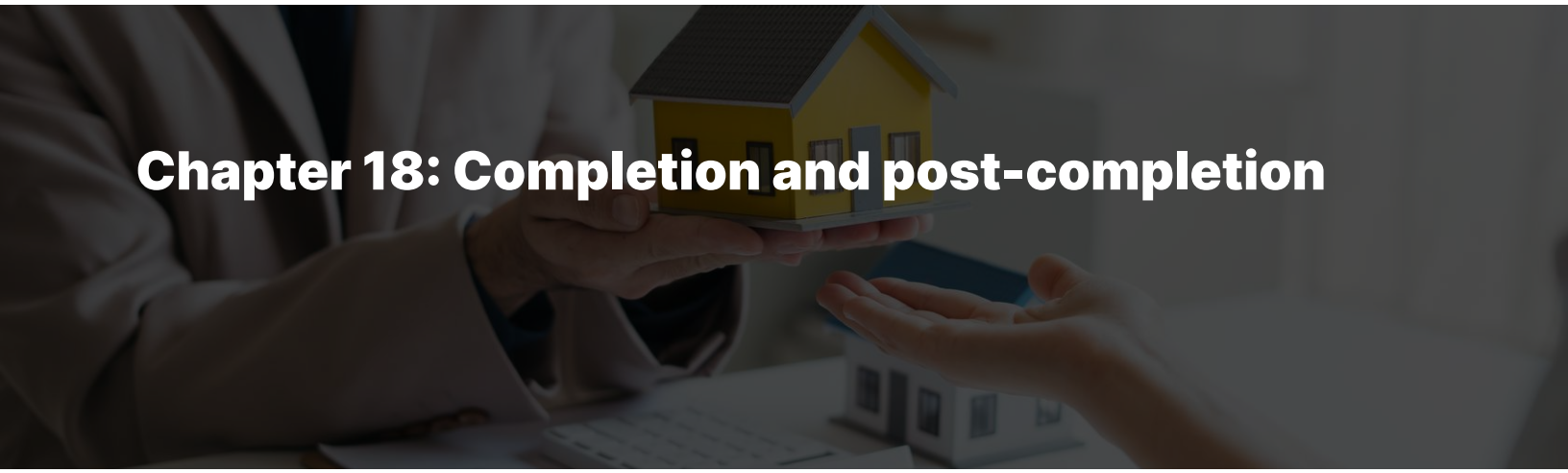


Chapter 18: Completion and post-completion

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- 18.1 Final document check
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- 18.3 Completion – summary
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Aims of this Chapter

Completion is the process which puts the contract into effect. The seller and the buyer entered into a binding contract on exchange to buy and sell the property at the agreed price on the agreed date. The buyer probably paid 10 per cent of the purchase price as a deposit on exchange. The completion date is the moving date – when the seller moves out and the buyer moves in. To enable this to happen, the buyer's conveyancer must pay the balance of the purchase money (usually 90 per cent) to the seller's conveyancer, upon receipt of which they will date the transfer and send it to the buyer's conveyancer to complete.

Preparation for completion has been carried out.

This chapter will cover:

- the steps to be taken by the conveyancers to complete, and
- the steps they have to take after completion to conclude matters on behalf of their clients.



Figure 18

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

CONTINUE

18.1 Final document check

Prior to completion, the conveyancers for the seller and the buyer must carry out a final document check, to ensure that everything is in order and ready for completion.

The seller's conveyancer must, for instance, ensure that they have the executed TR1 transfer. The buyer's conveyancer, for instance, must ensure that they hold a signed or approved Land Transaction Return form and their client's executed mortgage deed.

This final document check is very important as the conveyancers do not want to find that they are without a vital document on the day of completion. If this happened, then completion might have to be delayed, causing inconvenience and additional cost.



CONTINUE

18.2 Process of completion

18.2.1 Methods of completion

There are several methods, which may be used according to the circumstances. All have the same net effect of securing completion of the sale or purchase.

The methods are:



Completion in person



Completion by agent



Completion by post

(1) Completion in person —

Completion is carried out between the conveyancers in person. The buyer's conveyancer attends the offices of the seller's conveyancer, hands over the

money and collects the requisite documentation. This method is uncommon, since it is time-consuming and requires both firms to be situated near to each other.

As a variety of documents must be examined and collected, it is sensible for the conveyancers to use a checklist (sometimes referred to as a "**completion agenda**") to ensure that no items are forgotten.

The documents to be handed over will vary according to the precise transaction (e.g. whether there is an existing mortgage or not).

Example of a completion checklist for a buyer's conveyancer: freehold registered land

Completion checklist: purchase of 16 Meadow Close, Morpeth

1. Date the transfer to the buyer with the date of completion. Check it. Receive it from the seller's conveyancer.
2. Check mortgage discharge undertaking (if there is a mortgage to be paid off). Receive it [**note** that the undertaking might have been given in form TA13 so that there is no separate undertaking handed over on completion].
3. Check any miscellaneous documents (e.g. old title certificates, planning consents and guarantees). Receive the originals.
4. Hand over the balance of the purchase price to the seller's conveyancer.
5. Collect the keys (or ask the seller's conveyancer to authorise their release).

(2) Completion by agent

This method is the same as a completion in person, but the buyer's conveyancer does not attend personally. Instead, they instruct a representative from another firm to attend on their behalf. This method is uncommon, but may be used for example where the firms are located in different towns, but the buyer's conveyancer has a reason for requiring personal attendance (e.g. they do not feel that the seller's conveyancer will comply with the rules for postal completion, or they wish certain documents to be inspected before the money is handed over).

