

Buying and Selling Your Property



All you need to know in our
easy-to-read pocket guide



About The Owen Kenny Partnership

The purpose of this document is to provide you with details of the service which we offer and to set out for you how we charge for our work. In the following pages we have set out information that will assist you during the course of your conveyancing transaction in general terms. It is however impossible to cover every aspect of your transaction so please do not hesitate to call whenever you need assistance.

We offer our clients quality legal advice with a personal service at a fair cost.

We will:-

- 1 Represent your interests and keep your business confidential
- 2 Explain to you the legal work which may be required
- 3 Keep you regularly informed of progress or, if there is none, when you are next likely to hear from us
- 4 Communicate clearly the legal side of your transaction
- 5 Deal with your queries promptly

We have been in our offices in Chichester for over twenty years. Our Conveyancing Team is based at our premises in South Street, Chichester.

We will ensure that the individual dealing with your case will continue to act on your behalf throughout. We do, however, operate a team approach and there may be occasions when the individual dealing with your case is unavailable. Should this happen we try to ensure that, where necessary, an appropriate alternative advisor is made available to help you.

In this booklet we have tried to give you some information which we think will be of help to you. This information is to be used as a guide only, as each situation will be different depending upon the issues which affect you.

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Our Hours of Business

The normal hours of opening at our offices are between 9.00am and 5.00pm on weekdays. Very often we work longer hours than this and it may be possible that you can speak to your Solicitor or Executive outside normal office hours.

Messages can be left on the office answer phone outside our normal hours of opening and appointments can be arranged at other times when this is essential.

Telephone calls coming into our main office numbers will be answered by one of our receptionists. All of our staff have a good degree of practical knowledge. However, it is not always possible for receptionists or secretaries to answer specific queries in detail.

The main switchboard number will be answered between 9.00am and 5.00pm. The direct lines will be answered at any time that the conveyancer is available.

You may find it useful when you telephone, to use your conveyancer's direct line, details of which you will find on his/her business card or notepaper. If he/she is not at their desk then the phone will ring four times and then be answered by a "voice mail". If he/she is on the phone then the "voice mail" will answer immediately. Please feel free to leave a fairly detailed message. You can be sure, then, that your message is delivered accurately, and when your call is returned your conveyancer will have an answer to your question ready.

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Contacting Us

We will aim to communicate with you by such method as you may request. If you provide us with an email address we will assume that we have your authority to correspond with you by email. Unless you withdraw consent, we will communicate with others when appropriate by email or fax. All our conveyancers and their secretaries have direct e-mail addresses.

You are welcome to e-mail at any time. Messages sent after hours will be picked up first thing in the morning. If you do not receive a reply, please do check that your e-mail has been received. We will endeavour to acknowledge your e-mail with a quick message even if a more substantive reply is then sent later.

After an Offer has been Accepted

Once you have agreed on a price, you will be asked for details of your Solicitor. In most cases, particularly if the property is local, you need only give the estate agents our name. If you have already spoken to a conveyancer, give them his/her details so that the memorandum of sale may be sent to all parties. The memorandum of sale will give us details of what has been agreed in terms of the property, price etc.

If you have already contacted us we will have sent you a formal quotation letter and some forms to fill out for us. Please give us as much detail as you have available. If you are selling a property and fail to disclose something which ought to have been disclosed your buyer can take legal action. If you need any help in dealing with these forms, then please contact us and we will be happy to help.

If you are obtaining a mortgage, you should let your financial advisor or lender know who your Solicitors are so that they can send us a copy of the mortgage offer when available. If you are selling a property, it is essential that you let us have details of all mortgages and loans secured on the property.

You should also think about your insurance arrangements. If you are buying a flat then your insurance may be dealt with by your landlord and we will tell you about this once we have this information.

“you should let your financial advisor or lender know who your Solicitors are so that they can send us a copy of the mortgage offer when available”

If you are going to take out your own buildings insurance, this should be done on exchange of contracts (except in the case of new properties). We will need details of your insurance as soon as possible as we may have to check these on behalf of your lender if necessary. Please note that a buyer is responsible for the property from exchange of contracts NOT completion. If you are buying a property you must therefore insure it from exchange of contracts not completion.

What to expect from us when purchasing a Property

Once we have received documents from the Solicitor acting for the seller, we will immediately send you as many of the following items as are available at this stage.

