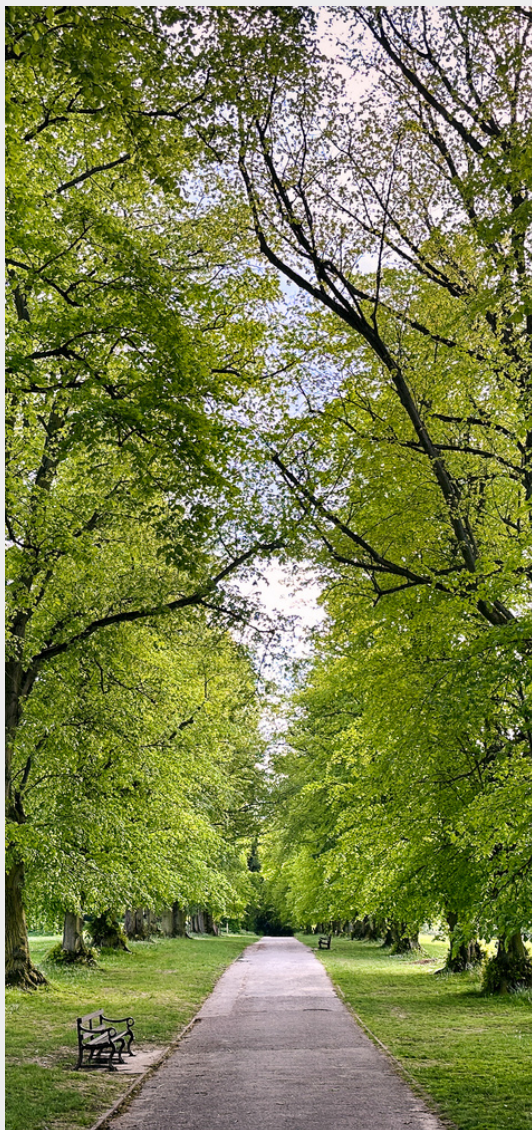


TAYLOR  
WALTON  
SOLICITORS

# Residential Property

## Further Information

2023







# About Taylor Walton

Taylor Walton is a 29 Partner law firm and is regarded as a major regional practice with offices in St Albans, Harpenden and Luton.

We are one of the longest established and well respected practices in the area and can trace our roots back 150 years.

The firm is committed to providing a high quality service to its clients and is proud to have been awarded with a number of recognised quality standards, most notably the Law Society's Conveyancing Quality Scheme.

As part of our service to clients we have prepared these guidelines to assist your understanding of the conveyancing process and to answer some of the common questions that clients ask us when buying and selling property.

*The information contained in the following pages is of general application and clients should take specific advice on the individual property being bought or sold.*



Taylor Walton LLP





# Deposits

The Seller's Estate Agent may request a small preliminary deposit as a sign of good faith. This is not a legal requirement, and unless specified to the contrary, it is refundable if Contracts are not exchanged. When paying a preliminary deposit to an agent please ensure they hold it as "stakeholders subject to contract".

Some sellers, notably builders of new houses, will request that a non-refundable deposit is paid. This generally means what it says and you will not be entitled to the return of the deposit if you change your mind and decide not to proceed with the purchase.

On exchange of Contracts the Buyer is normally required to pay to the Seller's Solicitors a 10% deposit, less any preliminary deposit paid. If you are simultaneously selling and buying we may be able to reach agreement with the parties whereby the deposit received on your sale is utilised towards that required on the purchase. If the funds are not readily available, consider arranging a bridging loan (if this is a possibility, please let us know as early as possible). Alternatively the Seller may be willing to agree a reduced deposit of say, 5%. You should specifically notify us if you wish us to request this on your behalf.

Some Insurance Companies offer a service which provides for an alternative to the payment of a cash deposit on exchange. If you wish further information on this service please do not hesitate to contact us.

In order to ensure that we are not in breach of the Law Society's rules, we shall require a cheque or banker's draft for the deposit payable to this firm **AT LEAST TEN WORKING DAYS PRIOR TO THE EXCHANGE DATE**, or alternatively, an electronic transfer of funds credited to our bank account prior to exchange.

Cyber fraud is very much in the news at present and we do our best to protect the interests of our business and private clients. Please note, in particular, that our banking details will not change during the course of any matter that we are dealing with for any business or private client, nor in our dealings with any other solicitors or third parties. If you receive an email informing you differently, please telephone the number on our letterhead and speak to the fee earner dealing with the matter. We will not accept responsibility if you transfer money to an incorrect account.