The buyer's conveyancer provides the agent with funds (unless these are sent directly to the seller's conveyancer) and full instructions. They may send a completion checklist as described earlier. The agent carries out the completion in person, after which they send all relevant deeds and documentation to the buyer's conveyancer with a bill for the agency fees.



(3) Completion by post

This is the most common method.

The money is sent from the buyer's conveyancer to the seller's conveyancer. The seller's conveyancer will check that the correct money has arrived and then post out the deeds and documents to the buyer's conveyancer.



The Law Society has produced a Code for Completion by Post (2019) (the Code), which is a procedural code containing provisions about completion, together with professional obligations backed up by undertakings.

The provisions of the Code have been tightened to clarify and confirm that the seller's conveyancer is acting for a genuine seller in a genuine sale transaction and using the funds received for a genuine completion. This is intended to provide innocent buyers with greater protection from fraudsters. This has been achieved by including an undertaking in the current edition of the Code, to the effect that the seller's conveyancer has authority from

the true owner of the title to the property to receive the purchase money and that, at the point of completion, that person is entitled to convey the title as per the contract of sale. Further, it is confirmed that the seller's conveyancer holds the purchase money received on trust for the buyer and is under a duty not to use that money other than in accordance with the Code.

The Code contains prominent warnings that it embodies professional undertakings. The Protocol requires conveyancers to comply with the Code without variation unless there has been a prior agreement to vary it. The Protocol also states that general exclusions of liability for obligations within the Code will be viewed as a breach of the Protocol in addition to any other consequences.

As previously explained, CQS members must use the Protocol, and this requires adoption of the Code. Other non-CQS Protocol users must also adopt the Code unless otherwise agreed between them. The Code is also widely used by non-Protocol firms.

The Code provides that:

- the seller's conveyancer will provide the replies to form TA13 (standard form requisitions) at least five working days before the completion date (unless replies have already been given to a form sent by the buyer);
- the seller's conveyancer will act as agent for the buyer's conveyancer on completion (without a fee);
- the buyer's conveyancer will use reasonable endeavours to ensure that enough funds are collected from the buyer and any mortgage lender in good time to transmit to the seller;
- the seller's conveyancer confirms they are authorised by the seller to receive the money and that they are authorised by any lenders to receive the money to repay their mortgages;

- the buyer's conveyancer should send full instructions (e.g. as to deeds, documents, mortgage discharge undertakings and keys);
- the seller's conveyancer will confirm that the completion funds have been received and will complete as soon as these funds have arrived (unless agreed otherwise between the parties – e.g. where it is agreed that completion will take place later);
- the seller's conveyancer undertakes that they will comply with the buyer's conveyancer's reasonable instructions regarding completion and that they will redeem the specified mortgage(s);
- the seller's conveyancer undertakes that they will confirm to the buyer's conveyancer (by phone, fax or email) the date and time at which completion has taken place;
- the seller's conveyancer further undertakes to notify the seller's estate agent or other key holder that completion has taken place and to authorise them to release the keys to the buyer immediately;
- the seller's conveyancer undertakes that they will send written confirmation that completion has taken place and will send the deeds and documents to the buyer's conveyancer (at the buyer's conveyancer's risk) as soon as possible after completion, and in any event by the end of the working day following completion; and
- the seller's conveyancer will notify the buyer's conveyancer as soon as the lender has confirmed that the mortgage has been redeemed.



Activity

Follow the link below and read the Code for Completion by Post (2019).

Look carefully at clause 2; this is the provision where the seller's conveyancer is confirming that they are acting for the true seller of the property.

LAWSOCIETY

code for completion by post

We have updated the Code for Completion to clarify the position following the Court of Appeal ruling in Dreamvar.

READ MORE LAWSOCIETY

CONTINUE

18.2.2 Methods of transferring funds on completion

The buyer's conveyancer may use a banker's draft (a cheque drawn by a bank, which is regarded as more secure than a personal cheque) but this is now uncommon.

They will usually transfer funds to the seller's conveyancer by electronic bank credit transfer (usually referred to as a "**telegraphic transfer**" (TT) or a "**CHAPS**" transfer), which involves a direct transfer of funds, upon request to the bank, from one account to another.

The SCS, if adopted, require payment by a direct transfer of cleared funds from an account held in the name of a conveyancer. Many firms have their own facilities to transfer money in

this way.

A firm's estimate of costs will normally have listed the "TT fee" alongside the other costs and disbursements at the start of the transaction.







CONTINUE

18.2.3 Completion in linked (chain) transactions

This section assumes that a chain completion will be carried out through the post, the most common method. The funds will normally be sent from the buyer's conveyancers to the seller's conveyancers by TT/CHAPS.

The completion date will have been agreed before exchange, and inserted in the contracts. Where the seller has a related purchase, and wishes to synchronise exchange and completion, the completion

dates must be the same for the client's sale and purchase contracts.



In a chain transaction, the seller will need to use the funds received on the sale transaction to complete the purchase transaction. The sale must therefore be completed before the purchase, so that the funds are available for use on the purchase.

There must be enough time between the sale and purchase completions to enable the funds to be transferred through the banking system.

