



Chapter 1: Organisations

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Introduction

Welcome to the **Introduction to Property and Private Client** course book. Many people will be familiar with the process of moving house. They might be buying their first home (often referred to as “getting on the housing ladder”) or they might be selling the house that they live in and moving to a different home. This is a very practical exercise in which a house owner will pack up the contents of their home and will move from their old house to their new house on the same day. It is the job of the conveyancer acting for them to ensure, in most cases, that this process happens on the same day for these clients. The work carried out by the conveyancer puts this very practical process of moving house into a **legal framework**.

Many people are also familiar with the general steps which must be taken when someone dies. Family and friends are often grieving and have to make funeral arrangements but there are also a lot of administrative tasks to be carried out to deal properly with the **affairs and assets** (known as the “**estate**”) of a person who has died. If they have left a will, this must be found and their wishes carried out. If the deceased did not leave a will, there is a strict list of who is entitled to the estate of the deceased which largely follows their bloodline. Many families will deal with the estate of the deceased without legal assistance but it is fair to say that this process can be complicated, and it is also necessary to deal with HM Revenue and Customs to ensure that any tax due when somebody dies is properly paid. Accordingly, many people feel more comfortable instructing a legal firm to deal with the affairs of someone who has died.



Trainees who work in the non-contentious department of a law firm will find that there are **common themes** and **technical aspects** which appear in both conveyancing and probate work. Also, firms which have both departments will often liaise closely, and the conveyancers will deal with the sale of properties which their probate colleagues are dealing with. Accordingly, this course book will introduce you to law and practice which is common to **both** areas of work. This will include the organisations which you will commonly encounter, for example, CILEX, the Law Society, the Probate Registry and the lenders. We will then move on to deal with key land law concepts which you will need

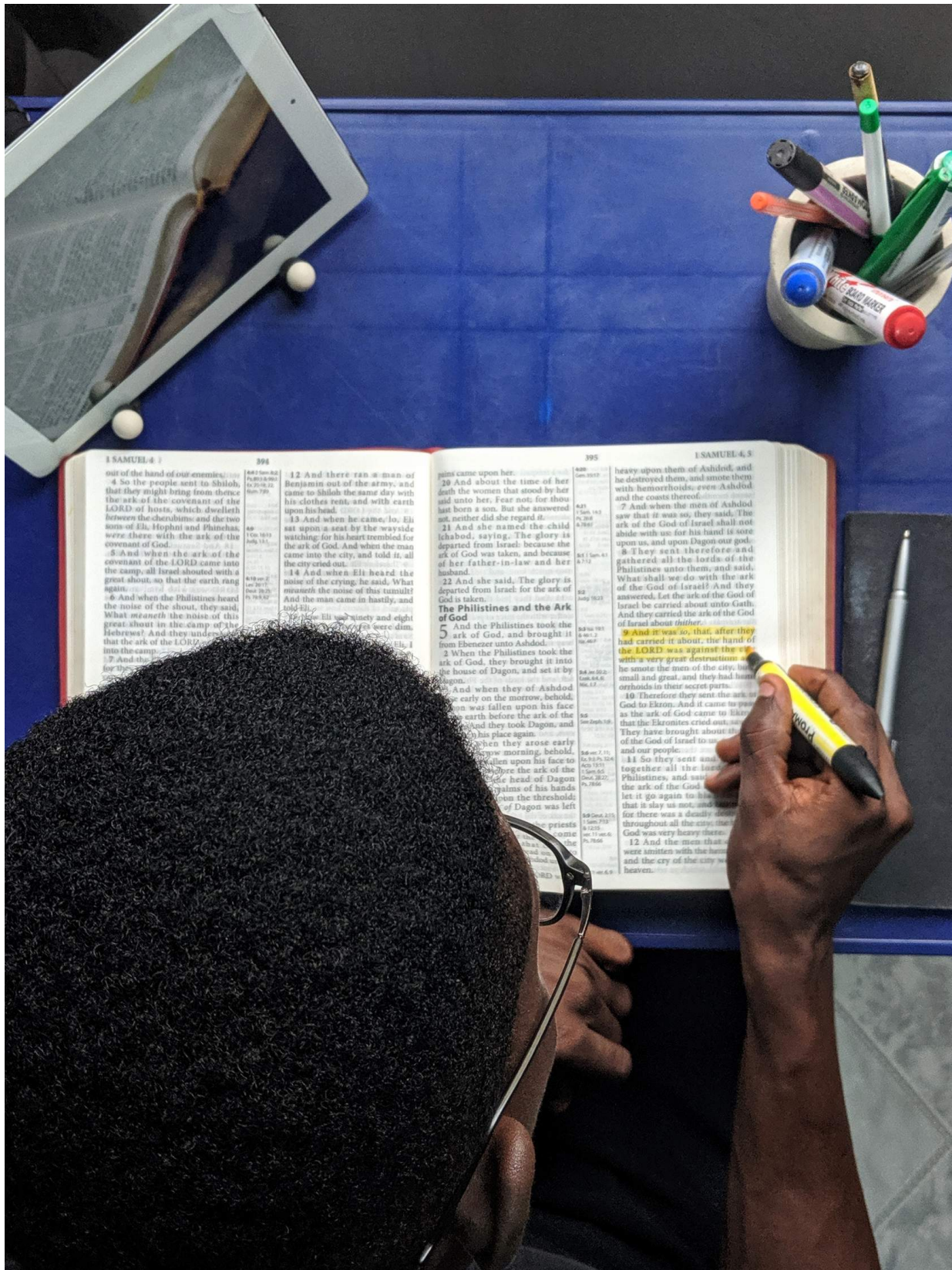
to understand to deal with conveyancing matters, and we will introduce you to the most common documents which you will come across in both of these practice areas.