# Local Authority Search



This must be obtained prior to exchange, to ensure there are no adverse Local Land Charges registered against the property, and to obtain other information such as the possibility of road widening or similar proposals. Whilst some authorities process searches quickly, others can take several weeks.

Please note that a local search relates solely to the property to be purchased and will not reveal any matter that may be relevant to an adjoining property. For example, the search will not reveal any planning permissions for the development of adjacent land or property, so if you are concerned that the property you hope to buy could be adversely affected by development or change in use of neighbouring land then please specifically mention this to us. Similarly, should you have any plans to alter or change the use of the property you hope to buy, then you should specifically mention this to us prior to exchange of contracts.

## Environmental Issues

The Local Authority search does not presently deal with environmental issues. This area is increasingly of concern to our clients who may want to know whether their proposed property has been built upon land which has had past industrial uses, or may have been a landfill site, or may have previously been contaminated. Such adverse factors may increasingly affect the re-saleability of the property. The owner of a property may have to pay for the decontamination of land even if he was not responsible.

The report checks out information from a variety of reliable records and sources on past contaminants and polluting processes, landfill, waste treatment sites, nearby toxic substances, the probability of radon gas and the risk of subsidence and flooding.

As a firm, we have decided to undertake these type of searches as general practice and will report to you in connection with the contents of them as soon as the search results are available. We, as conveyancers are not professionally qualified to interpret the contents of such data. We recommend that you speak to your surveyor about the results of this search

If you only require information about flooding we recommend you visit [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)





# Drainage Search

The local authority does not give details of the drainage arrangements at the property. A separate drainage search can be made at a cost of approximately £60.00. The search will show whether the property connects into the mains drainage system. It may also indicate whether a water main or sewer passes through the garden (which could prevent future extension of the property). We will undertake this search as a matter of course.





# Other Searches

Other searches we may undertake on your behalf will depend upon the area you are purchasing in. Mining searches are required in certain areas. Where we feel other searches are necessary we shall let you know.

## Property Information Form and Preliminary Enquiries

Before exchanging Contracts on a purchase, we deal with various enquiries and questions about the property. These assist us in approving the Contract and enable us to provide you with some useful information about the property.

When acting for you as a Seller, we will ask you to complete a Property Information Form based on your own knowledge of the property as well as information available from the title deeds and documents. We will send you copies of all our replies and it is essential that you contact us immediately if any are inaccurate or misleading, or if a change of circumstances render a reply incorrect.

If you believe the property either uses or needs a right of way (on foot or with vehicles) over adjoining land or is subject to rights of way exercised by another property owner then please let us know. The documents we receive may not otherwise disclose this information. We can then ensure that appropriate rights are granted.

Please tell us if the property you are buying or selling has been altered or extended at any time. We need to check that any appropriate local authority consents have been obtained. We will assume, unless you tell us otherwise that you intend to occupy the property exclusively as your main residence. If you intend to use it for business, wish to build or extend it or have any other purpose other than to be used as a single private dwelling then please tell us.

As a firm, we work in accordance with the conveyancing protocol which in effect, limits the nature of the enquiries that we can raise on your behalf. We are only permitted to raise enquiries of a legal nature which arise out of the title documentation or search results received. We are prohibited from asking generic questions or those relating to the stage and condition of the property or those which can be answered from your own personal knowledge, inspection and/or survey. If however, you have any particular concerns or queries which have not been already raised by me in the correspondence or which are not of a legal nature and you would like to be raised please let us know.





# Fixtures and Fittings & Chattels

These are often a bone of contention and should be clarified by both Seller and Buyer. Normally this is dealt with by a simple form of questionnaire which is completed at the same time as the Property Information Form.

Fixtures and Fittings, unless specified to the contrary, are included in the sale price e.g. central heating system, doors, fitted kitchen units and flowers/plants in the garden.

Chattels remain the Seller's property, unless otherwise agreed e.g. furniture, carpets, curtains, curtain rails, TV aerial.

If you are selling, please tell us what, if any, fixtures and fittings you will be removing and what chattels you will be leaving.

If you are purchasing, please let us have an inventory of all items to be included in the sale – you should not rely on the Agent's Particulars. Please instruct us carefully, as unless we are notified specifically we will be unable to make sufficient provision in the Contract.

Consider and discuss with the other party light fittings and light bulbs. Whilst the Seller should include in the sale price, light bulb holders and wires, this does not extend to light fittings.