The timing is more complex where there is a longer chain, as the first transaction (at the bottom of the chain) must be completed early enough for all others in the chain to complete that day, with the funds passing up the chain from conveyancer to conveyancer. This usually means that the first transaction will need to be completed early in the morning.

It is necessary for the completion funds on all transactions to be banked that day. The SCS provide that if completion takes place after 2.00 pm, it is deemed to have taken place on the next working day. This means that financial penalties apply, requiring the party at fault to pay interest on the purchase price.

To facilitate the timing of the completions, the contracts may contain (by way of special conditions) time limits for completion, for instance, that completion of the sale must take place by 11.00 am that morning. This allows the purchase completion to take place that day. If there is a longer chain, the first sale completion may need to take place earlier than this. The banks must be instructed to transfer the funds in sufficient time.





The various conveyancers must keep in contact with each other on completion day, to confirm transmission and receipt of funds. They must make accurate attendance notes of steps taken for their own files.

Once the seller's conveyancer has confirmed with their bank that the completion money has arrived (where there is a chain, this will happen in each case), they can release the keys to the property (e.g. from the estate agents). They must advise the buyer's conveyancer that completion has taken place, and post the deeds and documents to them.

CONTINUE

18.2.4 Practicalities on the day of completion



Both sets of conveyancers should inform their respective clients as soon as completion has taken place. This is particularly important where the day of completion is the moving day – for example, the buyer may wish to collect the keys and start to move in. The seller should not let the buyer into occupation

until they have been informed by their conveyancer that the completion money has been safely received and that completion has taken place.

18.2.5 When title passes in a registered transaction

In a transaction involving registered land, title in the property passes on registration with HMLR, not the completion date. This is why a conveyancer might register an estate contract if there is going to be more than a couple of weeks between exchange of contracts and completion (see **Chapter 16**).

CONTINUE

18.3 Completion – summary

1. There are various steps that must be taken between exchange of contracts and completion. These include drafting the purchase deed, dealing with pre-completion requisitions, engrossing and executing the purchase deed, making further searches, obtaining completion funds from clients and any lenders, and making completion arrangements.

2. Completion can be carried out in person or by an agent, but it is usual to complete by post, using the Law Society's Code. The funds are usually sent between firms of conveyancers by direct credit transfer (telegraphic transfer). The timing of completion is important where there is a chain.

3. The clients should be informed as soon as completion has taken place.





CONTINUE

18.4 Post-completion

Once completion has taken place, there are a number of steps to be taken before the sale and purchase files can be closed. We will now examine those steps, the main ones being the payment of stamp duty land tax (SDLT) (land transaction tax (LTT) in Wales) and the registration of the change of ownership at HMLR.

18.4.1 Steps for seller's conveyancer

(1) Discharge any existing mortgage

The seller's conveyancer must comply with the undertaking given in form TA13 or handed over on completion. They will pay off the mortgage and send evidence of repayment to the buyer's conveyancer.

(2) Send TR1

The seller's conveyancer must send the signed and dated transfer and any other relevant documents (e.g. original guarantees or planning permissions) to the buyer's conveyancer by no later than the day following completion, in accordance with the Code.

(3) Bill and financial statement

If the seller's conveyancer has not billed the client before completion (as is usual), a bill of costs must now be sent and paid. This may be sent with a financial statement, if not already done.

(4) Remaining steps for the seller's conveyancer

The seller's conveyancer must account to the client for any proceeds of sale due to them and ask for an acknowledgment of receipt. If the client has so authorised, any estate agent's fees must be paid. Once these matters have been dealt with, the seller's conveyancer will check that all the accounts in respect of the transaction are clear. The file may then be closed.

CONTINUE

18.4.2 Steps for buyer's conveyancer

18.4.2.1 Bill and financial statement

These must be sent if not already done.

18.4.2.2 Stamp duty land tax and land transaction tax

Stamp duty land tax (SDLT) is payable where a buyer has purchased a property over a certain price in England or Northern Ireland. If the buyer has purchased a property situated

in Wales, SDLT will not be payable but the buyer will have to pay land transaction tax (LTT) instead.

Stamp duty land tax

SDLT is a government tax, payable on land transactions above a certain value. It was introduced on 1 December 2003. Prior to this, a different stamping regime (called stamp duty) applied. It is necessary for practitioners to have some knowledge of the old regime, since it may be relevant to know about stamp duty when examining an unregistered title. This, however, is not considered in this course book.

The following provides an outline of the SDLT regime for residential freehold transactions.

1. SDLT is a tax on transactions rather than on documents. The document itself (e.g. transfer) is not stamped.
2. The current rates of duty for freehold transactions are shown in ***Table 18.4a***.
3. For transfers of freeholds the transaction is called "**notifiable**". Even where the value of the transaction does not exceed £250,000 (0 per cent rate of tax), the transaction is notifiable (e.g. house purchase for £80,000). Freehold transactions where the price is less than £40,000 are not notifiable (but most house prices exceed £40,000).
4. In notifiable cases, the buyer's conveyancer must deliver a Land Transaction Return (LTR) to HM Revenue & Customs (HMRC) together with any duty payable.
5. In some cases, supplementary forms must accompany a LTR form (e.g. where there are more than two buyers or where there is more than one property).
6. If all is in order, HMRC issues an LTR certificate (SDLT5) which is sent with the registration application to HMLR. This evidences complies with the SDLT requirements, and registration cannot be completed without it. It is therefore a very significant document.

7. Some types of transaction are exempt from notification (e.g. where there is no chargeable consideration – where no money or other payment changes hands – for example, in the case of a gift).

