



GUIDE TO SURVEYS

SURVEY BEFORE EXCHANGE

It is very important for a buyer to have a house or flat professionally surveyed before exchange of contracts to buy it. Conveyancers cannot advise buyers on the value, structural or physical “bricks and mortar” aspect of a house or flat. Buyers should seek such advice from a surveyor.

Under English law the seller generally has no obligation to the buyer to warrant or guarantee that the home is physically suitable for the buyer or even that the home complies with planning, building regulations or any other legal requirements.

A survey gives buyers the chance to re-negotiate the price to take into account the need for repairs.

If you exchange contracts to buy a home (or bid for it at auction) without having it surveyed first you may find that you cannot get a mortgage on it if there are defects picked up on the prospective lender’s valuation.

Unfortunately, if that happens you cannot back out. You may be liable to pay the seller substantial damages for breach of contract if you fail to complete the purchase including all their fees and losses. You may lose your 10% deposit.

VALUATIONS ARE NOT SURVEYS

Banks and other lender will always have a home valued before they agree to lend on it but they are only concerned that they can sell the house or flat and recover the money they have lent you. There may be defects in the home or its structure that are not revealed by their valuer’s inspection. There may be omissions or inaccuracies in the valuation report that do not matter to the lender but they might matter to you.

For example, you might be buying a home for £300,000.00 and borrowing £150,000 from the bank. The bank may be happy to lend £150,000 even if the home needs £20,000 of repairs but you may have paid £20,000 too much for the home.

Also, don’t forget that the lender will not live in the home and have to deal with problems of blocked drains, leaking roof, defective services or settlement of cracks in the walls – you will.

The bank’s valuation is carried out by the bank’s surveyor for the bank, not you, even if you pay for it. You will not be able to sue their surveyor if they have missed something.

In contrast, if you have your own survey carried out you can rely on it. Your surveyor will have a legal liability to you should they miss something or overvalue your home. They will also have professional insurance against negligent surveys.

CONSUMER RIGHTS DO NOT APPLY

The normal consumer rights to quality and fitness for purpose that you have if you buy a car or other consumer items do NOT apply to a house or flat purchase. Also unconfirmed “verbal” comments, assurances or other statements by the seller or their estate agents about a home are generally unenforceable -unless and until they have been confirmed in writing by the sellers conveyancer **before** exchange of contracts.

If the seller or their agent has told you something that is an important factor in your decision whether to buy the property you should ask your conveyancer to confirm the point with the seller’s conveyancer.

Talk to us!

Please ask us to explain anything in this guide or discuss any unusual circumstances. We can then advise on what is best for you.

This is a general guide only, and each situation may be different and may need specific advice.

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