It is important for the list to be accurate as it will ultimately be attached to and form an integral part of the contract so tell us of agreed changes before exchange.







# Survey

When you are purchasing a property, whether new or old, leasehold or freehold, we would advise you to have an independent structural Survey carried out prior to exchange of Contracts. You should consider having the central heating and electrical systems inspected. A Seller is not necessarily required to reveal all he knows about the condition of the property and indeed may well be unaware of the existence of problems which may only be revealed by the inspection of a Surveyor.

With a newly built property it may be necessary to arrange an initial survey and a further inspection when the works have been finished. Even if the Seller considers the works to be finished, a Surveyor will check on the quality of those works to ensure they have all been carried out correctly or else to provide a list of outstanding items, often called a 'snagging list'

If you are buying a flat or leasehold property you will need to supply your Surveyor with a copy of the lease. Your Surveyor will need to advise you on the impact of the lease term, ground rent with any subsequent provision for rent increase, service charge and repair obligations in respect of the property. Your Surveyor should discuss with you the impact of these elements and the future marketability of the property or the potential cost of completing the lease extension in the future.







# Survey

Your Surveyor will be able to provide you with advice relating to value which are unusual such as ground rent reviews or high rents. Your Surveyor must advise you as to the implications for you and the impact that it will have on future sales.

If you are purchasing a freehold property which comes with the burden of paying an annual rent charge or costs for the provision of services supplied by a third party, it is vital that you ensure that any bills are paid for on time and that you fully understand

the position relating to the cost of such charges and who is entitled to collect the same before you commit to the purchase. Although we will supply as much information as possible relating to such payments it is up to you to ensure that payments are made at the appropriate time and in the appropriate manner following completion. Again, you should provide your Surveyor with details of such charges, so they can advise you as to the implications and impact on the value of your property.

Your Lender will carry out a Survey for valuation purposes but in many instances this may not be sufficient for the proper protection of a Buyer. Nevertheless you may be able to instruct the Lender's Surveyor to carry out a full Survey on your behalf which may be quicker and cheaper than arranging your own.

A Survey is particularly important where the property is a leasehold flat or maisonette as you are likely to be responsible for a proportion of the repairs and upkeep of the common and structural parts of the building by way of Service Charges.





# Mortgages

If you are purchasing with the assistance of a mortgage we cannot advise you to exchange Contracts until you have received a formal written mortgage offer. A letter of intent or a promise from the Lender is not sufficient.

Nowadays there are many different mortgage products available and you will probably discuss these when making your mortgage application. There is no doubt that it pays to shop around. If you are at all unsure about your proposed arrangements or would simply like an independent second opinion please do ask. It will cost you nothing and could save you a great deal.

If you have decided upon some form of Life Assurance or Pension plan to secure the loan your proposal must be accepted by the Life Company prior to exchange and the Policy put in force on exchange of Contracts. Any delay might result in the mortgage monies not being released in time for the completion date.

In most instances you will be required to admit your age to the Life Company and they may require sight of your birth certificate and, where applicable, marriage certificate.

When applying for a mortgage it is extremely important that you complete the application form correctly and that you subsequently inform the lender of any changes to the information provided.

Once a mortgage offer has been issued it will usually be valid for a certain period, typically three or six months, and you should be careful to apply to the lender for an extension or a new offer if there is a risk that completion will be delayed beyond the expiry date of the offer.

You should also be aware that all lenders reserve the right to withdraw a mortgage offer at any time before completion without having to give a reason. Fortunately, this is very rare but you should be aware of the risk and the potentially serious consequences which can result. For example, if contracts have been exchanged, you will almost certainly be unable to complete the purchase on the completion date and will thereby be in breach of contract. The seller would be entitled to keep the deposit paid on exchange of contracts and claim other compensation for losses incurred as a consequence of the breach.





# Buildings Insurance

It is essential that you arrange Buildings Insurance before you exchange contracts as the policy is required to be placed on risk from that date. You can either arrange building insurance through your lender or independently. It pays to shop around in order to get the best value for money. If you arrange the insurance independently you must let your lender have full written details. Without these the lender may not release mortgage funds.

If you are buying a leasehold property check with us to find out if there is a requirement for you to insure your individual flat or whether the property is covered under a block policy.

# Indemnity Insurance

During the course of a sale or purchase we may recommend that you effect a legal indemnity insurance policy to cover a defect in title such as breach of a restrictive covenant or the absence of planning permission. Such policies are quite common these days as they can provide a quick and cost effective solution to a problem which could otherwise take some time to resolve.

