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Buying a residential property in England and Wales

Buying a property in England and Wales should be relatively straightforward. Knight Frank has compiled this comprehensive guide to help purchasers navigate their way through the UK buying process.

We also recommend that you make your own independent enquiries and take independent, professional advice. Our guide does not seek to provide or replace legal advice, which you should obtain. We would always recommend that you instruct the services of a reputable agent, surveyor and solicitor.

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Freehold, Leasehold and Commonhold properties

What is a Freehold property?

The majority of residential properties in England and Wales are freehold. As the owner of a freehold property:

- You own both the property and the land on which the property stands
- You are responsible for its maintenance and repair
- You can do what you wish within the property as long as this is in accordance with legal requirements

If the property is Listed or lies within a Conservation Area there will be limitations on the works you can undertake to the property. English Heritage is a body designated to oversee all Listed Buildings, or those of a special architectural interest. Look at their website for more information on Listed Buildings and Conservation Areas www.english-heritage.org.uk.

What is a Leasehold property?

If the property is leasehold you will be buying a property for a set period of time only. Most apartments in England and Wales are leasehold. Some houses are also leasehold.

- Unlike a freehold property you will not own the ground upon which the property stands, only the apartment or house for a number of years
- There will be a document called a 'lease' which outlines the rights and obligations of the parties (generally referred to as landlord/lessor and tenant/lessee)
- Most leases when initially granted are for approximately 99 years but can also be 125 or 999 years; the length may be extended by agreement with the freeholder at a specified cost or in accordance with current legislation

- Most leasehold properties will have a ground rent which is payable to the freeholder or landlord
- There will also be service charges payable for services provided to the apartments and the communal areas
- The lease should outline how the service charge is worked out and how it is allocated between other owners; it is important to confirm all of these costs before committing to a leasehold property
- Some finance companies insist that the leasehold property being bought has a minimum of 80 years remaining although this varies from lender to lender. Your solicitor will check the lenders requirements

Once the set period in the lease comes to an end, unless extended, the ownership of property goes back to the freeholder.

What is a Commonhold property?

Commonhold property was introduced in 2004 as a new way to own an apartment in a building. Each apartment is a freehold rather than leasehold interest. The building is owned by all apartment owners who share the management of the building and common areas.

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The Legal Process of buying property in the United Kingdom

Although freehold, leasehold and commonhold properties are completely different types of ownership, the steps required are similar. There are a few additional requirements for leasehold and commonhold properties.

- 1. The buyer normally views the property through the estate agents and puts forward an offer.
- 2. The seller, through the estate agent, may counter the offer triggering negotiations. Once a price is agreed a Memorandum of Sale is prepared by the estate agents.
- 3. The buyer instructs a solicitor to act on his/her behalf to conclude the purchase of the property.

Money laundering regulations

The buyer's solicitor will need to satisfy the requirements of the money laundering regulations. This generally takes the form of verifying the buyer's identity and source of monies required to undertake the purchase.

- 4. The seller's solicitor prepares a sale pack and sends it to the buyer's solicitor.
- 5. The buyer's solicitor checks the title to the property and carries out the usual searches to provide essential information on the title, planning, environmental and other details relevant to the property and the area in which the property is located.

6. It is always advisable for a buyer to instruct a surveyor to inspect the property and provide a survey report on its condition. There are different types of surveys.

Once the buyer's solicitor is satisfied with the title to the property, he will liaise with the seller's solicitor to confirm approval of the contract. The buyer's solicitor arranges for the buyer to sign the contract and to provide the deposit, which is usually 10% of the agreed purchase price. The buyer's solicitor checks that the buyer has secured insurance on the property. The risk usually passes to the buyer upon exchange of the contract.

Until a contract is exchanged, either party can withdraw from the sale. The seller can accept other offers but cannot issue a contract to another party without first advising the buyer that another contract is to be issued. This is usually referred to as a 'contract race'.

7. Once the contract has been exchanged, both the seller and the buyer are contractually bound. If either party fails to complete on the agreed completion date then that party will be in breach of contract. If the buyer is at fault he/she will lose the deposit and there is a potential for a further claim by the seller.