8. The LTR must be sent to HMRC, and duty paid, within 14 days of completion (the time limit was previously 30 days but was changed to 14 days for transactions completing on or after 1 March 2019). There are penalties for late filing and payment. Interest is payable on the unpaid amount of tax from 14 days after completion. The interest is charged from the day after the tax should have been paid until the date it is actually paid. In addition, there is a flat rate penalty of £100 if the LTR is up to three months late and £200 in any other case. If the LTR is filed more than 12 months late, there is a tax-based penalty in addition to the fixed penalty. The tax-based penalty can be up to the full amount of the tax due on the return.

9. The buyer must normally sign the LTR personally if it is filed in paper format (the buyer is responsible for paying the tax).

10. It is possible for the LTR to be completed and filed with HMRC in paper format. Individuals acting without a conveyancer may still need to complete a paper return, for example. Most conveyancers, however, submit returns electronically through the HMRC's Stamp Taxes Online service. HMRC also recommends electronic payment, and the payment is then automatically linked to the return by reference to the unique transaction reference number (UTRN). Online submission has many benefits. For instance, the online screen will only show questions that are relevant to the particular transaction. There is no need to work out what applies and what does not apply. There is also built-in validation, which means that if the user gives an inconsistent or inappropriate answer to a question, a message will be displayed, so that the answer can be checked.

Summary of current duty rates for residential freehold transactions

The rates for residential freehold property are given in ***Table 18.4***.

So, it is necessary to take the purchase price and see which bands apply to each slice of it.

Current SDLT rates for residential freehold property – main rates for a single property The rates now applicable from 23 September 2022 are:

Table 18.4 **Residential rates on purchases from 23 September 2022**

Value bands	Rate of SDLT
Up to £250,000	0%
The next £675,000 (the portion from £250,001 to £925,000)	5%
The next £575,000 (the portion from £925,001 to £1.5m)	10%
The remaining amount (the portion above £1.5m)	12%

You can see these rates, plus a worked example of the calculation of SDLT, at Stamp Duty Land Tax: Residential property rates - GOV.UK

These are the main SDLT rates for residential property where a purchaser is not a first-time buyer (i.e. where the buyer has bought a home before). There is a specific SDLT relief for first-time buyers.

SDLT for first-time buyers

First-time buyer relief now applies where buyers are purchasing their first home and the purchase price is £625,000 or less.

SDLT is payable as follows:

- no SDLT up to £425,000;
- 5 per cent SDLT on the portion from £425,001 to £625,000.

If the price is over £625,000, the relief cannot be claimed and the standard SDLT rates will apply.

You can see these rates, plus a worked example of the calculation of SDLT, at Stamp Duty Land Tax: Residential property rates - GOV.UK

There are also variations in the way SDLT is charged on non-residential and new leasehold property, but these types of property are not considered in this unit.

Link to Practice 🔗

HMRC has a useful online calculator which can be used to work out the amount of SDLT to be paid on a property purchase.

This also provides a breakdown of how the amount was calculated.

The calculator can be found on the GOV.UK website at Stamp Duty Land Tax Calculator

The calculator requires users to input the answers to a variety of questions so that the correct amount of SDLT can be worked out. For instance, it will ask whether the property is freehold or leasehold, whether it is residential or commercial in nature, whether the purchase will result in the buyer owning more than one property, the purchase price, the completion date and whether the purchaser has ever owned property before.

SDLT on additional residential property – higher rates

The government has charged higher rates of SDLT for additional residential properties, such as second homes and buy-to-let property, with effect from 1 April 2016. These higher rates must be factored into the advice and financial calculations for clients where they are buying an additional property. It must be stressed that in most cases the additional rates will not apply, as most clients are buying their only property. However, this issue is relevant at the point of initial instructions since, if the higher rates do apply, they will affect any quote for the overall costs and general financing of the transaction.

The higher rates for additional properties do not apply to properties costing less than £40,000 but most properties, even second homes, cost more than £40,000. Essentially, buyers of additional properties have to pay 3 per cent on top of the normal SDLT rates if buying a residential property means they will own more than one property. The basic question to ask is how many properties the client will own at the end of the day of completion of their purchase transaction.

The higher rates for additional properties are 3 per cent above the normal rates for each value band.

The higher rates applicable from 23 September 2022 are:

Value bands	Rate of SDLT
Up to £250,000	3%
The next £675,000 (the portion from £250,001 to £925,000)	8%
The next £575,000 (the portion from £925,001 to £1.5m)	13%
The remaining amount (the portion above £1.5m)	15%

You can see these rates, plus a worked example of the calculation of higher rate SDLT at Higher rates of Stamp Duty Land Tax - GOV.UK

The higher rates can make a big difference to the SDLT bill. Take the following two examples which contrast the normal and additional rates.

1. Tomas is buying a house in Bristol on 1 December 2021. He is selling his existing house so this is the only property he will own. The price is £315,000. The SDLT due will be £5,750.
2. Monika already owns a house in Liverpool but she is buying a second home in Cumbria for weekend use as she is a keen walker. The price of the second home is £315,000. The SDLT due will be £15,200.

