

Legal Review



BUYING A PROPERTY - THE LEGAL PROCESS

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You've decided that Guernsey is the place for you, and you've found the perfect property. So what happens next? Well, you'll require the services of an advocate to take you through the legal process.

Conditions of Sale

Once you have agreed a price for the property, the estate agent will prepare a draft contract (referred to as 'Conditions of Sale' or 'Conditions').

It is quite common for Conditions to include provisions that the transaction is conditional upon certain criteria, such as obtaining a satisfactory survey or title report, or finances.

This speeds up the signing of the Conditions and allows you (but not the vendor) to withdraw without penalty by an agreed date if any of the conditions are not satisfied. It is therefore advisable in order to avoid gazumping.

Site Visits and Searches

Before or, if they are conditional, just after the Conditions are signed, your advocate will carry out detailed property searches, including a site visit, to ensure that good title is transferred and to check any legal rights or obligations which may be attached to the property.

Because in Guernsey there is no concept of registered land, on each occasion that property is transferred the boundaries have to be checked to ensure that they have not changed since the last conveyance. This is due to the fact that the extent of the property can only be defined and identified by reference to its boundaries.

Open Market Housing Register

Open market properties must, by law, be inscribed on this register. Your advocates will ensure that your property is properly registered. This involves the Housing Department carrying out an internal inspection of the property.

Signing Conditions of Sale

It is standard for the purchaser to sign the Conditions before the vendor and pay the deposit. This is usually 10% of the purchase price, although 5% deposits are increasingly common. Once the deposit has been paid and both parties have signed, the contract becomes binding. Should either party pull out after this stage, or after any conditional period has expired, they would have to pay damages to the other party of 10% of the agreed purchase price.

Completion

On the day of completion, both parties attend the Conveyancing Court to consent to the conveyance. This sits every Tuesday and Thursday at 9.30 a.m.

If a party cannot be present at the time of completion, they may be represented by way of Power of Attorney.

Dwellings Profits Tax

When you come to sell your property, you need to be aware of this tax.

A law was passed in the island in 1975 in order to discourage speculative gains in the dwelling house market. The law provides for a tax of 100% to be levied on all profits unless exemption is granted. The two principal exemptions are:

- if the applicants have owned the dwelling for over 5 years, or
- if they have occupied it as their main residence for a continuous period of one year immediately preceding the sale.

At the time draft Conditions are prepared, an application for exemption is submitted to the Income Tax Authority on the vendor's behalf.

Contact us

This is only a brief overview of the legal process. For further information, including costs, timescales, or any other query, legal or otherwise, please contact us and we will be more than happy to help.



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