered at 16:00 the same day and the property transaction completed.

About this guide

This guide gives a general overview of this topic. It is not legal advice and you may not rely on it. If you would like legal advice on this topic, please get in touch with one of the key contacts listed on this page or your usual Collas Crill contacts.

About Collas Crill

We are a leading offshore law firm. We are easy to do business with and give practical advice to overcome tough challenges. Through our network of offices, we practise British Virgin Islands, Cayman Islands, Guernsey and Jersey law.

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