There are special rules where the buyer is replacing their main residence. The additional SDLT will not be payable where the property being purchased is replacing the buyer's main residence which has already been sold. If there is a delay in selling the main residence, so that it has not been sold on the day the new purchase is completed, the higher rates will be payable on the new purchase (as the buyer will own two properties) but the buyer can get a refund of the higher rate tax paid (i.e. the amount over and above the normal rates) if the previous main residence is sold within 36 months. There are time limits for actually claiming the refund. A buyer who already owns two or more properties, who disposes of their main residence, will have 36 months to buy a new main residence before the higher rates apply (assuming they still own additional property which would trigger the higher rate liability).

There are also special rules for specific situations, such as where property is being purchased jointly with someone else or where the buyer already owns property outside the UK. The details of how and when the additional rates will apply can be quite complex in some circumstances and conveyancers will need to check the position carefully before advising about SDLT liability in a less than straightforward case.

SDLT surcharge for non-UK residents

From 1 April 2021, the Chancellor confirmed that there would be an additional 2 per cent SDLT payable by all non-UK residents buying residential property in England and Northern Ireland. The government believes that this will help control house price inflation and help UK residents to get onto and move up the housing ladder. This surcharge will be in addition to any SDLT already payable. This surcharge, where applicable, will be in addition to the 3 per cent surcharge for second homes.



Land transaction tax

LTT replaced SDLT in relation to property purchased in Wales with effect from 1 April 2018. LTT is broadly consistent with the SDLT regime but there are some notable differences in relation to the rates and some of the available reliefs, as well as the administration and forms.

The LTT regime affects the advice and financial calculations, as well as the actual payment of tax, when clients are buying a property situated in Wales. LTT applies to the purchase of land situated in Wales; the location of the buyer is not relevant (e.g. the buyer could be living in England but buying a house in Wales).

The Welsh Government has published an online resource which can be used to check whether the postcode of the intended purchase property is located in Wales or not.

Where properties are situated partly in Wales and partly in England (cross-border cases such as a farm which straddles the English and Welsh borders), then basically SDLT will be payable on the part of the property situated in England and LTT on the part of the property situated in Wales. An apportionment of the purchase price will be necessary in such cases, probably with the help of a surveyor, and two returns will be filed, one with HMRC for the SDLT element and one with the Welsh Revenue Authority (WRA) for the LTT element.

The Welsh Government has set the following rates and bands which apply in relation to LTT for freehold residential property. The rates apply to the portion of the price paid in each band. The rates shown in ***Table 18.4b*** apply from 1 July 2021.

There is no relief for first-time buyers under the LTT regime.

The rates now applicable from 10 October 2022 are:

Table 18.4b

Price threshold	LTT rate
The portion up to and including £225,000	0%
The portion over £225,000 up to and including £400,000	6%
The portion over £400,000 up to and including £750,000	7.5%

The portion over £750,000 up to and including £1,500,000	10%
The portion over £1,500,000	12%

Higher residential LTT rates – additional property

The rates now applicable from 22 December 2020 (these did not change in October 2022) are:

Price threshold	LTT rate
The portion up to and including £180,000	4%
The portion over £180,000 up to and including £250,000	7.5%
The portion over £250,000 up to and including £400,000	9%
The portion over £400,000 up to and including £750,000	11.5%
The portion over £750,000 up to and including	14%

£1,500,000	
The portion over £1,500,000	16%

You can see these LTT rates and worked examples of LTT calculation at Land Transaction Tax rates and bands | GOV.WALES

Buyers of additional residential property in Wales are subject to higher rates of LTT of 3 per cent on each band, as is the current position for SDLT. There are special rules where a buyer is replacing a main residence.

Link to Practice 🔗

The WRA, which has responsibility for the LTT regime, has produced a LTT calculator which can be viewed at Calculate Land Transaction Tax | GOV.WALES

LTT returns are filed with the WRA and most returns are filed via the WRA's online system. LTT returns must be sent to the WRA, and tax paid, within 30 days of the day after completion.

The WRA website provides guidance notes and user manuals for practitioners as well as a telephone helpline in English and Welsh. There are penalties for the late filing of LTT returns and for late payment of LTT.

The WRA's online service also allows users to view all returns submitted and to generate LTT certificates (i.e. the equivalent of SDLT5). No notifiable transaction can be registered at the Land Registry without the LTT certificate so, like SDLT5, it is a very significant document.

CONTINUE

18.5 Change of ownership at HMLR

The registration formalities will vary according to whether the land is already registered, or whether it is currently unregistered. This course book examines only changes of ownership where the land is already registered.

18.5.1 The importance of registration

When registered land is sold, it is vital that the buyer's conveyancer applies to HMLR to register the change of ownership. The **Land Registration Act 2002 (LRA 2002)** provides that certain dispositions of registered land (this includes a transfer) must be completed by registration to take effect. The legal ownership of the land (legal estate) will only pass to the buyer once they are registered as owner (registered proprietor) in place of the seller. If registration is not applied for, the buyer will not yet be the legal owner of the land. Until registration, the transfer will take effect only in equity and the buyer will only have a beneficial interest in the property. Where the client is funding the purchase with a new mortgage, this new mortgage will similarly not take effect at law as a legal mortgage until it is completed by registration. So, where there is a transfer and a mortgage, the importance of registration will relate to both the change of owner and the registration of the new mortgage as a registered charge in the register of title.

Link to Practice 🔗

Negligence alert!!

It is also important that the registration application is made within the priority period of HMLR pre-completion search (e.g. OS1).

Failure to lodge the application before the priority period expires means that third parties might register entries on the title (e.g. covenants or mortgages) which would bind the buyer. Therefore, if the priority period given by the pre-completion search expires without the transfer and mortgage having been registered, third party interests may gain priority over the interests of the buyer and, where applicable, the lender.