We will then move on to consider specific areas of practice relating to how to apply for a grant of probate, and the course book will conclude with the steps required in a straightforward freehold conveyancing transaction. We will take you through all of the stages of the conveyancing process and the documents which you will most commonly encounter. To help you understand this process, we will insert the key forms that you will come across at the end of the chapters that deal with them.

We will outline the progress of a typical freehold residential conveyancing transaction with a registered title. We will take you through the key players involved in the transaction and the main documents which you will encounter at the various stages of the transaction. Please remember however that all conveyancing firms will have slightly different processes and procedures in place. Many firms will use case management systems to speed up the process and provide standard letters and reports whilst others will produce bespoke reports on every file. If you are working in a conveyancing firm, you will notice that your firm might do things in a slightly different order to how we have described it in this course book. Hopefully, you will recognise all the key milestones, and your firm will adopt best practice in its approach to conveyancing work.

There is a lot of legal terminology relating to conveyancing and probate work. Note that you will be expected to use and understand the correct legal terms in your assessments.

You will learn about the **different regulatory bodies** and will understand that there are different types of lawyer qualifications. Law firms that offer legal services to the public must be regulated, which means having a set of professional standards to comply with and a framework for client complaints and discipline if something goes wrong. Firms must also have professional indemnity insurance in place. The purpose is to ensure that members of the public are protected when using legal services. Firms can choose which regulator they would like to use.



Where we talk in this course book about a particular regulator and their requirements, we will refer specifically to the lawyers they regulate (e.g. CILEX Regulation and chartered legal executive). However, many different lawyers can carry out conveyancing work, so when we talk about the conveyancing process more generally, we will refer to “conveyancers” to include all who carry out this work.

Activities and links to practice

Your course book will contain activities to enhance your learning. Where there is an opportunity for you to widen your knowledge and engage with the material, an activity will be set. It might ask you to go to a website or read a document – in all cases, there are no “answers” or other information provided for these activities. They do not form part of your assessment – they are just for your own reference and to help you locate more information about the points discussed in the course book.

Many people coming to legal concepts for the first time can find it tricky to understand how those points relate to their work in a legal office. Throughout this course book, we will give you “links to practice” – which are short explanations or scenarios, designed to help you relate what you are learning to the work of a conveyancer or private client practitioner. If you work in a conveyancing firm, you can ask how your firm handles particular aspects of the conveyancing transaction or probate practice as you come across them in your course book.

By the end of this course book, you will be able to:

1

explain the professional framework and organisations that you will encounter in conveyancing and probate practice;

2

describe the underpinning law relevant to the transfer of title and the preparation of a will;

3

identify the key risks encountered in a conveyancing transaction including conduct issues, money laundering and post-completion deadlines;

4

identify the procedures required to apply for a grant of probate and to carry out a residential freehold conveyancing sale and purchase with a registered title from taking instructions to registration of a buyer's title following completion; and

5

know how to draft a contract and a transfer (TR1) and advise a client on appropriate procedures and next steps in a straightforward conveyancing transaction.

CONTINUE

Aims of this Chapter

This chapter will introduce you to the main organisations that you will come across when working in the property and private client departments. You need to understand the purpose of the organisations and how you will interact with them. Review the regulators covered in the Ethics and Professional Responsibility module to ensure that you fully understand the function of CILEX Regulation and the Solicitors Regulation Authority (SRA).

This chapter will cover:

- CILEX
- The Law Society
- the Council for Licensed Conveyancers (CLC)
- the Probate Registry
- HM Land Registry (HMLR)
- the mortgage lenders, and
- the Society of Trust and Estate Practitioners (STEP).

Now let's move on to consider each of these in turn.

CONTINUE

1.1 CILEX

CILEX is the representative body for chartered legal executives and has always included many conveyancers and private client lawyers amongst its members. Its new **CPQ qualification** allows trainees to follow a number of different practice “pathways” during their studies. These include residential conveyancing, commercial conveyancing and wills, probate and private client. Completion of these pathways will enable trainees to demonstrate their professional expertise in these areas.

Increasing numbers of chartered legal executives have set up their own conveyancing firms, regulated by CILEX Regulation, after first becoming a CILEX conveyancing practitioner – see link below for further details.



Become a CILEx Practitioner - CILEx Regulation

Apply to be a CILEx Practitioner for Civil Litigation Rights, Criminal Litigation Rights, Family Litigation Rights, Probate Rights, Conveyancing Rights, Immigration Rights

[READ MORE CILEX REGULATION](#)

Other chartered legal executives work in law firms with solicitors and licensed conveyancers or in legal departments of developers or local councils.



CONTINUE

1.2 The Law Society

The Law Society is the professional body for solicitors in England and Wales. It represents the views of solicitors and campaigns on their behalf. The Law Society represents solicitors and provides training, support and resources across all areas of legal practice. One of the resources that you are likely to come across in conveyancing and probate work is the practice guides. These are regularly updated and provide useful guidance in a number of practice areas.



Activity

Go to the Law Society's website linked below.

Find the following practice notes (under the **"topics and resources"** tab, see **"property"** and **"private client"**):

Property and registration fraud;

Preparing a will when your client is leaving a gift for you, your family or colleagues.

When you have downloaded them, read them to give you an idea of some of the issues that we will come across later in the course book.

Always refer to the online version of the practice notes as they are regularly updated.