- 8. If external financing is being secured to buy the property, it must be in place by the agreed completion date.
- 9. With some leasehold properties there may be a requirement by the landlord for the seller to provide details of the buyer and secure the landlord's consent. The buyer may be required to provide references. Sometimes non-UK nationals are required to provide a rent deposit to cover liabilities in the lease relating to ground rent and service charges.
- 10. With commonhold properties, the buyer's solicitor will have reviewed the commonhold documentation and there is usually a requirement within 14 days of completion for the buyer's solicitor to provide the secretary of the commonhold association with a notice of the transfer.
- 11. The purchase of a freehold property can proceed quickly. However, this is dependent upon the seller and also if financing is being secured on the lender's requirements.
- 12. If the buyer is acquiring a new lease, the process can sometimes be longer as the buyer's solicitor will have to approve the terms of the new lease.
- 13. If the buyer is acquiring a lease which already exists, this is referred to as an assignment of lease. This too can proceed swiftly but once again it is very much dependent on the seller's solicitor providing a comprehensive package of information.



Property Tax in the **United Kingdom**

Stamp Duty Land Tax (SDLT)

SDLT is payable on all property transactions, except where one of a small number of specified tax reliefs applies, within 30 days of completion. The rate of tax is dependent on the purchase price (See page 10 for current rates and bands).

As a result of amendments in recent finance bills, buyers using corporate vehicles to buy residential properties may be subject to a higher rate of SDLT at 15%, as well as the Annual Tax on Enveloped Dwellings (ATED). Broadly speaking these rates apply where the residential property is either left vacant, or is occupied by a connected person, such as a family member.

The following taxes are affected by the buyer's personal circumstances and should be discussed with a tax expert:

Income Tax

If the property is bought as an investment property, income tax is chargeable on rental income regardless of the residence or domicile position. Tax is collected through the submission of UK Tax Returns and, if non-resident, tax deducted at source by a UK letting agent.

Capital Gains Tax

UK Capital Gains Tax ('CGT') is charged on the gain on the sale of the property (or on the market value of the property if it is given away) over its original cost (or value at acquisition by gift). Most selling expenses and building improvement costs can be taken into account to reduce the taxable gain. CGT is payable on or by 31 January following the end of the tax year of Exchange of Contracts for the sale or completion of a gift of the

Tax years 2013 to 2017

The following Capital Gains Tax rates apply:

- 18% and 28% tax rates for individuals (the tax rate you use depends on the total amount of your taxable income)
- 28% for trustees or for personal representatives of someone who has died
- 28% for Capital Gains Tax on Annual Tax on Enveloped Dwellings the Annual Exempt Amount is not applicable

2016 to 2017 Non-resident Capital Gains Tax on the disposal of UK residential property

The following Capital Gains Tax rates apply:

- 18% and 28% for individuals (the tax rate you use depends on the total amount of your taxable income)
- 28% for trustees or for personal representatives of someone who has died who is non-resident
- 20% for companies

Inheritance Tax

Inheritance Tax is a form of death duty so without tax planning in advance you could leave your beneficiaries with unnecessary tax bills. The excess value of an estate on death above the threshold (currently £325,000 or a maximum of £650,000 in the case of married couples/ civil partners) is generally taxed at 40% unless it is left to a spouse/civil partner or to a UK Charity.

Wills

UK domiciled individuals should have a will to dispose of their property. It is often best for non-UK domiciled individuals to have UK wills to dispose of UK real estate - specialist advice should be sought to ensure that your assets pass in accordance with your wishes.



SDLT and ATED – appendix

At a glance

Service charges

Ground rent

Stamp Duty Land Tax (SDLT)

Higher rates of Stamp Duty Land Tax (SDLT) will apply to purchases of additional residential properties, such as second homes and buy to let properties, from 1st April 2016. The new rates will be 3% above the current SDLT rates. The current rates and new rates of SDLT for additional property purchase are:

Band	Existing residential SDLT rates	New additional property SDLT rates
£0* - £125k	0%	3%
£125k - £250k	2%	5%
£250k - £925k	5%	8%
£925k - £1.5m	10%	13%
£1.5m +	12%	15%

Residential dwellings costing more than £500,000 purchased through a corporate body are charged 15%. Note: Non-residents may be subject to Capital Gains Tax on the gains they make from disposing residential properties. Please ensure you seek advice from your local accountants/tax advisors as every purchaser's circumstances are different.

