

The Function Of Solicitors When Buying Property



ESPER WEALTH
PROPERTY INVESTMENTS



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Welcome

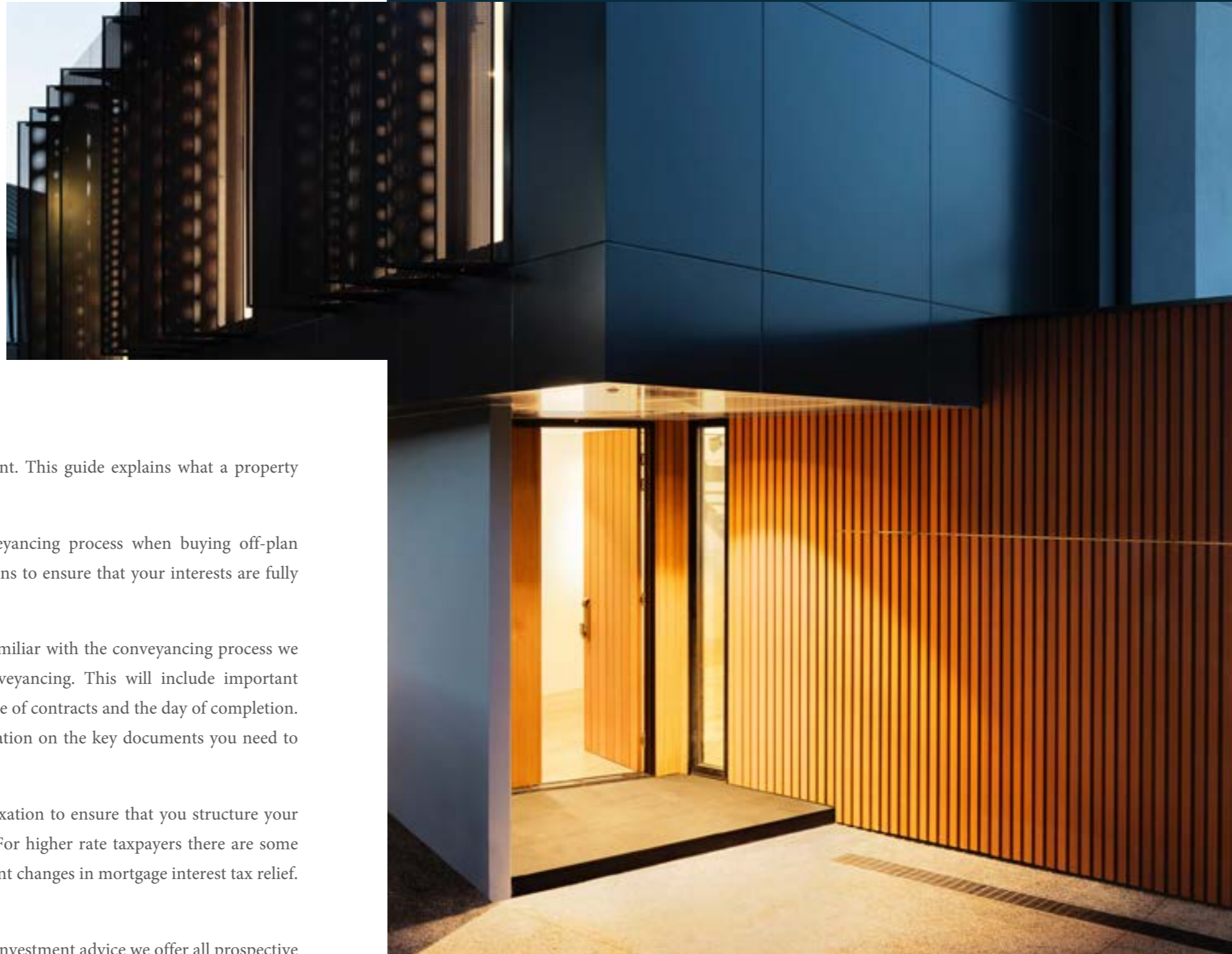
Purchasing a property is a big financial commitment. This guide explains what a property solicitor does during the conveyancing process.

There is an additional section detailing the conveyancing process when buying off-plan property as your solicitor will perform extra functions to ensure that your interests are fully looked after.

If you are new to property investment and are unfamiliar with the conveyancing process we recommend that you also read our guide to conveyancing. This will include important information on important terms such as the exchange of contracts and the day of completion. Within the conveyancing brochure, there is information on the key documents you need to complete the purchase process.