 **LAWSOCIETY**



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Reframing justice - let's talk differently about law and justice

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CONTINUE

1.2.1 Conveyancing Protocol

The Law Society's National Conveyancing Protocol (the Protocol) is a scheme designed to simplify and speed up residential conveyancing transactions through the use of simpler standard forms, more user-friendly terminology and streamlined procedures. The scheme is

not mandatory, but was recommended by the Law Society as preferred practice; most firms carrying out residential conveyancing use so. The scheme did not alter the basic work to be done in a conveyancing transaction, but set out a series of procedural steps, considered to be best practice. Importantly, it provides for more information to be produced by the seller's conveyancer at an early stage, and for the use of standard Protocol forms.

The latest version of the Protocol was updated in August 2019 and sets out a series of steps which are regarded as being best practice in freehold or leasehold residential sale and purchase transactions. It is not designed to be used in the sale and purchase of new build homes. It is not a checklist, and its provisions are not exhaustive, as it is seen as a framework. The Law Society stresses that the steps can be taken in a different order.

The content of the current (2019) edition of the Protocol is presented in **Table 1.2**.

1. General obligations	Examples of the general obligations are to consider conflicts of interest, to comply with duties to lenders, to act with courtesy and co-operate with third parties, to comply with regulatory and statutory requirements, to deal with others in a fair and honest manner, to comply with money laundering regulations and with client identification requirements and to have a continuing awareness of cyber-security issues.
2. Interpretation	This section is designed to help with the interpretation of the general obligations. For instance, it contains guidance on the timetable for exchange and completion, recognising that every transaction is different and the time it may take for each stage will be different. The timetable

	anticipated by the parties at the outset may change, and the order in which processes are undertaken may alter. It states there is no “normal” transaction and conveyancers should communicate this to clients, who need to be made aware that timetables are often set by third parties and the original timetable is no more than a general indication. It also states that the Protocol is preferred practice, but if one party does not agree to adopt it, this does not prevent the other party from using it.
3. The Protocol framework	The Protocol is divided into the stages of a typical transaction: A: Instructions B: Pre-exchange – submitting a contract C: Prior to exchange of contracts D: Exchange of contracts E: Completion F: Post-completion
4. The Protocol	The Protocol contains 35 numbered steps, divided into the sections described above (e.g. Stage A contains steps 1–9). The steps follow the typical residential transaction from start to finish, although are not to be

interpreted as a checklist or as exhaustive.
In general, the steps follow preferred modern practice.



Activity

Go to The Law Society's website and download, save and read the Conveyancing Protocol – you will see that it is a clear statement of all of the steps to be taken in a typical transaction.

If you do not do conveyancing in the work place, do not worry. The Protocol is written in plain English and will give you a good overview of the conveyancing process. Do not worry if you don't understand it all – this course will help you with that!

Keep this copy for reference throughout your course.



Home

[READ MORE LAWSOCIETY](#)

The 2019 update also included some important developments:

- The updated Protocol contains a provision that, where the contract package is sent out by email, each document must be sent as a clearly identifiable separate attachment or uploaded individually rather than as a large attachment containing all the documents.
- It contains more advice about managing client expectations during the conveyancing process.
- It takes account of the fact that the SDLT regime has become increasingly complex and contains recommendations to seek specialist tax advice if necessary. It also refers to land transaction tax (LTT) (applying to land transactions in Wales).
- It takes account of the fact that fraud and email scams have become increasingly common and contain steps to guard against these issues.

- The updated Protocol provides that contracts should only contain additional clauses which are absolutely necessary to the transaction, and unnecessary enquiries should not be made. The Protocol stresses that the seller's conveyancer does not have to answer inappropriate queries.

We will explore all of these points at the relevant stage in the conveyancing process in this course book.

CONTINUE

1.2.2 Protocol forms (TA forms)

An important part of the Protocol is the standard conveyancing forms that are used and the contract of sale. Most conveyancers use a form of contract for residential freehold and leasehold transactions incorporating the Standard Conditions of Sale (5th edition – 2018 revision). This contract contains the terms of sale and the rights and obligations between the seller and the buyer and deals with the situation if the transaction fails to complete. We will look at this contract in detail in [Chapter 13](#).

The Protocol also introduced various standard forms designed to be “user friendly”, to help speed up the conveyancing transaction. These contain important information about a property or the progress of the transaction and are used in nearly every conveyancing matter. We will look at the most commonly used forms in a freehold conveyancing transaction later in this course book.

Note that these were originally called the “**TransAction forms**”, which is why they are still sometimes referred to as the “**TA forms**”.



Activity

Go to the Law Society's website and download the extract from the forms below – these are the forms that you are most likely to come across in a conveyancing transaction. They are referred to as the 'Transaction (TA) Forms' on the website and are as follows:

- Property Information Form (TA6)
- Fittings and Contents Forms (TA10)
- Completion Information and Undertakings Form (TA13)



Transaction (TA) forms

Forms for solicitors and conveyancers to use in business and residential property sales.

READ MORE LAWSOCIETY

Copies of the forms are contained elsewhere in the course book.

Also available on the above website is form TA7, which is the Leasehold Information Form. This is an additional property information form, used in leasehold transactions. It covers a range of matters which are specifically relevant where a leasehold property, such as a flat, is being sold. The latest edition (the 3rd edition) of form TA7 was issued in January 2023.

Examples of matters covered in form TA7 are:

- what type of leasehold property is being sold (e.g. an apartment);
- whether the seller pays rent for the property;
- who manages the building (e.g. a management company);
- relevant documents to be supplied (e.g. the lease);
- buildings insurance;
- service charges;
- complaints;
- alterations;
- building safety risks (e.g. unsafe cladding)

CONTINUE

1.2.3 Conveyancing Quality Scheme

The Law Society's Conveyancing Quality Scheme (CQS) is available to residential conveyancing practices that are regulated by the SRA. The purpose of the scheme is to enable member firms to demonstrate (e.g. to clients and lenders) that they are operating to

consistent and high standards. The scheme is supported by UK Finance (discussed later) and the Building Societies Association (BSA).