These may include:-

- a) A copy of the plan of the property. You must please check the plan and let us know if it differs from what you have viewed. Please remember that the conveyancing process does not allow for us to personally inspect the property. It is your responsibility to carry out any physical inspection of the property. However, if a site plan needs to be agreed, you may wish us to carry out a site visit. In this case, please contact us so that we can advise you of our additional fee in this respect.
- b) A copy of the fittings and contents and property information forms completed by the seller. Usually the seller will provide this information to the best of his/her knowledge but this information may be limited. It is therefore important to inspect the property and to have a survey. If you have agreed to purchase any additional items you have a choice as to whether you wish to let us know and we can add it to the contract or whether you wish to make a private arrangement with the seller.
- c) Copies of any guarantees that are with the paperwork. We cannot comment on the validity of the guarantees. They are only as good as the company who has issued them. Some guarantees are only valid if officially transferred to you as the new owner. We cannot do this for you. You will need to arrange, and pay any necessary fee, after completion.
- d) Copies of the title deeds with a note of any specific matters that we feel that we need to draw to your attention. The “covenants” that affect the property will be pointed out to you. These are legal obligations that the owner must comply with. They are very important and if you think that any of them may already have been breached you need to let us know. A typical example of a covenant is “not to make alterations to the property without the consent of a third party” (usually a previous owner or builder). If you are planning to make any alterations to the property after you have bought it and you think that this kind of covenant may affect your plans, you need to let us know so that we can advise you of the implications.

- e) We will carry out searches for you and we will report to you with our findings. You should be aware that the local search will not reveal planning applications for neighbouring land or properties. It only tells you about the planning history for the property you are purchasing. Please note that we will not advise you on the planning implications of the property during the course of a routine purchase. If you need any planning advice this can be done separately.
- g) We will also carry out an environmental search. This may give you an idea of the previous use of the land. It will also tell you about the possibility of the property being affected by contaminated land.
- h) We will also carry out a drainage search for you, which will give more information about the route of the drains or if, for example, there is a drain running under your property, which might affect you if you wish to build an extension.

“ It is your responsibility to carry out any physical inspection of the property. However, if a site plan needs to be agreed, you may wish us to carry out a site visit. ”

- f) A copy of any letter that we have sent to the sellers Solicitors raising questions that have arisen as a result of our examination of the paperwork. Some of these will be technical in nature and some practical. If you have any questions that you would like to raise that have not been addressed, please contact us.
- i) The contract that you will be asked to sign. You should check that the purchase price is correct and that we have your names spelt correctly before signing where indicated. This is the only document that we have sent you that we need back at this stage.

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What to expect from us when Selling your Property

As soon as we have copies of your title deeds and the forms back from you we will send the buyer's Solicitors:-

- a) A copy of the plan of the property. If you believe that the plan on your deeds is incorrect in any way please let us know immediately.
- b) A copy of the fittings and contents and property information forms that you have completed. If you have agreed to sell any additional items you have a choice as to whether you wish to let us know and we can add it to the contract or whether you wish to make a private agreement with the buyer.
- c) Copies of any guarantees that you may have.
- d) Any "covenants" (legal do's and don'ts) that affect the property will be pointed out to the buyer. They are important and if you think that any of them may already have been breached you need to let us know. If you have made any alterations to the property (or indeed a previous owner has) you need to let us know so that we can advise you accordingly.

- e) The draft contract which we will prepare on your behalf. You will be sent this for signature shortly before exchange.
- f) The buyer's Solicitors will probably raise some questions which we will need your help to answer. Please do your best to answer them. We will help you where necessary. Even if you feel the questions are without foundation, our experience is that by being as helpful as we can this is the best way to speed your transaction along.

“If you have agreed to sell any additional items you have a choice as to whether you wish to let us know and we can add it to the contract”

Surveying your new Property on a Purchase

We are often asked whether you should have a survey. The only advice that we can really give you is that you may be making the most important investment in your life and you should use this as an opportunity of making the fullest possible enquiries. This of course includes a full survey.

The survey often undertaken by your lender is known as the valuation report and has its limitations. It may be better for you to ask your financial advisor or lender to arrange a full survey or home buyers' report, which will not only incorporate the valuation but will also provide you with a much more detailed summary of the surveyor's opinion of the property.