As a result of this failure to make the applications in time, the conveyancer would be in breach of their duty of care to the client, and in breach of the lender's mortgage instructions. The conveyancer may potentially be liable in negligence for any losses incurred by the client as a result.

CONTINUE

18.5.2 How land is registered

The buyer's conveyancer must register the change of ownership. This is done by sending form AP1 to HMLR. The application for registration must be lodged with the Land Registry before the expiry of the priority period (30 working days) shown on the pre-completion search result. The application may ask the Land Registry (depending on the circumstances) to deal with several matters, for example, discharging the seller's old mortgage, registering the transfer and registering the buyer's new mortgage (this is often referred to as a "DTC" – discharge, transfer, charge).

Form AP1 must be accompanied by:

- form DS1 or appropriate reference to discharge by electronic means if there is a mortgage to be discharged (refer to the DS1 at the end of this chapter-**18.8**);
- certified copy of the transfer to the buyer (see later);
- certified copy of the buyer's new mortgage deed (if there is a new mortgage);
- the correct Land Registry fee;
- LTR certificate (SDLT5) (LTT certificate for properties in Wales);
- evidence of identity, where necessary (see later); and
- form DI where there are disclosable overriding interests.

Prior to June 2014, HMLR required original documentation to be sent with the AP1 application (e.g. original transfer and mortgage deed). From June 2014, HMLR has only required certified copies with form AP1. Originals can be sent if wished but they will be scanned and destroyed. This has brought the requirements for postal applications into line with the requirements for electronic AP1 applications through DRS.

The Law Society has reminded conveyancers that, if they are acting for lenders, they may still have to keep original documents in line with individual lenders' requirements in the UK Finance Mortgage Lenders' Handbook.

It may sometimes be necessary to send original deeds and documents with first registration applications but these are not considered in this course book.

Registration fees are payable according to the price of the property. Conveyancers have tables of Land Registry fees (and there is an online fee calculator on the Land Registry's website).

In some cases, there may be extra documentation to be sent with the AP1. This will depend on the circumstances of the particular transaction but examples could include:

- a certified copy of a grant of probate where the sale is by executors;
- a certified copy of a marriage certificate to evidence a name change; and
- form JO, where this has been used to declare trust information.

The AP1 registration application can either be sent to the Land Registry using hard copies of forms and enclosures or can be lodged electronically via the Land Registry's electronic document registration service (e-DRS). The same supporting documents will be required in either case. There are lower fees for electronic applications. Refer to form AP1 at the end of this chapter (**18.9**).



Link to Practice 🔗

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

CONTINUE

18.5.3 HMLR requisitions

Most HMLR applications are processed without problems. But sometimes, HMLR needs further information or document/s to complete the registration. In this instance, they will raise a "**requisition**" with the conveyancer. This is a written request from HMLR to deal with the stated issue to enable the registration to be completed. If the application has been made via the portal the requisition will be emailed to the email address of the user who submitted the application.

Note that HMLR may initially raise informal telephone or email requisitions if they relate to a point that can be dealt with quickly and easily. These requisitions will be held over for a maximum of three working days, and if no response is received, a formal requisition (see below) will be issued either in paper form, by email or by an alternative electronic means such as Business Gateway.

For Portal applications, requisitions will be emailed.

Under the **Land Registration Rules 2003**, the specified period for compliance with a requisition is 20 working days from the date of the requisition but for most applications, HMLR now allows a longer period of 60 working days. A warning of cancellation is normally sent after 40 working days and explains how an extension of time can be requested if necessary. In some circumstances, for example where a later application is being expedited, HMLR may send a reminder at any time that a requisition remains outstanding and specify a 20-working day period within which it must be complied with.

HMLR will cancel an application if it does not receive a full reply within applicable time limits and a successful application for extension of time is not made.

HMLR Practice Guide 50 explains requisitions and cancellation procedures. It can be accessed at [Practice guide 50: requisition and cancellation procedures - GOV.UK]

Link to Practice 🔗

Failure to respond to an HMLR requisition could lead to the HMLR application being cancelled. This means that the buyer might not be registered as the registered proprietor and any legal charge might not appear on the charges register.

This outcome would probably mean that the conveyancer is negligent for failing to complete the registration.

It is thus very important to treat HMLR requestions with care. The expiry or cancellation date should be diarised and acted upon. If it is not possible to provide what HMLR is requesting, this should be explained in writing to HMLR and an extension request be made. Conveyancers must actively engage with HMLR.

CONTINUE

18.5.4 Completed registration

Once the registration has been completed, HMLR will send the completed documentation electronically, and this can be retrieved from the portal PDF downloads area. The documents available through PDF downloads will be an official copy of the register, the title information document (TID) and a registration completion sheet. Conveyancers can also sign up to HMLR's e-notification service, which means that they will receive alerts when documents have arrived in the downloads area.

Following completion of a registration, HMLR issues a TID. Registration details must be checked by the buyer's conveyancer and any queries raised with HMLR. It is important that the buyer's conveyancer checks that the register entries are correct, for instance, that the names of the new registered owners are correctly entered in the register, that any new restrictions (if any) are entered in the register and that any new mortgage has been correctly registered.