Although we have access to several insurance companies which specialise in this field we are not obliged to obtain more than one quotation and will not usually do so save in exceptional circumstances where, for example, appropriate insurance cover is difficult to obtain or the nature of the defect warrants it.

Please note that we charge a minimum of £75 plus VAT for arranging or approving an indemnity insurance policy on your behalf.







# Completion Date

Legally the date must be fixed at the time of exchange of contracts. Although it is usually nowadays a week or two from exchange of Contracts, the date may be any one agreed between the parties. Please advise us of the date required and note that when combining a sale and purchase, it is usually essential that both matters are completed on the same date.

If you wish to complete within 7 days of exchange of contracts an expedition fee may be payable.

If you intend to use a professional remover, then it is wise to check availability of the removal van before Contracts are exchanged. Remember, Fridays are very popular and can sometimes get booked up many weeks in advance, particularly the Friday before a bank holiday.

In considering the completion date, do bear in mind the effect this may have on the interest payments you make and may be required to pay to your lending source. Do discuss this aspect with your Lender as you may find they charge a disproportionate amount of interest depending on the day in the month you either repay your existing mortgage or complete your new loan.







# Exchange of Contracts

Two identical copies of the Contract are drawn up and when both parties are satisfied with the terms, the Buyer signs one copy and the Seller signs the other. As soon as a completion date has been agreed and the Buyer has paid the deposit, exchange of Contracts will be effected by us, on your behalf, either by post or over the telephone.

At this stage both parties are legally bound and so it is vital that you are satisfied with all preliminary matters before this occurs. If buying we would also advise you to carry out a “pre-exchange” inspection of the property to check that the property has not deteriorated or been damaged since your first visit.

For both Buyer and Seller there are severe potential consequences in the event that completion does not take place on the due date. You should ensure, therefore, that you can meet the completion date which has been agreed. If, as the Buyer, you are unable to do so you may incur penalty interest under the terms of the Contract, together with any other compensation or damages to which the Seller may be entitled.

We would estimate that the investigations set out in the preceding paragraphs would take around 4-6 weeks to undertake. However each transaction is different and we will update you regarding timescales in relation to your transaction as it proceeds.

Please note that both parties **MUST AIM** at the agreed completion date because of the financial sanctions imposed on any delay. Sometimes the date will not be met because of unavoidable delays caused by either party’s related sale or purchase, or a delay in receipt of mortgage funds.





# Leaseholds

Flats and maisonettes are usually leasehold. The Lease normally contains:

- Regulations affecting the tenant's mode of behaviour. Often these may seem onerous and petty but they are intended to assure the good running and management of the building and also provide protection for the tenants; and
- Service Charge provisions, which are usually open-ended. Although we shall advise you on these, you should take particular note of the Service Charge provisions contained in your Lease; and
- Buildings Insurance arrangements, which vary from Lease to Lease.
- Certain requirements on alienation (e.g. sale or underlet) which could include landlord's consent, direct covenants by the Buyer and the transfer by the Seller to the Buyer of any shareholding in the Management Company responsible for maintenance of the building.

Leasehold property may come with additional charges which we may only know about during the course of a transaction. If any apply, we will notify you of those that will be charged to you before exchange of contracts.

If you are buying or selling leasehold property there is a strong possibility that the transaction may be subject to additional costs and disbursements arising out of the transaction payable to third parties which may not have been known or readily available to us at the outset of the transaction or quote stage. The figures can vary dramatically from a few pounds to several hundred if not more taking into account a number of factors which at this stage, we are not in a position to confirm to you. We cannot be held responsible if it becomes apparent that administrative, service charges and other leasehold costs are considerable and such sums only become apparent throughout the course of this transaction. Very rarely are we able to provide you with a complete breakdown of such leasehold costs at a quote stage.

Please note that if you are selling a leasehold property, it is likely that you may be subject to landlord or managing agent's fees for dealing with information that the buyer's solicitor requests. If you are buying a leasehold property, it may well be the case that following completion you are subject to post-completion fees as a result of the implication of the Lease. Of course we will provide you with more information as and when this becomes known to us.



# Leaseholds

## Buyer

Following exchange we report on title to the Lender and request the mortgage funds in readiness for the completion date.

To avoid delays and in order to ensure that we have cleared funds in time for completion we will usually ask your lender to submit monies to our bank account by telegraphic transfer the day prior to completion. If we do request monies from your lender one working day in advance of completion, you may be charged interest on the loan from the day it is received by us.

There are also a number of final searches to be made prior to completion.

