

Commercial Property Purchase

Procedure

Once we have been instructed you will need to arrange a survey on the property (if appropriate) and apply for any mortgage if you are borrowing money for the purchase. We will contact the sellers' solicitors, arrange searches, and look through the lease and/or title documents. Before you proceed we will report to you fully on all our investigations.

If you are buying a freehold, a contract will be exchanged in the usual way covering all the various terms agreed between you and the seller. If you are taking a lease, a contract will also be exchanged if there are any conditional aspects to be dealt with before completion (works to be carried out by landlord or tenant; early access required prior to signing the lease etc) but if there are no conditions, it may be possible to proceed direct to completion. Normally, exchange of contracts will take place when we (and you) are fully satisfied on all aspects of the purchase and searches.

At exchange you will become legally bound to buy or take the lease and it is at this stage that your deposit is paid. A completion date will be fixed by agreement between the parties and it is important to give us as much notice as possible of your required completion date.

Prior to completion, whether or not there is a contract, we will deal with final searches, prepare the transfer or lease and mortgage documents, obtain any mortgage advance and provide you with a full completion statement. You will be able to move to the new premises on the day of completion. However the exact time will depend on the time of completion but will normally be during the morning.

Survey

The type of survey you may require will depend not only on the type of property you are purchasing but also the terms of any proposed lease. Your surveyor should always be provided with the details of any lease repair covenants as your repairing obligations will be linked to these and the surveyor will highlight any current or likely future expenditure. Please ask us for any further advice.

If you are obtaining mortgage funds your lender will certainly carry out a valuation and it may be possible to contact the valuer to have a more detailed type of report carried out at the same time and this may save you cost.

If you are buying a freehold you will not have any claim against the seller for damages if he fails to disclose any defects. In the same way as for a house purchase, it is very much a question of "buyer beware". If you are taking a lease, the same principles apply and, unless there is a schedule of condition attached to the lease, you will always be required to repair the property to the standard referred to in the existing or new lease. A survey will serve to identify what needs to be done and you may be able to use this in your negotiations with the landlord.

If you are taking a lease of part of a building, a survey is also important to ascertain the state of the whole building because usually a service charge would include a proportion of repairs required to the roof and common parts, as well as outside decorations.

Local Searches

We will of course be carrying out a local authority search as soon as we receive the plan on the title from the sellers' solicitors. Our usual practice is to copy the plan to you at that stage. It is important to note that the local

authority search will only cover the land on the title plan and will not, for instance, reveal any planning permissions or proposals for development on adjoining land.

You might be aware of a possible development adjoining the property or, perhaps, there may be open land on which you would like to ascertain any proposals. If that is the case, could you please let us know at an early stage so that we can be sure the search plan covers any additional land. There may be a small additional fee to the local authority for this service.

It should be realised also that a search will only disclose matters which have actually been adopted by the local authority as proposals at the date of the search and not anything which may be in the process of being considered.

Contamination

Whether you are buying or leasing commercial premises, it is important to consider contamination as the responsibility for clearing this may fall on the new owner or tenant. Please see our separate leaflet dealing with contaminated land in this respect.

Mortgage

If you are borrowing money to finance the purchase of the property, please advise us at an early stage of the lender and any other details, and make it known to them that we are acting for you so that they can send their mortgage offer to us as soon as it is available.

Buildings Insurance

Buyers of freehold property should be aware that it is absolutely vital to insure the building at exchange of contracts, not completion. If you are obtaining a mortgage, this is very often arranged by the lender unless you opt otherwise and

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please confirm the details to us when available. If you are taking a lease, it is almost always the case that the landlord will cover the property for insurance, both to completion and afterwards, during the term of the lease.

Contract Deposit

In the purchase of a freehold property a deposit is almost always required on exchange which is the time when you become legally bound to buy the property. Normally, a seller will ask for 10% of the sale price as a deposit but this can sometimes be reduced if required. The exact situation will become clear when we see the contract from your seller but it is as well to plan now for the payment of the deposit on exchange of contracts so that there is no delay at the time.

How Warners Can Help You

It is always a good idea to review other aspects of your business when changing premises. New or additional premises may necessitate changes either to a shareholders agreement (for your company) or a partnership agreement. It may be that a partnership agreement will need specifically to deal with the property to cover the new circumstances.

If you are moving to larger premises it may be that you will be increasing your staff numbers, in which case it may be important to review and/or change your standard employment contract.

If any of these circumstances apply please contact one of our lawyers at the offices overleaf who will be able to refer you to a member of the company commercial or employment team.

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You can find out more at
www.warners-solicitors.co.uk