Potential members must apply to the Law Society, demonstrating that they meet defined standards in respect of management procedures, conveyancing staff and other areas of expertise. Not all applications will be accepted, and CQS accreditation must be renewed regularly.

If approved as members of the CQS, firms can use the CQS logo and must adopt the Protocol. They must also sign up to comply with the CQS client charter, mandatory training and enforcement procedures.

CQS accreditation is also important as lenders are increasingly requiring firms to be accredited before they will allow them to be on their approved panel (i.e. on the list of firms which the lender will instruct to carry out its mortgage-related work). This has important implications for firms since, as explained later, conveyancers commonly act for both a buyer client and the client's mortgage lender.

The Law Society regularly updates the CQS scheme. From May 2022, updated Core Practice Management Standards (CPMS) have been in force. CQS members must familiarise themselves with these. The Law Society is currently introducing a new online CQS application process for firms.

The Law Society monitors member firms to ensure they are complying with CQS. It will be assessing compliance against the CPMS and the Protocol as part of a programme of onsite and remote assessments.

CONTINUE

1.3 Council for Licensed Conveyancers

1.3.1 Purpose of the CLC

The CLC regulates specialist conveyancing and probate lawyers. The regulatory activities include setting educational and training standards for entry to the profession, issuing licenses to practice to those qualified to provide conveyancing and probate services and maintaining a register of all licensed conveyancers and regulated bodies. A licensed conveyancer is a specialist lawyer who is qualified to offer conveyancing services.



1.3.2 CLC code of conduct

As with other regulators, the CLC has a code of conduct which its practitioners must comply with. There are various regulatory arrangements but the code of conduct is central to the regulatory arrangements and must be complied with at all times.

The CLC has six overriding principles which are considered to be essential to the delivery of CLC-regulated services to the public:

- 1 act with independence and integrity;
- 2 maintain high standards of work;
- 3 act in the best interests of clients;
- 4 comply with duty to the court;
- 5 deal with regulators and ombudsmen in an open and cooperative way; and
- 6 promote equality of access and service.



Activity

Go to the CLC website and find the “handbook” tab. Find the code of conduct and read through the principles to familiarise yourself with the standards required for a CLC-regulated firm.

 **CLC - THE SPECIALIST PROPERTY LAW REGULATOR**



Regulating
Property
And
Probate
Lawyers

Home - CLC - The Specialist Property Law Regulator

Home.

READ MORE CLC - THE SPECIALIST PROPERTY LAW REGULATOR

CONTINUE

1.4 Probate Registry

1.4.1 Purpose of the Probate Registry

When someone dies, their assets are referred to as their “**estate**”. The people who have the duty to deal with the estate and arrange for it to be distributed are called “personal representative/s”, and they must follow a process to ensure that the estate of the deceased is dealt with correctly – this is known as “**probate**”.

The document which the personal representatives need to give them authority to act in relation to the deceased’s affairs is known as a “**grant of representation**” – we will look at the different types of grants in a later chapter.

The grant is, in fact, a court order.

Probate Registries are part of the High Court, and, in broad terms, their role is to confirm that the initial stages of probate have been carried out correctly such that they can issue the appropriate grant to the personal representatives.

The Probate Registry will check that the personal representatives have completed the right forms and paid the relevant tax at the beginning of the administration of the estate.



Once the grant of representation is issued, this gives the legal authority to the personal representatives to deal with the estate. Once the appropriate grant has been issued, the Probate Registry is generally no longer involved in any dealings with the estate.

CONTINUE

1.4.2 Applying for a grant of probate - by post

The application is made to the probate registry with the following documents:

- will (and any codicils);
- signed form PA1P;
- any affidavits required; and
- fee.

An appropriate number of office copies must be asked for so that they can be sent to the banks and other institutions holding the deceased's assets.

The probate registry will examine the papers carefully and check that **no "caveat"** (pronounced "cav-ee-at") has been entered (a caveat is a procedure which allows a person to temporarily delay the grant, for example where there is a dispute over the validity of the will). The grant will be sealed and a photocopy of the will attached. It will then be sent to the applicant with the requested number of office copies, usually within 14 days.

Note that probate practitioners must now normally apply for a grant of probate using the online service, **MyHMCTS**. In very limited circumstances, for example where an attorney is applying for a grant, a paper application is required (see [Apply for probate on paper as a practitioner - GOV.UK](#)). Where the applicant is a trust corporation, for example a bank which was appointed as

executor in the will, the probate practitioner can apply online or using a paper form PA1P.

Further information about MyHMCTS can be found at:

[Register for MyHMCTS: online case management for professionals - GOV.UK](#)

CONTINUE

1.4.3 Applying for the grant of probate - online

Since October 2019, all law firms have been able to sign up to make online applications for grants of probate and other types of grants (letters of administration and letters of administration with the will annexed). Firms are able to manage their own accounts, view all their probate applications in a single dashboard and monitor the progress of applications. Applications can be submitted at any time of the day and are uploaded to the system immediately. The original will and documents required by HM Revenue & Customs (HMRC) outlining the value of the estate and any inheritance tax (IHT) due, must still be sent in paper form, to be scanned and uploaded by the Probate Registry. It is compulsory for firms to apply online for most applications.

Note that members of the public can still make paper applications. You are most likely to come across online applications if you work in practice, but you still need to be aware of how to make a paper application.

CONTINUE

1.5 HM Land Registry

In **Chapter 2**, we will briefly look at the **difference** between **registered** and **unregistered title**. When selling a property, a seller must prove that they have “good title” to the property, that is they must be able to demonstrate that they own the property.

They can do this in **one of two ways**.