You should consider this at the time that you are arranging the mortgage in order to get the best possible price. Alternatively, we can put you in touch with some local surveyors who would be happy to help.

When you receive your survey, you should read it carefully including all the small print and if there is anything that you feel needs further investigation or if you feel that the price should be reduced, then you will need to arrange this through the estate agents before exchange of contracts.

Exchange of Contracts

As soon as searches and enquiries have been completed and finances are in place you will be ready to exchange contracts. Although you can suggest a completion date, your seller may not be able to accommodate the date that you would like. It is best to try to be flexible, particularly if there are a number of people in the chain who will all have different requirements. Any date at this stage is only a suggestion.

Please do not book anything until you are told by us that contracts have been exchanged. Please do not take it as confirmed from anyone else until you have spoken to your conveyancer or his/her secretary.

We will send you a statement showing the amounts required by you or due to you on completion. Please check your statement carefully and if you think that there is something wrong, please let us know right away.

Once contracts have been exchanged, your completion date becomes fixed and you are legally obliged to complete your sale or purchase on that date.

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After Exchanging on your Purchase

Now that you are committed to the purchase of the property, you will receive a statement showing the amount that we will need to

complete the purchase. Bank transfer or telegraphic transfer is the preferred method of payment.

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Completion Day

On the date fixed for completion the balance of the amount for the purchase of the property is sent to the seller's Solicitor.

When the seller's Solicitors receive the monies they will telephone the estate agents and authorise them to hand over the keys. A seller has until 1.00pm to hand in his keys. If you are a purchaser you should base your plans around a completion time of about 1.00pm. If we are relying on monies coming in from your sale to complete your purchase, 1.00pm may not be possible and you may have to wait a little longer.

If you are selling, you must leave the property empty and the keys must be left with the estate agent by 1.00pm on that day. All items (including rubbish) must be removed from the property. When we receive the buyer's money we will telephone the agents to ask them to release the keys to the buyer. Please do not hand the keys over yourself until you have spoken to us and we have confirmed that completion has taken place.

If there is a balance due to you upon completion of your sale we can transfer the money directly to your bank account by way of a CHAPS transfer. The monies will then be in your account on the same day and will be cleared. Our legal fees for this will be £30 plus VAT. This is usually more convenient to you as you will be able to use the funds straight away and you will receive interest on it with immediate effect. Please note that we do not transfer money to foreign bank accounts.

Alternatively we can send you a cheque or you can come in to collect it. We also offer Fast Pay/Next Day £20 plus VAT which is usually with your account the same day.

On the day of completion, we will send the estate agents a cheque in accordance with your instructions. We will also repay your mortgage. This is usually dealt with by way of CHAPS transfer to prevent any further interest accruing. Most lenders require this now. Again our legal fee for this is currently £30 plus VAT which will be shown on your completion statement.

Buying a Property to Let

We have a separate brochure which deals with letting your property so please do ask for one if you wish. We can also prepare your tenancy agreements for you. If you are intending to let out your property you will need to obtain the consent of your lender and it is wise to do this BEFORE you exchange contracts.

Letting your property may also be a breach of the covenants in your title deeds. If you are going to buy your property with a view to letting it, please check this with us. Current legislation is that a series of short term holiday lets constitutes "running a business" which is prohibited in most leases and many freehold title deeds.

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Building Insurance Requirements if you have a Mortgage

If you are obtaining your own buildings insurance and you have a mortgage, then your lender has requirements which must be met. The following is an extract from the guide that we receive from most lenders setting out those requirements.

You will need to:-

- a) Check that the amount of buildings insurance cover is at least the amount referred to in the mortgage offer. If the property is part of a larger building and there is a common insurance policy, the total sum insured for the building must be not less than the total number of flats multiplied by the amount set out in the mortgage offer for the property.
- b) Ensure that the buildings insurance cover is index linked.
- c) Ensure that the excess does not exceed £1,000.00.
- d) Check that all the following risks are covered:- fire, lightning, aircraft, explosion, earthquake, storm, flood, escape of water or oil, riot, malicious damage, theft or attempted theft, falling trees and branches and aerials, subsidence, heave, landslip, collision, accidental breakage of glass and sanitary ware and accidental damage to underground services.
- e) Check that you have insured against public liability.
- f) Check that your insurance company will note the interest of your lender on the policy.