The TID will:

- state that an official register copy is attached (a new copy of the title plan will only be sent where there were amendments);
- provide information on how to obtain official copies in the future;
- stress the importance of keeping the address of the proprietor up to date (for service of notices etc.);
- give the details of the relevant HMLR office responsible for the title; and
- stress that the document is for information purposes only.

CONTINUE

18.6 Remaining steps

The buyer's conveyancer should ascertain where the title documentation is to be kept. If there is a new mortgage, it must be sent to the lender as security for the loan, or dealt with as the lender directs. Some lenders wish to hold very little (if any) documentation, but the lender's individual requirements must be checked from the UK Finance Mortgage Lenders' Handbook and/or the mortgage instructions. If there is no mortgage, the client's instructions should be sought – for example, the buyer may wish the conveyancer to hold documents for safekeeping. In either case, the client may wish to have a photocopy of the register entries (e.g. so that they can see the terms of covenants and boundary maintenance).

The Protocol states that the buyer's conveyancer should supply the client with a copy of the title information document and remind the buyer to keep their address for service up to date. It states that the buyer's conveyancer should also advise the client of the existence of the HM Land Registry Property Alert service.

Property Alert is a free monitoring service aimed at preventing fraud. Once a registered property owner has signed up to the service, they will receive an email alert from the Land Registry when certain activity occurs with the property (e.g. an application), enabling them to take action if the activity seems suspicious (e.g. the registered owner has not made any application).

Provided that the accounts are clear and the bill has been settled, the buyer's conveyancer can close the file.

Law Explained

In this recording we'll be thinking about the importance of registration at HM Land Registry (HMLR), following the completion of a purchase.

We will assume that the title to the property is already registered and that the buyer has purchased a freehold residential property with registered title, the most common scenario. We will not therefore be thinking about first registration of unregistered land.

6:37 1x

Audio Transcript

In this recording we'll be thinking about the importance of registration at HM Land Registry (HMLR), following the completion of a purchase. For the purposes of this recording, we'll refer to HMLR as the Land Registry.

We will assume that the title to the property is already registered and that the buyer has purchased a freehold residential property with registered title, the most common scenario. We will not therefore be thinking about first registration of unregistered land.

The first main point to remember is that registration must be carried out by the buyer's conveyancer following completion. It will be done after any stamp duty land tax requirements (or land transaction tax requirements for properties in Wales) have been dealt with. This is because the certificate evidencing compliance with these taxation requirements (the SDLT5 or the LTT certificate) must be sent to the Land Registry with the registration application. The application cannot be completed without it.

Also remember that there is a time limit in which the buyer's conveyancer must lodge the registration application. It must be lodged within the 30-working day priority period given by the pre-completion

OS1 or OS2 Land Registry search. This is very important, as the priority period effectively "freezes" the register for this period, effectively reserving a place for the buyer's registration application. Failure to lodge the registration application before priority expires, could result in other entries being entered by third parties, which would rank in priority to the buyer's and buyer's mortgage lender's interests. This could clearly be a very serious matter if, for example, another person registered an entry which bound the buyer, such as a new covenant, easement or mortgage. The conveyancer could face a negligence action from the buyer client, or lender, if their failure to meet the time limit resulted in loss.

There are several key reasons why the registration application is vital. It is common for people to think that the only real importance of registration is to change the register from the name of the seller into the name of the buyer, but this is certainly not the whole picture in many cases.

So, why is registration so important?

Basically, think of the aim of the registered system. The principle is that the register should reflect the state of the title and all interests affecting it, at the relevant time. Although it is true that overriding interests do not appear on the register, most other estates and interests depend on registration to take effect.

So, first, there is the change of ownership point. The buyer now has to be registered as the new owner of the property purchased. The Land Registration Act 2002 states that certain dispositions of land (including a transfer) must be completed by registration to take effect.

This means that the buyer must be registered at the Land Registry in order to become the legal owner of the property, since the legal estate will only pass to the buyer once they are registered as the proprietor in place of the seller. Most buyers would be fairly surprised to hear that they are not actually the legal owner on completion, especially bearing in mind that they have moved into their new home and paid over thousands of pounds, but this is nevertheless the legal position!

Also, consider the fact that most buyers need a new mortgage in order to purchase a property. A lender will have required in its instructions, that it must have a legal charge secured against the property. In order for a mortgage to be a legal charge, it must again be completed by registration at the Land Registry. Until that point, the lender does not yet have a legal charge. Again, buyers might be a bit surprised by this, as they have signed their mortgage deed at an earlier stage, but nevertheless this is the legal position.

Also remember that the seller may have a current mortgage on their property. This will have been revealed in the official copies sent to the buyer's conveyancer at an early stage of the transaction. The buyer will certainly not be taking over the seller's mortgage! Therefore, it had to be paid off (redeemed) as part of the conveyancing work. The seller's conveyancer will have sent the funds required to redeem this mortgage to the seller's existing lender following completion, and supplied the buyer's conveyancer with discharge evidence.

Therefore, if all of the above events apply, the buyer's conveyancer would not simply be applying to register a change of ownership, but would also be applying to discharge the seller's old mortgage, to register the transfer of ownership to the buyer and to register the buyer's new mortgage. This is often referred to as a "discharge, transfer, charge" situation, or DTC.

The buyer's conveyancer will need to use Form AP1 to make the registration application and this will be accompanied by various enclosures, which must be tailored to the transaction. For instance, in the type of situation considered above, the application would be accompanied by Form DS1 (if the discharge was in paper format) together with certified copies of the transfer to the buyer and the buyer's new mortgage deed, the relevant taxation certificate (SDLT5 or LTT certificate) and the Land Registry fees.