1. The first is the traditional system of proving title to land by the production of documentary evidence – this is known as an **unregistered title**.
2. The second is by demonstrating that they are the **registered owner of the title**, and this is where HMLR comes in.

The main point of registered conveyancing is that it provides a once-and-for-all registration of title to a particular piece of land from a government body, HMLR. It registers the ownership of land and property in England and Wales. More than 26 million titles are registered, covering over 88 per cent of the land mass of England and Wales. HMLR has over 6000 staff, based at 14 different offices around the country.

1.5.1 Land Registration Act 2002 and the Land Registration Rules 2003

The current system of registered conveyancing is based on the law contained in the **Land Registration Act 2002 (LRA 2002)** and the procedures contained in the **Land Registration Rules 2003 (LRR 2003)**. These provisions have been in force since 13 October 2003, when they replaced the former law and procedures found in the **LRA 1925** and the **LRR 1925**,

respectively. Although the old law has been replaced, it will continue to have relevance for some years, as many existing titles were created prior to October 2003. **LRA 2002** contains transitional provisions to ease the changeover from the old law to the current law, but most of these are outside the scope of this course book.

The overall purpose of **LRR 2003** is to provide practical provisions which supplement the law contained in **LRA 2002**.

Examples of areas governed by **LRR 2003** are:

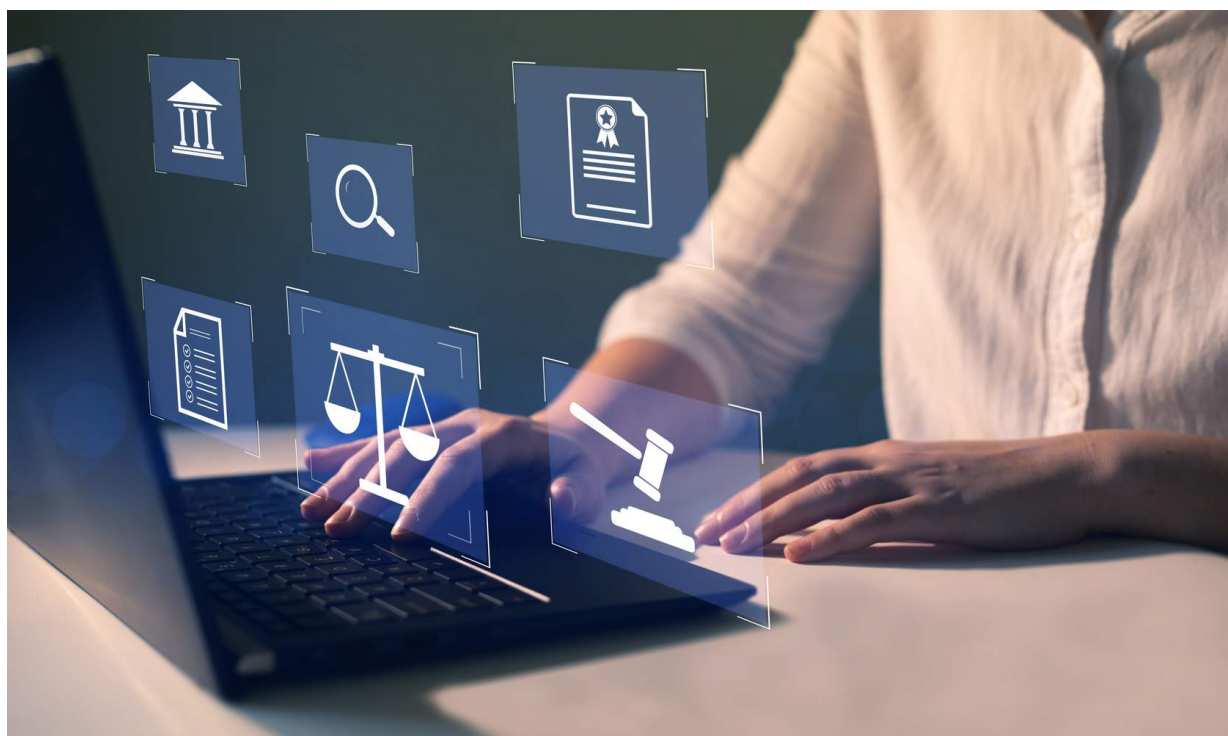
- the contents of each part of the register of title;
- the forms which must be used for various types of HMLR applications;
- the types of entries which HMLR can make in the register to protect third party interests;
- the procedures for upgrading the various types of registered titles; and
- the format in which various HMLR forms must be executed.

The rules are updated and amended from time to time to reflect changes in HMLR practice and procedures.

CONTINUE

1.5.2 How to make an application to HMLR

Traditionally, law firms as business customers of HMLR made applications to HMLR by post or DX. This involves completing the appropriate form and sending it together with the relevant documents and payments to HMLR for processing. It is still possible to make an application by post although this method is diminishing rapidly. This move to online working has been driven in large part by law firms moving to the use of case management systems. This is software which enables the electronic storage of and access to client data. Much of the legal process becomes computerised with the generation by the system of standard letters and processes.



Increasingly however HMLR has moved to the provision of online services and now many applications made by firms are made electronically.

Business customers can use HMLR's electronic document registration service (DRS) to submit applications to change the register electronically. This is known as the "**e-DRS**" service.

Alternatively, HMLR's e-services might be available to firms via HMLR's Business Gateway which can be accessed via a firm's case management system. To access these services, a law firm must apply to HMLR and must agree to HMLR's conditions of use and pay HMLR fees by variable direct debit. This means that firms do not need to send a cheque to accompany an application. HMLR will issue usernames and passwords to conveyancing firms on request to enable those working within firms to access the wide range of HMLR services that are available electronically.