We suggest reading our guides to mortgages and taxation to ensure that you structure your purchase in accordance with your financial needs. For higher rate taxpayers there are some benefits in registering a limited company due to recent changes in mortgage interest tax relief. As such we recommend that you read this guide.

Additionally, if you feel that you could benefit from investment advice we offer all prospective clients a free investment review. You can find out more about this service via our website.



Solicitors perform searches

The primary reason a solicitor is needed when you are purchasing a property is to ensure that all the legal requirements are met. A solicitor should be the main person to help navigate you through the property process.

Your solicitor will undertake a number of searches on your desired property. These searches can reveal important information that could determine whether buying the property is right for you. These searches could reveal someone holding rights over the land or any other planning issues affecting the property.



Typically search documents are lengthy and can be very technical in their wording. Because of this, they need to be deciphered by a person who understands the terms. This is very important when dealing with an older property, where rights over the land may be hidden in old hand-written deeds.

There are many different searches that a property solicitor makes. The three most common searches are:



1. Local Authority Searches

You can find out There are two parts to a local authority search:

LLC1 – Local Land Charge Register search. This includes any charges or restrictions related to land or property. This search is essential as registrations are legally binding on successive owners. This could establish whether the property is:

- situated in a conservation area
- in need of a home improvement or renovation grant
- a listed building
- subject to a tree protection order
- or situated in a smoke control zone
- planning agreements and conditional planning permissions.

The second part of the local authority search is the **CON29**. This gives information on:

- highways
- new roads
- rail schemes
- compulsory purchase order

2. Environmental searches

This search highlights:

- Flooding issues
- Landslide issues
- Contaminated land issues
- Subsidence issues

3. Water and drainage searches

This search enquiry is made to the local water company and highlights:

- Who owns and maintains the sewers, drains & piping
- If the property is connected to a public water supply and sewer
- Whether the water supply is metered or rateable
- The location of public sewer and drainage pipes
- Whether you'll need permission from the water company to extend the home

If any issues are found, your solicitor will be able to advise you on what to do. They will explain the potential outcomes, as well as what extra questions should be asked, or actions to be taken.

Solicitors provide peace of mind

When you are purchasing a property, it is a big financial commitment, so you need to make you are not caught out with potentially expensive issues which need addressing.

Solicitors in England and Wales are governed by the Solicitors Regulation Authority (SRA). The SRA regulates over 200,000 solicitors in these two countries. If a solicitor fails to raise potential issues or does not adhere to any undertakings, this is considered professional misconduct. Any misconduct could result in penalties for the solicitor and the firm. This is essential protection for you the client.

Exchange of contracts

Once all the legal issues are dealt with, and both buyer and seller are happy, the property will proceed to the exchange of contracts.

Until you exchange contracts, neither side has any legal obligation to buy or sell the property. Both buyer and seller can pull out without any penalty, with the exemption of a deposit if one was offered. Both buyer and seller sign identical contracts, but only when they are formally exchanged by the solicitors does the deal become legally binding.

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Completion

Your solicitor will liaise with the other parties to confirm a date for completion. This is when the funds for the purchase will need to be transferred, along with receiving mortgage funds and paying stamp duty.

Completion is usually done shortly after the exchange of contracts. However, if you buy off-plan the time period between exchange and completion can be a lot longer. There are other conveyancing considerations to look into if you buy off-plan. We discuss those next.



The function of Solicitors when buying off-plan

When buying property off-plan there are many more things to think about. Your prospective property is not completed. It might not have even started being built. There will be staged payments, and complex provisions, terms, and clauses in an off-plan property contract. A solicitor will walk you through the process and alert you to any potential issues located within the small print.

The first stage of buying an off-plan property is making a reservation. This is when you pay a deposit and the sales agent will remove the property from the market whilst your appointed solicitor does the necessary due diligence. A property contract will be sent to you if you haven't already received one.