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Buying a Property with someone else

There are two ways that you can own property. The first is known as “joint tenants”. This means that on the death of one of the owners of the property, the property will automatically pass to the survivor regardless of what is contained in their Will. There is also a strong presumption that the purchase monies have been contributed jointly and equally.

The second is a “tenancy in common”. This is more appropriate for unmarried partners, brothers, sisters, children and parents or friends who buy property together. It is also a useful alternative, where one party has children from a previous relationship. With a tenancy in common you can leave your share of the property to someone other than the co-owner and you will need to ensure your Will deals with this.

This means therefore, that all the owners can leave their share in the property to whom they wish. They can of course leave it to the other co-owner if they wish although they do not have to.

If you are going to be tenants in common you will have to decide what percentage of the property you each own. If you do not set this out clearly at the time of your purchase, then it will be assumed that you own half each. This may not be what you intend as sometimes you may contribute unequally. You will therefore need a Declaration of Trust which sets out at the time of purchase your respective interests in your property and who would get what if the property had to be sold. This is dealt with by our private client department at a fixed cost of £395 plus VAT. Please let us know if you would like a member of the team to contact you to discuss this.

It is vital that you update your Wills if you have a trust deed, so as to ensure that arrangements are made for your co-owner to carry on living in the property if you die, either for their life time or for a set period, if this is what you wish. Again, we would be happy to arrange this for you.

Payment Arrangements

- a) Our fixed fee quoted covers all of the options. Additional fees are payable for work outside of this as set out at section 24. These fees are payable even if the matter does not proceed.
- b) We will normally send you our invoice following the exchange of contracts and payment is required on a purchase prior to completion; and at completion; on a sale. On completion we will deduct our charges and expenses from the funds available before accounting to you for any balance of monies.
- c) Payment of all invoices raised is due to us within 28 days of our sending you an invoice. Interest will be charged on a daily basis calculated at 8% per annum from the date of the invoice in cases where payment is not made within 28 days of our sending the invoice to you.
- d) We cannot receive payment of more than £350 (Three Hundred and Fifty pounds) in cash.
- e) We reserve the right to refuse to transfer funds to an unknown third party.
- f) You have the right to apply for an assessment of any invoice under Part III of the Solicitors Act 1974. This should normally be done within 28 days of receiving the invoice.

“Our fixed fee quoted covers all of the options. Additional fees are payable for work outside of this as set out at section 24. These fees are payable even if the matter does not proceed.”

Financial Services

We do not provide advice in relation to possible tax implications of your transactions and we advise you to instruct an accountant if you require this advice.

We are not authorised by the Financial Services Authority. If, while we are acting for you, you need advice on investments, we may have to refer you to someone who is authorised to provide the necessary advice. However, we may provide certain limited investment advice services where these are closely linked to the legal work which we are doing for you. This is because we are members of the Law Society of England and Wales which is a designated professional body for the purposes of the Financial Services and Markets Act 2000.

The Solicitors Regulation Authority is the independent regulatory arm of the Law Society and the Legal Ombudsman is the independent complaints handling body.

We are included on the register maintained by the Financial Services Authority so that we may carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Solicitors Regulation Authority. The register can be accessed via the Financial Services website at www.fsa.gov.uk/register

If you are unhappy with any insurance or investment advice you receive from us, you should raise your queries with either the Solicitors Regulation Authority or the Legal Ombudsman.

Identity, Disclosure and Fraud

We consider our client(s) to be the person; persons or company specified in the Information Form that we will give to you. Unless we have your written instructions we will not discuss your case with any other person, save those directly involved in the matter.

Where we are acting for joint parties, we are able to accept instructions from either or any of those clients on behalf of all of them. If you require us to act only upon instructions given by all parties rather than just one, then this must be confirmed to us in writing.

In some circumstances we will also be acting for your proposed lender. We have a duty to fully reveal to your lender all relevant facts about the purchase and mortgage which includes any differences between your mortgage application and information we may receive during the transaction and any cash back payments or discount schemes that the seller is giving you.

We are professionally and legally obliged to keep your affairs confidential. However, solicitors have a statutory obligation to report to the appropriate authorities our knowledge or suspicion that funds derive from the proceeds of crime. We may not be able to tell you that we have made such a disclosure and we may have to stop acting on your matter for a period of time without being able to tell you why. Liability for any loss, damage or delay arising out of the firm's compliance with any statutory or regulatory requirement is expressly excluded.