From April 2021, users of Business e-services with access to a HMLR Portal account have been able to use the new **Digital Registration Service**. This is a service enabling users to make applications digitally, which will make it easier to submit applications and reduce common errors by doing such things as automatically working out HMLR fees, automatically completing some fields on screen and providing guidance and prompts on screen to remind users to add the required evidence.

Note that, from 30 November 2022, the **Digital Registration Service** (DRS) has been the default route for business customers to submit registration applications through the HMLR portal, replacing the e-DRS service

([HM Land Registry: digital applications - GOV.UK](https://www.gov.uk/government/organisations/hm-land-registry/about/digital-applications))

The Digital Registration Service (DRS) can be used to make a number of different applications, such as those to:

- update existing registered titles;
- register new titles, including transfers of part and new leases;
- remove default Form A restrictions;
- amend names and addresses for service;

- register appointments of new trustees;
- register discharges of part (DS3).

HMLR will be consistently developing DRS to add more features in the future. It is currently working on enhancing its automatic fee calculator to include more types of applications and on incorporating enhanced facilities for editing and saving applications prior to submission.

Once a firm is registered to use the service, conveyancers can use the HMLR portal to carry out a large number of functions including:

- applying to change the register;
- submitting applications and registration;
- accessing information from the land register including obtaining official copies of the register; and
- applying for HMLR searches.

We will consider all of the above applications when looking at the conveyancing process later in this course book.



Activity

If you work in a law firm, you will probably have access to the HMLR portal. If you do not have access, liaise with a colleague and ask them to log in and show you the applications and services that are available.

Do not worry if you don't work in a law firm. This will not affect your understanding of the conveyancing process on this course, nor your assessment. HMLR has a lot of information available on its website. Using the link below, go to the HMLR website and read how business e-services customers can make an "enquiry by property description" through the portal. You will see that there are a number of screenshots which will give you a good idea of how the portal works and the information available.

 **GOV.UK**



HM Land Registry portal: make an enquiry by property description

How Business e-services customers can make an enquiry by property description through the portal.

[READ MORE GOV.UK](#)

CONTINUE

1.6 Mortgage lenders

When purchasing a property, some people will be able to fund the entire purchase price from their own resources and are called “cash buyers”. However, most people will need to borrow money from an institutional mortgage lender to provide the bulk of the purchase price. In the context of residential conveyancing, an institutional mortgage lender is an organisation which lends money in the normal course of its business, and the most common organisations which you will come across are banks and building societies.

The mortgage lender will issue a mortgage offer which sets out the terms upon which they are prepared to lend the money to the borrower. The **typical term** of a mortgage for the purchase of a residential property is **25 years**.

- The borrower will be required to make monthly repayments for the duration of the loan to repay the money which has been borrowed.
- A mortgage lender will be prepared to lend a large sum of money to fund a property purchase because they will take a legal charge over the property in question.

A close-up photograph of a gold-colored keychain shaped like a house with a chimney and a window. The keychain is resting on a document with the words "MORTGAGE LOAN AGREEMENT" printed in blue capital letters. The image is slightly blurred, focusing on the keychain.

-
1. This Deed incorporates the Mortgage terms and conditions set out in the Schedule and the Borrower acknowledges having received a copy of the same.
2. Subject to clause 3 below, the Borrower agrees to grant, by way of mortgage, a first charge over the Property, and all the Borrower's rights and interests in the Property, in the proceeds of sale of the Property, by way of continuing security with the payment to the Society of the principal sum of the loan and the payment of all interest payable by the Borrower to the Society and the performance of all other obligations of the Borrower to the Society.
3. In this Deed "Regulated Agreement" means a regulated agreement within the meaning of the Consumer Credit Act 1974, or any agreement which is not a regulated agreement but which is a regulated agreement for the purposes of the Consumer Credit Act 1974 and this Deed.

This means that in the event that the borrower defaults on the mortgage repayments, provided certain formalities have been met, the mortgage lender will be entitled to take court proceedings against the borrower to repossess the property from them. This will enable the mortgage lender to sell the property to recover the money lent under the terms of the mortgage.

In most cases, the conveyancing firm acting for the buyer will be able to act for the mortgage lender in relation to the mortgage. If the conveyancing firm is on the mortgage lender's panel of approved firms, they will act for the buyer and the mortgage lender, which means that the conveyancer will request the release of the mortgage advance just before completion of the purchase of the property to ensure that the buyer has the full purchase money available to pay over to the seller on the completion date. We will look at the detail of this process and the professional conduct issues which arise later in this course book.

For the sake of ease, we will refer to "lender" when talking about mortgage lenders in the context of residential conveyancing.

1.6.1 The difference between the *UK Finance Mortgage Lenders' Handbook* and the Building Societies Association instructions

As the conveyancer will act for the lender and the buyer in most cases, the lenders have developed a standard set of requirements which conveyancers must comply with when dealing with the purchase of the property and the lender's loan.

Two standard sets of instructions for conveyancers acting on behalf of lenders in residential conveyancing transactions have been developed.

1. The UK Finance Mortgage Lenders' Handbook for Conveyancers —

There is a handbook for each legal jurisdiction in the UK and all have a Part one (general instructions) and a Part two (lender-specific instructions). There is also a Part three which sets out standard instructions to be used where a conveyancer is representing the lender but not the borrower. This is known as “separate representation” and is only rarely encountered in standard residential conveyancing transactions.

Further information about the role of UK Finance in relation to mortgages is available at [Mortgages | UK Finance](#)

The handbook is voluntary for lenders and not all of them choose to use it. If this is the case, the lender will set out its own instructions for the conveyancer. However, most lenders which conveyancers will commonly encounter adopt the handbook.