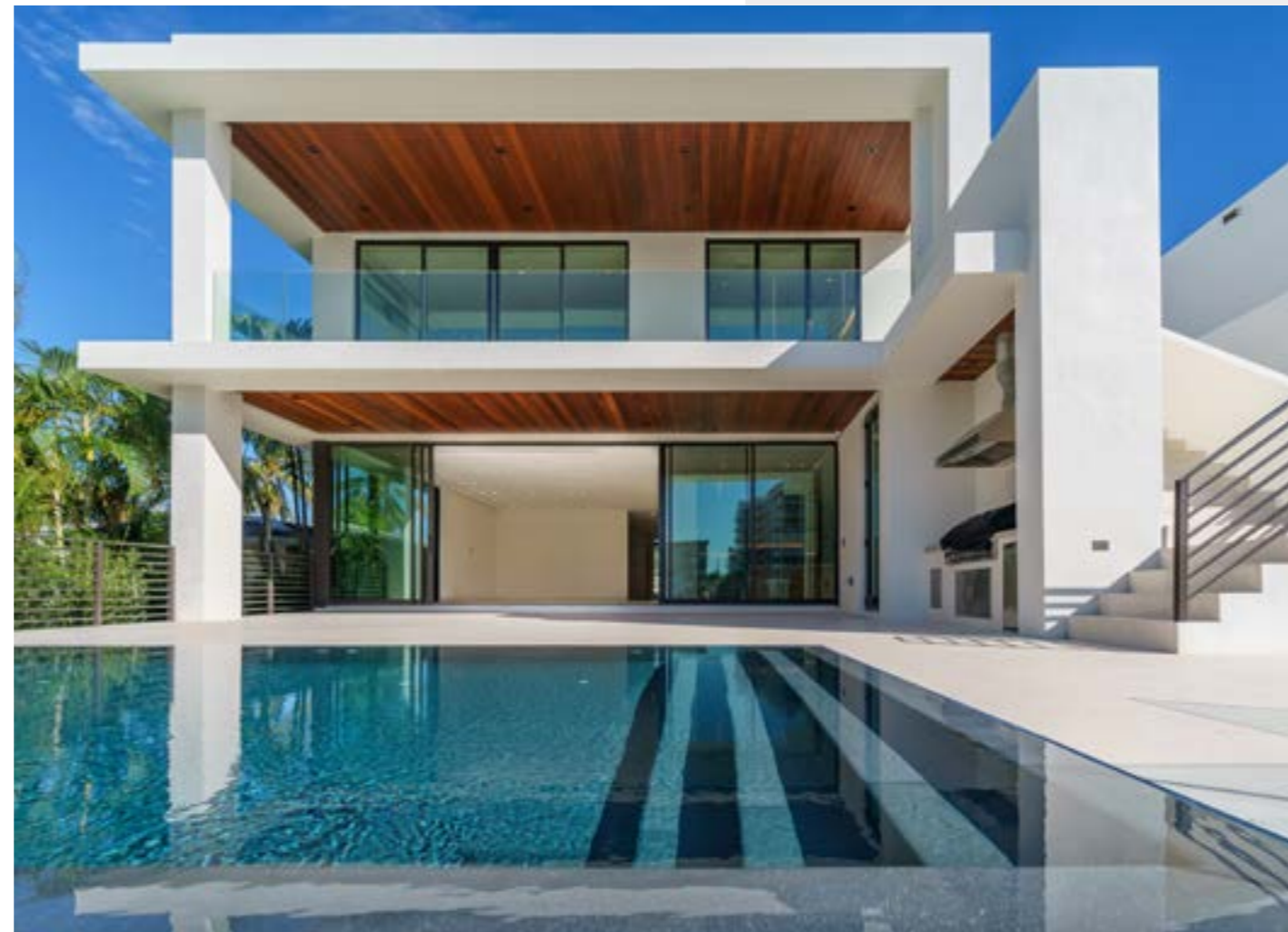


An off-plan property contract explained

A property contract will outline the terms and conditions of the sale. As you can expect, this contract will outline quite a bit of information.

1. The contract will disclose all charges that are associated with the sale
2. Any fixtures and fittings agreed with the developer will be included
3. The contract should also specify when the build will begin
4. A full outline of the stage payment process detailing when each stage payment is due
5. If interest is paid on deposited funds this will be written into the contract
6. There is likely to be a copy of the plan of the property and of the development
7. The title to be transferred should also be included
8. A stop date is usually built in to protect against delays in the build process

Typically this contract is a very detailed document and the role of your solicitor is to guide you through it.



Your solicitor's role prior to the exchange of contracts

When you reserve an off-plan property, the developer will usually only expect you to get to exchange contracts within 28 days, unless an extended exchange has been negotiated. If you don't adhere to this, you could lose your reservation and deposit.

