

# The Real Cost of Buying Property in Guernsey



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I have been involved in property conveyancing and related matters for over thirty years in Guernsey and I am still surprised at the misconceptions amongst members of the public and members of the States of Guernsey as to the actual costs involved in buying, selling and borrowing.

The greatest costs in the conveyancing process are not advocates' fees - notwithstanding that we have always been the whipping boys when it comes to politicians and other populists moaning about the cost of the procedure.

The truth of the matter, which some politicians refuse to recognise, is that there is a thumpingly large States' tax on property transactions called "document duty" and this is how it works:-

1. On a conveyance of any realty which includes a dwelling, the purchaser is legally required to pay to the States of Guernsey - if the value of the transaction does not exceed £150,000 - 2% of the value of the transaction. In a case where the realty value is £150,000, the sum of £3,000 goes into the Island coffers, not into the advocate's pocket. But the advocate, as part of his job, must collect this tax of £3,000 from you the purchaser and pay it to the States through H.M. Greffier. Your conveyance cannot be registered at the Greffe until your advocate has collected this tax from you and paid it over to the States.
2. The tax is graduated, depending on the transaction value, going up to a massive 3% for those over a value of £250,000.
3. Even if the conveyance to you is by way of gift, you will still have to pay 3% of its value by way of document duty to the States if the property value is over £250,000.

You might well think that you get a terrific amount of service from the States for this. Dear reader, you would be wrong. For the £13,500 in document duty you pay on a £450,000 house, the States (through the Greffe) will make a copy of the conveyance and record it in the Island archives. To add insult to injury, the Greffe charges its own separate fee to register the document, and there are Court fees of £22.50 which relate to the holding of the conveyancing court.

The States impose this tax on you to raise revenue to run the Island. It is not used to improve the services offered by the Greffe in property matters. For example, it is not used to computerise the Greffe records, which would assist the conveyancing process. Nor is it used specifically for a housing fund. It goes into general revenue.

You will now be thinking that it is all very well for me to try to shift the blame for the costs involved in buying your home in Guernsey away from the Guernsey Bar, because, of course, as an advocate I make a part of my living out of property transactions. So what do advocates charge for their services and, more importantly, what do you, the consumer, get for your money?

In the majority of conveyancing transactions, advocates charge a fee of 0.75% of the value of the realty, plus £110 (the value of the contents is not taken into account in advocates' charges). The purchase of a dwelling by you for £450,000 will mean that the advocate will charge you £3,485 - but in addition to this you will pay to the States £13,500 by way of document duty.

What does the advocate do? Some of our politicians like to think that we do very little for our fees. My experience tells me that many people like to think that the jobs of others are much easier than their own, when in reality there are very few jobs which are easy; many look easy because of the skill of the person carrying out the job.

Unfortunately, the space available in this edition of the brochure doesn't allow me to give other than a summary, and my next article will go into this matter in detail. For the present, I will have to content myself and, I hope, you, by saying that investigation into title has to be extremely thorough. We live in a highly litigious society, and therefore the purchaser not only needs to be 100% sure that the vendor has full legal title to all that is being sold, but must be completely assured about the position of boundaries and the extent of rights to which the property is subject, and any rights over neighbouring properties. In doing all of this, the advocate is guaranteeing the title to the property which you have purchased, and that guarantee is backed up by relevant professional indemnity insurance.

There is more - much more - but that will have to abide the next publication.

## The Real Cost of Buying Property in Guernsey - Part 2



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Following on from my last article in the Autumn issue which examined in detail the real cost of buying a property in Guernsey the following summarises the responsibilities of those involved in completing a property transaction.

What does the Advocate do? Some of our politicians like to think that we do very little for our fees. My experience tells me that many people like to think that the jobs of others are much easier than their own, when in reality there are very few jobs which are easy; many look easy because of the skill of the person carrying out the job. This, in summary, is the conveyancing process:-

1. Conditions of Sale are usually prepared by the estate agent involved in the sale using the Guernsey Bar Conditions of Sale which is a standard printed form. The Conditions of Sale are forwarded to your Advocate and to the vendors' Advocate for vetting and amendment.
2. Title deeds are supplied to your Advocate who then checks title. This involves reading all title deeds and carrying out searches at the Greffe and Cadastre. All transactions since the vendor acquired the property must be checked to ensure that all rights created for the benefit of the property and all rights which adjoining and neighbouring owners may have over the property are investigated. This can be a long and very painstaking procedure. All sales made by the Vendors are also investigated to make sure that no part of the property described in the title deeds has been sold. Neighbours' conveyances are checked to ensure that boundaries agree, and if they do not queries must be raised with the vendors or their Advocates. A check is made in the bonds' registers to see what charges are secured against the property, because all bonds must either be vacated or released against the sale property so as to ensure that the purchaser acquires good unencumbered title.
3. A site visit always takes place to determine the boundaries and boundary features. Boundary features often change, because owners carry out works to their properties and encroachments onto neighbouring land happen quite frequently.

Disputes with neighbours over ownership of parts of the land occur from time to time and the conveyancer's task is to deal with them and to advise the purchasers of all problems which may affect the property they wish to purchase.