2. The Building Societies Association —

This has produced an alternative set of mortgage instructions (sometimes referred to as the BSA handbook). Again, these are a standard set of instructions which conveyancers acting for the lenders adopting the BSA handbook must follow. The handbook has two sections: a core set of mortgage instructions and specific requirements setting out individual lenders policies. Currently, 28 organisations, mostly building societies, use these instructions.

In both cases, the conveyancer acting for the lender must comply with the instructions.

Further information about the wider role of the Building Societies Association is available at [Home | The Building Societies Association | BSA](#)



Activity

The UK Finance handbook and BSA instructions are very similar and contain many of the same duties and requirements.

Go to each website and look at each set of instructions to familiarise yourself with the obligations that conveyancers must comply with. **Make a list of the key headings and requirements for each set of instructions.**

 UKFINANCE



UK Finance

UK Finance mortgage lenders' handbook for conveyancers

Login to Lenders' Handbook The UK Finance lenders' handbook provides comprehensive instructions for conveyancers acting on behalf of lenders in residential conveyancing transactions. There is a UK Finance lenders' handbook for each legal jurisdiction in the UK and all have a part 1 (general instructions) and part 2 (lender specific instructions).

READ MORE UKFINANCE



Mortgage instructions

The voice of building societies. The Building Societies Association (BSA) pushes for the best outcomes for 43 UK building societies and 6 credit unions.

READ MORE BSA

CONTINUE

1.7 Society of Trust and Estate Practitioners

STEP is a professional association for those advising families planning their assets. Their members include lawyers and accountants and trustees, and they offer professional qualifications.

There are four levels of STEP membership: student, affiliate, associate and full membership which leads to a person being designated a trusts and estate practitioner. All STEP members are expected to abide by the STEP code of professional conduct. You should have an outline awareness of this Code. It can be found at [Codes of Professional Conduct | STEP](#)

Of particular relevance to this course book is the STEP Standard Provisions for Wills. Many firms adopt these standard provisions as they enable practitioners to include in the wills that they prepare a short reference to a lengthy set of technical clauses which do not then need to be set out in full in the wills themselves. The provisions cover the law of England and Wales and Northern Ireland. The STEP Standard Provisions (3rd edition) can now be incorporated into wills by reference, and we will consider these in more detail later in this course book.

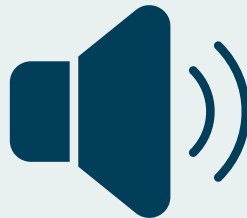


Activity

Go to the STEP website using the link below and look at the standard provisions. They are intended to cover a range of administrative provisions which those dealing with the estate of a deceased person may need. They are somewhat technical in places but have been written in plain English.

Make a note of some of the key headings and provisions – this will help you when we consider the content of a will later in this course book.

[STEP Standard Provisions](#) | [STEP](#)



Law Explained

In this recording we will be considering what the Law Society Conveyancing Protocol is and why it is important in conveyancing practice.



8:02

1x



Audio Transcript —

In this recording we'll be considering what the Law Society Conveyancing Protocol is and why it is important in conveyancing practice.

A protocol is basically a set of standard rules, which are intended to govern a particular situation. Protocols don't only apply to conveyancing cases. They commonly apply in many other areas of life. For example, protocols are common in healthcare situations. One illustration would be a protocol used by a hospital when carrying out a specific medical procedure, ensuring it is carried out in a consistent way by different doctors or other medical professionals. For instance, if there was a protocol governing a particular eye operation, a protocol would aim to reduce variations in the way the operation was performed and to promote consistent results as between different eye surgeons.

The Law Society wanted to achieve a more consistent approach to conveyancing practice in relation to the sale and purchase of residential property, as there were many different forms being used by firms and many procedural variations. In addition to inconsistency, this could often slow down property transactions. The Law Society also wanted to introduce more user-friendly terminology, for instance by using the term seller rather than vendor.

With this in mind, the Law Society originally issued a conveyancing protocol in 1990, designed to speed up and standardise procedures in residential conveyancing cases. This became widely used by conveyancing firms and has developed over the years into the current Law Society Conveyancing Protocol. The current version was issued in August 2019 and we will refer to this latest version as "The Protocol".

It's all very well having a protocol, but does it have to be used by firms doing residential conveyancing work, and is it used much in reality?

The answer to the first question is that, with limited exceptions, it does have to be followed by firms who are members of the Law Society's Conveyancing Quality Scheme (known as the CQS). The CQS is a Law Society quality accreditation scheme and many firms have become accredited since the scheme was introduced in 2011. This scheme enables firms to display a CQS quality mark on their websites and literature, to promote the firm and to assure clients that the firm is operating to consistently high standards. Many firms have become CQS accredited, especially since mortgage lenders are increasingly requiring accreditation before they will allow firms to act for them in relation to their mortgage work. This is very significant, as firms frequently act for both the client who is buying a property and their lender, such as a building society who is lending them the money for their purchase. So, the fact that many firms are CQS members has the knock-on effect that the Protocol is widely used.

Other firms do not have to use the Protocol, but it is very commonly used even by firms who are not members of the CQS.

Let's now have a brief look at the current Protocol to see how it is organised and what it contains.

Basically, it sets out a series of standard procedures to be followed by the lawyers for sellers and buyers, which are regarded as being “best practice” in residential conveyancing transactions.

The Protocol applies to both freehold and leasehold property, so could be used for example for the sale or purchase of a freehold house or the sale or purchase of a leasehold flat. It’s not designed for new-build properties such as those being sold by a developer on a new housing estate, but as you can see, it will cover a wide range of other residential transactions.

The Protocol contains some general obligations which firms must follow. These include important general issues such as checking the identity of clients, making sure there is no conflict of interest between clients and co-operating with other parties such as other lawyers and mortgage lenders.