Remember, that the sale could have been a probate sale rather than a sale by the registered proprietor. If the property is being sold by executors, the buyer's conveyancer would have been supplied with the Grant of Probate to prove the executors' entitlement to sell. A certified copy of the grant would have to be sent to the Land Registry with the registration application. The Land Registry could then see why the sellers named in the transfer were different people than the registered proprietor in the register. Otherwise, it would look as if the wrong person was selling!

The Land Registry staff will process the registration application. Provided all is in order and there are no queries (called requisitions), they will change the register as requested. This is done electronically, so the seller's name will simply be removed and the buyer's full name entered in the proprietorship register as the new owner. If the seller's mortgage is being discharged, the Land Registry will remove the old charge entries from the charges register. If the buyer is having a new mortgage, the Land Registry will add new entries in the charges register to reflect this. They will add two entries, one to state there is a charge and the other to give the details of the lender.

Also bear in mind that other new entries may be added by the Land Registry on registration. For instance, if there are joint buyers who have indicated in Form TR1 (or Form JO) that they are to hold the land as beneficial tenants in common, the Land Registry will enter a Form A restriction. It is possible that other types of restrictions could be added at this stage, such as a restriction imposed by a lender, requiring its consent to a future disposition of the property.

Once the registration application has been completed, the buyer's conveyancer must check the updated register entries very carefully to ensure that they are fully accurate.

As you can see, the registration application is far more than just a paperwork exercise to change the names of the parties, and it also carries important duties such as the necessity of complying with the time limit. Although clients will not be overly concerned by this stage of the transaction (since they will already be in their new home), it's a vital stage for the buyer's conveyancer with huge legal importance! Only when it is done and dusted, and the updated title documentation sent to the buyer or their mortgage lender, can the conveyancer consider that the legal work is truly done!

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 are 2 questions in this knowledge check.

1. What is the latest time allowed for by the Standard Conditions for completion?

- a. 11am
- b. 12 noon
- c. 3pm
- d. 2pm

SUBMIT

Complete the content above before moving on.

2. Which of the following buyers will not be required to pay stamp duty land tax (all the properties are in England)?

- a. Melvyn is a first-time buyer purchasing a flat for £400,000
- b. Deena has just sold her first and only home and is buying a house for £500,000
- c. Samar is buying her second house for £400,000

SUBMIT

Complete the content above before moving on.

18.7 Chapter summary

Completion

(1) Both conveyancers will check that everything is in order for completion; the seller's conveyancer must ensure that they have the transfer signed by the seller ready for completion. The methods for completion are:

- (a) completion in person;
- (b) completion by agent; and
- (c) completion by post (this is the most common).

(2) The Law Society's Code for Completion by Post lays down the procedural steps and professional obligations to ensure that completion takes place smoothly. Both conveyancers will agree to adopt the code.

(3) On the day of completion, the buyer's conveyancer will send the balance of the purchase money due on completion (usually 90 per cent of the purchase price plus any sum agreed for fittings and contents) to the seller's conveyancers client account by a bank transfer of funds.

(4) In a transaction involving registered land, title passes on registration.

Post-completion

(1) The seller's conveyancer will:

- redeem any mortgages in accordance with the undertaking given on form TA 13;

- send the signed transfer and any associated documentation to the buyer's conveyancer;
- pay the estate agent's fees, if any, if authorised to do so by their seller client; and
- submit their bill of costs to their seller client.

(2) The buyer's conveyancer will:

- submit their bill of costs to their buyer client;
- submit the returns (usually online) and pay any SDLT or LTT;
- submit the application for registration to HMLR within the OS1 priority period; and
- once the registration is complete, check the title information document for accuracy.

(3) Both seller's and buyer's conveyancers must check that all matters have been dealt with (e.g. that bills have been paid) and that their accounts are clear, before closing their files.

CONTINUE

18.8 Form DS1

HM Land Registry

Cancellation of entries relating to a registered charge

DS1

This form should be accompanied by either Form AP1 or Form DS2

Any parts of the form that are not typed should be completed in black ink and in block capitals.

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

For information on how HM Land Registry processes your personal information, see our Personal Information Charter.

	1	Title number(s) of the property: TE37914
Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.	2	Property: 16 Beech Close, Newtown, Temshire, NT4 2FG
	3	Date:
Include register entry number, if more than one charge of same date to same lender.	4	Date of charge: 17 October 2006
Complete as appropriate where the lender is a company.	5	Lender: Temshire Bank plc, London House, Kingston, Temshire, NT1 6JF For UK incorporated companies/LLPs Registered number of company or limited liability partnership including any prefix: For overseas companies (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
	6	The lender acknowledges that the property identified in panel 2 is no longer charged as security for the payment of sums due under the charge
	7	Date of Land Registry facility letter (if any):
The lender must execute this as a deed using the space opposite. If there is more than one lender, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. Examples of the correct form of execution are set out in practice guide 8: execution of deeds. Execution as a deed usually means that a witness must also sign, and add their name and address. Alternatively the lender may sign in accordance with the facility letter referred to in panel 7.	8	Execution

WARNING
If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

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CONTINUE

18.9 Form AP1

GOV.UK



Change the register (AP1)

Use the AP1 form to change the register for a property including changing your name.

READ MORE GOV.UK

You have completed Chapter 18.

EXIT