As soon as we are in a position to do so we shall send a completion statement to you showing the balance required to complete the transaction (taking into account the purchase price, any apportionments, the net mortgage advance, and our costs and disbursements). It is usual for the Seller to arrange for council tax and water rates to be apportioned directly.

As a Buyer, you should, in any event, inform the Authorities of your completion date following exchange. It is also usual for the Seller to arrange for final meter readings and closing accounts in respect of the gas, electricity, telephone and other services. You should ensure that this has been arranged and that you register with the relevant Authorities and apply for new accounts. Some authorities (i.e., British Telecom) will disconnect the service if they do not receive a new application.

Where the property you are purchasing is leasehold you may also be required to pay a proportion of the Ground Rent and Service Charge. Full details of these will be provided on the completion statement.

For the reason stated earlier we will require a personal cheque at least ten working days prior to completion. You can arrange for your bank to transmit funds direct to our account, the bank details will be sent to you under separate cover by way of post. A bank transfer should be done at least one working day prior to completion in order to guarantee that the funds arrive in our account in time for completion. Please also note that if you undertake online banking, there may be restrictions as to the amount of money you may send in any one transaction so please check with your bank as you may not be able to send us the full complete balance to complete by way of online banking.





# Leaseholds

## Seller

Following exchange we are required to write to the Lender to arrange redemption and at that time request a redemption statement which will be sent to you for approval prior to completion.

We would advise you to arrange direct with the Council and water company to apportion both water rates and Council taxes. You should also arrange for the gas, electricity and telephone meters to be read up to the date of completion, but please do not have these services disconnected without first advising your Buyer.

In the case of leasehold properties the latest Service Charge and Ground Rent receipt must be provided. You should notify us immediately if there are any problems in this respect. The sale of the property cannot be completed without this receipt.

As soon as we have prepared a completion statement we will remit a copy to you together with a copy of the Estate Agent's Account (which, unless we hear from you to the contrary, we shall pay on your behalf on completion) and also details of our fees and disbursements. If there is any balance due to you please let us know where you wish this to be remitted.





# Wills



As a property owner, one of your foremost requirements is a Will. It is essential that you make a Will on purchasing a property if you have not already made one. If you already have a Will, you should review it as your circumstances may have changed since you made it and, of course, you are purchasing a new property. We are always happy to conduct a short review of your Will (whether we made it for you or not). If that review identifies areas which need to be amended, we can give you an idea of the likely costs before you are under any obligation.

If you are buying property jointly with somebody else, the position is more complicated and a brief explanation is set out in the following section. It is, however, unsafe to rely on an old Will, or worse still, the presumption that your co-owner or spouse receives your entire estate. We find that many people misunderstand what would happen if they were to die and it is quick and simple for us to make sure that your arrangements are in order.

If you would like further information about making a will please either speak to us or contact us via our website.





# Joint Buyers



When you exchange contracts for the purchase of your property, you need to consider how, as co-owners, you are to hold the beneficial interest in the property. There are two methods of co-ownership: either you hold the property as joint tenants or you hold it as tenants in common. The effect of the alternatives is very different. As joint tenants, on the death of one of the co-owners, the property automatically becomes owned outright by the survivor who can therefore sell the property without any restriction. This will override any provision made in your Will concerning the property. If, however, you are tenants in common, on the first death the share in the property that belongs to the deceased will be dealt with in accordance with that person's will, or if there is no will, by the statutory rules relating to intestacy.

A tenancy in common therefore gives each of you the opportunity to decide what you wish to happen to your share of the property on your death – you can of course specify that it should go to the survivor, if you wish. Equally importantly, it also provides an opportunity to mitigate any inheritance tax liability which may arise on your deaths.

To take advantage of these possibilities (choice and inheritance tax planning) it is essential that you have properly drafted Wills and if you would like to consider this further please let us know and we will arrange for someone in our office who specialises in Wills and Tax Planning to contact you.

From the point of view of cost, there is no appreciable difference in whichever method of co-ownership you select but it is important for you to consider the choice carefully.

If more than one person is purchasing a property then you may also wish to give thought to protecting your individual interests or shares in the property by means of a Declaration of Trust or similar device. This may be particularly important if you are contributing to the purchase of the property in unequal shares. If you require further advice please let us know so that we can put you in touch with our Private Client Department who deal with such matters.