Source: www.gov.uk/stamp-duty-land-tax-rates

Owning Property

guide to affilial costs	A guide to	Leasemolu
	monthly costs	additional costs

- Property and contents insurance
- Council Tax (every property goes into one of eight bands according to its capital value)
- Car Parking Permits (London)

 Optional congestion Charge exemption fee (London)

- Electricity
- Electricity

Utility costs

- Water
- Gas
- Telephone
- TV

Chargeable amounts for 1 April 2016 to 31 March 2017 Table:

Property value	Annual charge
More than £500,000 but not more than £1 million	£3,500
More than £1 million but not more than £2 million	£7,000
More than £2 million but not more than £5 million	£23,350
More than £5 million but not more than £10 million	£54,450
More than £10 million but not more than £20 million	£109,050
More than £20 million	£218,200

Transaction Costs on Purchase

- · Lawyer's fees
- Surveyor's fees
- Searches (Local Authority, Environmental Drainage and title)
- Stamp Duty Land Tax
- Land Registry fees



Glossary of terms used

Contract

An agreement between the seller and the buyer in relation to the sale and purchase of the property.

Conveyance

This is the term used in respect to affecting the transfer of the property from the seller to the buyer and is also referred to as a transfer or, (between solicitors) a TR1.

Covenant

Is an agreement to do or provide something or to refrain from doing or providing something which is meant to be binding on the party giving the covenant (who may be referred to as the covenantor). They are also referred to in leases.

Default

This is a failure on the part of the seller or the buyer to perform or observe any provision in the contract or, as the case may be, in the lease which he or she is required to perform or observe (a covenant).

Deposit

This is the payment that is required when the contract is exchanged and is usually 10% of the agreed purchase price.

Encumbrances

These usually encompass mortgages, covenants and conditions to which the property is respectively subject.

Exchange

This is the term used when the contract becomes binding. The seller and the buyer's solicitor agrees to exchange the contract and agree a date for completion. Both the seller and the buyer at this stage are contractually bound to proceed to completion on the completion date.

Freehold

You own both the property and the land on which the property stands. You are responsible for its maintenance and repair. You can do what you wish within the property as long as this is in accordance with legal requirements.

Ground rent

An annual rent payable to the landlord or the owner of the freehold. In effect, it is a rent in return for allowing the property to stand on the freeholder's land. There is usually a mechanism in the lease for the rent to increase at certain intervals.

Land Registry

This is a government body that guarantees the title to land and records ownership and the interests in registered land in England and Wales.

Lease Covenants

These are covenants, agreements and conditions in the lease which must be complied with by the lessee so far as they affect the property.

Leasehold

Land which will provide the buyer with rights of possession and use of the land for a term of years but not ownership. An interest in the freehold is retained by the freeholder who grants the lease as landlord to the tenant (also referred to as the lessee). There can also be strings of leases granted so, for example, the freeholder may grant a lease (headlease/superior lease) to a tenant (head/superior tenant) who in turn may grant a lease (underlease/sub-lease) to an undertenant/sub-tenant who in turn may grant a sub-underlease to a sub-tenant and so on.

Licence to Assign

Assignment means the transfer of the leasehold interest by the tenant (seller) to the buyer. Sometimes the consent of the landlord is required to such an assignment and this is known as Licence to Assign.

Mortgage

The term used by lenders, commonly referred to as mortgagees, to refer to the deed which will charge the property by way of legal mortgage and secure the payment of the borrower's indebtedness.

Registered Properties

Properties that have been registered at the Land Registry.

Service charges

The costs incurred by the lessor/ freeholder or managing agents in providing the services referred to in the lease.

Term

This is the phrase used in a lease in relation to the number of years granted.

Title Documents

These usually encompass office copy entries, which is a copy of the register at the Land Registry, together with a copy of the filed plan of the property and copies of any documents referred to in them.

Unregistered Properties

Properties that have not been registered but will now be subject to a first registration. A more detailed investigation of title needs to be undertaken and documents secured are referred to as an abstract or epitome of title.

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Contact Information



Seb Warner
Partner
T +44 20 7861 5426
seb.warner@knightfrank.com



Anna Lewis
Associate
T +44 20 7861 5434
anna.lewis@knightfrank.com



Matthew Goldsworthy
Account Manager
T +44 20 7861 5440
matthew.goldsworthy@knightfrank.com



Yazmin Murat
Account Executive
T +44 20 7861 1503
yazmin.murat@knightfrank.com



Kimberley Edralin
Executive Administrator/PA to Seb Warner
T +44 20 7861 5439
kimberley.edralin@knightfrank.com

y @KnightFrank KnightFrank.com

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