The Protocol also stresses that it sets out “best practice” and that it may sometimes be necessary for lawyers to vary the order or timing of the procedures set out in it. For example, there may be delays because a buyer’s mortgage offer has not yet been issued or because the local authority has been slow in replying to enquiries, and the lawyers for the seller and buyer might choose to draft some of the documentation at an earlier stage than usual, so it’s “ready to go” when needed.

The Protocol contains a list of 35 numbered steps and these set out the procedures to be followed in a standard residential transaction. It divides these procedures into two lists which are displayed alongside each other in a tabular format. One is a list of steps to be taken by the lawyer acting for the seller and one is a list for steps to be taken by the lawyer acting for the buyer. The steps are broken down into the main stages of a conveyancing transaction and are presented in chronological order. They start with obtaining the clients’ instructions at the very beginning of the transaction and conclude with the closing of the files at the very end.

The Protocol also requires the use of certain standard forms. There is a standard form of sale contract that must be used and there are standard forms for the provision of key conveyancing information. The latter forms are called the “TA” forms, as the Protocol was originally called the “TransAction” scheme and the name has stuck.

Let’s look briefly at the main “TA” forms to give a flavour of what they are.

Form TA6 is a Property Information Form which is designed for the seller to fill in at the beginning of the transaction. It gives a lot of key information about the property which a buyer will want, and need, to know. Some examples would be who is responsible for repairing the walls and fences in the garden, whether there have been any disputes or complaints affecting the property (such as a neighbour dispute) and whether the property has ever been flooded.

The Property Information Form is supplemented by form TA10 which is a Fittings and Contents Form. Again, this is designed to be completed by the seller and tells the buyer what items are included in the sale and which are excluded. The seller will have to go round each room and the garden (if any) and tick the boxes on the form. Examples of items listed on this form are light switches, burglar alarms, ovens and hobs, toilet roll holders, curtains, garden sheds and even dustbins.

If a property is leasehold (and most flats are leasehold) there is an additional form called TA7 which is a Leasehold Information Form. This contains information about areas specific to a leasehold property,

such as the amount of the current rent, so it provides relevant information to add to that contained in forms TA6 and TA10.

These TA forms are sent by the seller's lawyer to the buyer's lawyer early on in the transaction as part of a bundle of documents called a contract package or a contract bundle. The sale contract is one of the other documents in this package.

There are also several other TA forms with a slightly different purpose.

For example, Form TA13 is designed for use by the seller's and buyer's lawyers when they are getting ready for completion of the transaction at a later stage. This form covers things such as the arrangements for handing over the keys on moving day and the documents that the seller's lawyer will send to the buyer's lawyer on completion.

These TA forms are very widely used, partly because the Protocol itself is widely used and partly because firms often use these forms, even where they are not following the Protocol.

This is an introduction to the Protocol, but conveyancers will of course be aware of its provisions, and will take them into account, throughout the conveyancing transaction, right up until they close their files at the end with, hopefully, a successful transaction and happy clients who are now living in their new home!

CONTINUE

Knowledge check

This knowledge check is a self-assessment to see how well you understood the content of this chapter and it does not count towards your course mark.

There is 1 question in this knowledge check.

1. When someone dies, the people who are responsible for dealing with their estate are known as their personal representatives. True or false?

-
- ☐ a. True
 - ☐ b. False

SUBMIT



Complete the content above before moving on.

1.8 Chapter summary

(1) CILEX is the professional body representing chartered legal executives. Many of its members work in conveyancing and private client work.

(2) The Law Society is the professional body which represents solicitors in England and Wales.

(3) The Conveyancing Protocol is a statement by the Law Society of preferred conveyancing practice which sets out the procedural steps to be taken in a residential conveyancing transaction

of a freehold or leasehold property. The Protocol does not apply to new build or commercial properties.

(4) The Protocol introduced various standard conveyancing forms that are now used in the majority of transactions.

The most common of these are:

- (a) Property Information Form (TA6);
- (b) Fittings and Contents Form (TA10); and
- (c) TA13 Completion Information and Undertakings (4th edition) (2023).

(5) The Protocol also introduced a standardised version of the contract used in residential conveyancing transactions; the most up-to-date version is the Standard Conditions of Sale (5th edition – 2018 revision).

(6) The CQS is an accreditation scheme introduced by The Law Society available to residential conveyancing firms that are regulated by the SRA. A firm that has achieved the accreditation must comply with the Protocol.

(7) The CLC regulates specialist conveyancing and probate lawyers.

(8) Probate Registries are part of the High Court, and their function is to confirm that the initial stages of probate have been carried out correctly such that the appropriate grant of representation can be issued to the personal representatives dealing with the estate of someone who has died.

(9) It is possible to apply for a grant of representation by post or online, though most applications by firms must be made online.

(10) HMLR is a government agency responsible for registering title to land in England and Wales. The current system of registered conveyancing is based on the law contained in the **LRA 2002** and **LRR 2003**.

(11) It is possible for a law firm to make an application to HMLR by post but in most cases today, a firm will be registered to use HMLR's electronic registration services and will access the HMLR system via the HMLR portal.

(12) Most people buying a residential property will need to borrow money from an institutional lender to provide the bulk of the purchase price. The lender will usually be represented by the conveyancer acting for the buyer.

(13) In residential conveyancing transactions, most lenders subscribe to a standard set of conveyancing instructions, which the firm acting for them must comply with, known as the UK Finance Mortgage Lenders Handbook. Currently, 28 organisations, mostly building societies, subscribe to an alternative set of mortgage instructions known as the Building Societies Association Handbook.

(14) STEP is a professional association for those advising families planning their assets. Of particular relevance to this course book is the STEP Standard Provisions for Wills.

You have completed Chapter 1.

EXIT