## **Buying in your own name**

If you are purchasing a property in your sole name but will be living there with a non-owning adult occupier you may wish to speak to our Family Department with regards to any specific legal advice that you should take as a result of any benefit that might be gained by the non-owning occupier residing in the property with you. It may be the case that a non-owning occupier can gain an “interest” in the property by contributing to its upkeep, paying mortgage payments or providing you with some financial contribution to it. Advice should be taken by you as to whether or not you should enter into a separate Agreement between you and the non-owning occupier(s) as to any implications on the ownership of the property, any interest that may or may not be created during the ownership and implications in the event that the property is sold for any reason.

# Tax Matters



As you may be aware Inheritance Tax and Capital Gains Tax applies to the value of your home and property.

As it may well be that your assets fall into the taxable bracket it is important for you to consider making use of the tax exemptions that are available.

If you are interested in reducing your exposure to tax and would like more information please either speak to us or complete the request for information at the end of this guide. We will arrange for one of our experts in the field to contact you.

Stamp Duty Land Tax is a tax payable on most property purchases. HM Revenue & Customs require details of the purchase to be submitted to them on a Land Transaction Return, and the correct amount of tax paid, within 30 days of completion, and we shall attend to this on your behalf. It is vital you complete the Stamp Duty questionnaire and return to us as soon as possible in order that we may complete your Stamp Duty return in good time. Please take time to carefully complete the form and ensure you read the information and detail we provide you before exchange of contracts. Should you or any buyer or person connected to any of the buyers believe or understand that an event has occurred or a change is needed to be made to your Stamp Duty return or questionnaire then please let us know. Issuing an incorrect return to the Inland Revenue is a serious offence and you must ensure the information in the return lodged with the Revenue is accurate.

Please note that with regards to the current Stamp Duty Legislation and its complexity regarding a surcharge on second or further properties owned, please would you be kind enough to advise if you are selling property be it your own home, or existing stock that you have and contact us in order that we may provide you with guidance as to possible Stamp Duty implications that you may face when buying property in the future. It may well be the case that we can provide you with advice on Stamp Duty or simply ask you to take more expert advice from specialist Stamp Duty Accountants to help you assess future Stamp Duty liability on transactions in the future under the current regime.

We are aware that some schemes exist which are intended to mitigate the tax and are promoted on this basis. However, it is quite clear that HM Revenue & Customs do not regard these schemes as effective and consequently there is a substantial risk that they will be challenged leaving the buyer open to allegations of tax evasion and a demand for unpaid tax, interest and penalties.

Consequently we do not recommend the use of these schemes.



# Completion Date



The completion date is the day upon which you must give or become entitled to vacant possession.

The completion formalities will be arranged by us and you are not required to attend.

On completion of a sale all outstanding loans secured against the property must be repaid and the property must be fully cleared of all items not being included in the sale.

As a Seller we would advise you not to release the keys to the Buyer until we have advised you that we are in receipt of completion monies. At that time please let us know whether you have made some private arrangement with the Buyer.

## After Completion

After completion of your sale we will arrange to redeem any outstanding mortgage, discharge the Estate Agent's Account (if any) and send to the Buyer's Solicitors the title deeds and documents. We will then account to you for the net proceeds of sale as per our completion statement and in accordance with your instructions.

Following your purchase we will attend to the payment of stamp duty land tax and the registration of the transaction at the Land Registry.

Once the registration has been completed the title deeds and documents are sent to you or the mortgage lender if appropriate. Please note that the Land Registry note the purchase price of the property on the Register which is open to public inspection.

If at any time throughout the transaction you require assistance or advice please do not hesitate to telephone us.



# Further Information

For further information about our conveyancing services click on 'Our Services' and then 'Residential Property'. There you will find some further useful information including replies to questions we are frequently asked.

Taylor Walton offers a comprehensive range of legal services to both individuals and businesses. Some of the services we offer are:

- Wills
- Trusts and Tax Planning
- Executorship and Probate
- Powers of Attorney
- Re-mortgaging Your Home
- Employment Claims
- Divorce and Separation
- Residence and Contact issues relating to children
- Corporate & Commercial Law
- Commercial Property
- Commercial Dispute Resolution
- Residential & Commercial Property Litigation
- Commercial Contracts
- Corporate Services
- Mergers & Acquisitions

If you would like further information about any of our other services, you can speak to the person who is dealing with your conveyancing who will put you in touch with the right person to deal with your request.

“Taylor Walton LLP maintains the highest level of service. Their response time is extremely impressive. The level of expertise has been sufficient to deal with a wide variety of issues to our complete satisfaction. I simply want good professional service and that’s what Taylor Walton delivers.”