Many properties in Guernsey do not have a legal right to enter upon neighbouring property in order to carry out works of repair and maintenance. This is particularly the case in built-up areas. The purchaser must be advised of all problems and sometimes the Advocate is asked to negotiate with neighbours to obtain an agreement for access to repair and maintain.

This can be very time-consuming and sometimes can cost a lot of extra money.

4. Once title has been checked and the many problems which can arise have been dealt with, the conveyance is drafted in final form. If the Advocate makes an error then he may be legally liable to his client if he has been negligent.
5. The finance arrangements for the purchase must also be checked and dealt with. The purchaser must be advised how much it is going to cost and you will not be surprised to discover that the purchaser's good friend the States again holds out the hand of government towards the purchaser for more money. Yes, borrowing to buy involves payment of document duty as well: not to the Advocate who prepares the bond which secures the borrowing on the property, but to the States. This document duty is 0.5% of the amount of the bond.

The legal charges for the preparation of the bond are a basic charge of £25 plus £3 per £1000 secured on the first £10,000, and thereafter £2 per £1000. In addition there is a Court fee payable at the Greffe of £22.50 and a registration fee payable to the States usually between £3 and £6, depending on the length of the document to be registered.

You can calculate the exact costs of buying a property and borrowing by using the costs calculator which is to be found on the Ozannes Property website on [www.ozannesproperty.com](http://www.ozannesproperty.com).

The Advocate must check the title to the property for the lender - usually a bank or building society - and he owes a duty of care to such lender to make sure title is good and the bond is properly registered against the property (because, if the worst happens, the lender could eventually wind up as owner of the property).

6. Once the above procedure is completed the parties proceed to the Conveyancing court at 9.30 a.m. on a Tuesday or Thursday morning and complete the procedure before the Jurats.
7. On return from the Conveyancing Court the purchase monies are paid out to the vendors' Advocates or to the vendors if they do not have an Advocate or to the vendors' bank if there is a bond secured on the sale premises which needs to be paid off.
8. At 4 pm the Conveyances and bonds are registered at the Greffe. Further checks are carried out at this time to ensure that no other registries are placed against the property prior to registration because a lending bank will usually require its bond to be a first charge against the property.

Part 3 of this article will appear in the next issue.

# The Real Cost of Buying Property in Guernsey - Part 3



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This is the third and final article in the series examining the real cost of buying a property in Guernsey.

The first two articles gave an outline of the work which has to be done to ensure that the property you buy vests legally in you and any defects in title are resolved or explained to the clients and accepted by them. Many transactions are much more technical and involve complex provisions of Guernsey law relating to property.

Some of our politicians seem to believe that our law is either the same as English law or, if not, should be. Perhaps they need to be reminded that Guernsey has its own laws developed over the centuries. They are unique and they are part of what makes Guernsey different. Some laws may need to be changed but many of them have stood the test of time and much thought should be given before anyone tinkers with them. The Guernsey conveyancing procedure is swift when compared with procedures in other jurisdictions.

Vendors also pay their Advocates for acting for them in a sale and Advocates may waive their fees on a sale if their clients are also purchasing on the same day.

The Vendors will generally have to pay commission to their estate agent for selling their property and this averages at 2% on the full value of the sale - i.e. realty and the contents. This commission is lower than the commission charged by many agents in Europe and it is often negotiable if a sole agency agreement is entered into with the estate agent.

In addition Purchasers invariably employ a surveyor to advise them of the state of the property and to point out any major defects or to advise on repairs and the costs involved. Surveyors' fees vary and in the same way as the fees of any professional, they are dependent upon the amount of work which he is required to carry out. Obviously, a full in depth survey of a property will cost considerably more than a shorter survey which will only point out major or obvious defects.

Clearly, the Advocates' firms carry out a considerable amount of work and guarantee the title to your property, backed up their professional indemnity insurance policies. The estate agent uses his skills and contacts to sell the property for the best possible price and negotiates on behalf of the vendor in what is sometimes a very tough market. The surveyor assumes responsibility for advice on the condition of the property and he is legally liable if he is negligent in the advice he gives. The States on the other hand take the largest chunk of your money in a conveyancing transaction, and are not liable for anything if it goes wrong.

There has been much speculation this year as to how the States will fill the "black hole" in our economy. How will they balance the books? One way to raise extra money would be for the States to increase the rate of document duty. This would be very easy to do and substantial extra revenue could be raised by the States in this way.

Property is an easy target for taxation purposes and because locally the cost of buying a property is invariably referred to as "legal fees", the public equate such fees with Advocates charges.

We now know that the States are going to raise the amount of tax on rateable value which they will extract from every property owner in Guernsey by a hefty percentage. It is easy to try to justify this tax increase by stating that rates in Guernsey are very low compared to other jurisdictions and by that they invariably mean the United Kingdom, on the basis that if something is done there then it must be ok.

It is hoped that this article will go some way to set the record straight. Property owners are set to pay more for the privilege of ownership and possibly purchasing their home. The real cost of buying a property in Guernsey is a high cost because of the high level of tax (document duty) imposed on such transactions by the States of Guernsey.