Therefore your solicitor is working within a tight timescale. Here's what you can expect from your solicitor in the build-up to the exchange of contracts:



Week 1:

Your solicitor will send you a Client Care Letter. This confirms their charges and terms of business. If you're happy with these terms, you simply sign and return this letter. This letter gives the solicitor permission to act on your behalf.

Your appointed solicitor will now request all the appropriate legal documentation from the developer's solicitor.

Week 2:

Your solicitor will review all the documents and the contract. If all is Ok, they will ask you for the search fee. Once this is paid, they will do a number of searches against the property.

If there are queries which arise from the review of the legal documents, your solicitor will inform you. He/she will then liaise with the developer via their solicitor. Only when all issues have been resolved will the solicitor advise you to continue.

Week 3:

During the third week, the solicitor will ensure that any outstanding queries have been resolved. They will ensure that the searches are satisfactory.

Assuming all is ok, your solicitor will give you a copy of the contract to review. You will receive banking instructions on where you pay the deposit.

Week 4:

At this point, your solicitor will get you to sign and return the contract. You'll need to arrange for the deposit money to be paid into the solicitor's escrow account.

Once they have received your signed contract and deposit, the solicitor will arrange for the exchange of contracts and payment of the deposit to the developer.

The job of your solicitor at Completion

There is usually a long time period between exchange and completion when buying off-plan. This is completely different to buying a built property.

Buying existing property

When buying a built property, the time between exchange and completion is very short. On average, you exchange around 7-28 days before completion. Though it is possible to do both on the same day.

As completion is just around the corner you need to ensure everything is in place prior to exchange. This is because, at the exchange, you are legally committed to the purchase. At this point, mortgage finance will be in place if needed. Contents insurance will also need to be arranged.

Buying off-plan

Buying off-plan comes with its own set of complications. One particular area of concern is mortgage finance. Most lenders are happy to offer a mortgage in principle. However, if the build period is longer than the offer, you are likely going to have to re-apply at a later stage. At this point, your circumstances may have changed. With this in mind, it is wise to consider whether your financial situation could change in the ensuing months before committing to buy. This is why we recommend speaking with one of our regulated partners, who have a thorough understanding of the mortgage market. They offer you sound financial advice.

At completion

Once you approach completion, your solicitor will contact you to inform you of the process. They will arrange for the final payment to be made to the developer. At completion, you will get a chance to check out the property to ensure it is fit for its purpose. If this purchase has been arranged through us, we will oversee this process for you through our aftercare team. They will snag the property and search for any potential defects.

For you, the time after completion is used for decorating and unpacking. Or with rental property arranging for new tenants. For your solicitor, there is still legal work to do. After completion, they'll file your stamp duty land tax return, receive notice from the freeholder (if leasehold) and register the property in your name at the Land Registry.

Specialist off-plan property solicitor

We recommend that you employ a solicitor who is used to this process. A solicitor will need to understand the complexities of buying property off-plan and have experience in doing so.

As deadlines are tight your solicitor will need to work with speed. When arranging an off-plan purchase through Esper Wealth we can put you in contact with a specialised off-plan property solicitor. The solicitor will be intimate with the development having already done the research for other clients.

The role of your solicitor when buying property is an important one. There are several key questions which you should ask when buying off-plan property. This is enclosed in one of our articles located in the news section of our site.

At Esper Wealth we undertake thorough due diligence before recommending any developer to our clients.



The Esper Approach

At Esper Wealth we work for you. Our role is to listen to you and guide you to achieve your goals. As a client we want you to feel comfortable in the investment process, in the belief that we are delivering the best advice. With this in mind, it is important to follow three simple rules when investing:

1. **Never feel pressured.** Many property sales companies work on urgency. This is the wrong approach. You should take the time to decide what is right for you and your family. If this means you miss a particular property then be rest assured another opportunity will arise.
2. **Be transactional.** This means trying not to be emotive about a property. Remember you are not living in it. Ask yourself, do the numbers work financially for me?
3. **Ask yourself, what if?** In life, we never know what's around the corner. Sometimes your circumstances can change. If things do change, how will it impact me? Whilst you can never legislate for all contingencies, it is advisable to invest with your eyes open.

If you are interested in off-plan opportunities, or completed property direct from the developer, then visit our developments page. Alternatively, if you would prefer to start your investment journey by having a no obligations, free investment review, Then contact a member of our team who will be happy to help.