Client ID Guide

The Law requires Solicitors to verify the identity of their clients.

- Our practice is for clients to call into the office with two forms of identification.
- If you are unable to attend the office we ask that you provide three forms of certified identification which must be certified by a solicitor OR complete the Client Identity

Questionnaire and provide copies of specific identification in order to complete electronic identity checks. The fee for carrying out the Identity Check is £6 per client and will be detailed as a disbursement.

We apologise for any inconvenience caused but due to the strict regulations under which solicitors operate, we cannot proceed any further with this matter until we receive evidence of your identity as detail below.

Visit our office with your identification

Please call into the office with at least one form of identification from each of the following lists:

List A (Evidence of Name & DOB)

Current valid Full Passport
Current Photocard Driving License

List B (Evidence of address)

Utility/Council Tax Bill
(within the last 3 months)
Bank/Building Society Statement
(within the last 3 months)
Mortgage Account Statement
(within the last 3 months)
Current Driving License
(if not used in List A)

Provide Certified Identification

If you are unable to visit the office please provide three forms of certified identification from the lists including a minimum of one piece of photographic identification.

The identification must be certified by a solicitor who must also write the following statement on the copy identification:

“I certify that I have seen the original document and this copy is a complete and accurate copy of the original which appeared to be authentic. Where the document contains a photograph, the photograph contained in the document bears a true likeness to the person requesting this certification”

In addition the certifying solicitors must provide the following details next to the statement:

- The date the certification was provided
- Their signature and printed name
- Their occupation and regulatory number
- Their full business address and contact telephone number

The Solicitor should send the certified copies of your identification to this office as regulations prevent us from accepting receipt of certified identification directly from our clients.

Data Protection

We use the information you provide primarily for the provision of legal services to you and for related purposes including: updating and enhancing client records, analysis to help us manage our practice, statutory returns and legal and regulatory compliance. Our use of that information is subject to your instructions, General Data Protection Regulation and our duty of confidentiality. Please note that our work for you may require us to give information to third parties such as expert witnesses and other professional advisors. You have a right of access under legislation to the personal data that we hold about you. Our Privacy Policy can be viewed on our website: <http://owenkenny.com/privacy-policy>

Limited Companies

When accepting instructions to act on behalf of a limited company, we will usually require a director and/or controlling shareholder to sign a form of personal guarantee in respect of the changes and expenses to this firm. If such a request is refused we will be entitled to stop acting and to require immediate payment of our charges on an hourly basis as set out above, together with any expenses incurred.

Professional Indemnity Insurance

We are covered by professional indemnity insurance. Details of our policy are displayed in our South Street office at 38 South Street, Chichester.

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20 Equality

We are committed to promoting equality and diversity in all of our dealings with you, third parties and employees. Please contact us if you would like a copy of our equality and diversity policy.

21 Storage of Papers and Documents

After completing the work we are entitled to keep all your papers and documents while there is money owing to us for our charges and expenses. In addition, and in accordance with GDPR requirements, we will keep your file of papers for you in storage for not less than seven years. After that, storage is on the clear understanding that we have the right to destroy your papers after such period as we consider reasonable to do so. We will not of course destroy any documents such as Wills, deeds and other securities which you ask us to hold in safe custody.

22 File and Title Information Service

Buying and selling is a complex business and whilst a lot of information is made available at the time of the transaction, inevitably there are times when you may require further guidance in relation to your property. We will retain your file of papers for a period of time following completion. Should you require us to provide further advice or information of a general or of a specific nature following completion of your transaction we shall be happy to assist you. Our fee for this service is £50 plus VAT. If further work is required to resolve the issue which may involve further costs, we shall make that clear to you before undertaking the work.

23 Complaints

We are committed to high quality legal advice and client care. If you are unhappy about any aspect of the service you have received, or about the invoice, please contact your conveyancer or our Conveyancing Director, Carol Laurence. If you are not satisfied with our handling of your complaint then you can contact the Legal Ombudsman at www.legalombudsman.org.uk

Termination

You may terminate your instructions to us in writing at any time but we will be entitled to keep all your papers and documents while there is money owing to us for our charges and expenses. If at any stage you do not wish us to continue doing work and/or incurring charges and expenses on your behalf, you must tell us this clearly in writing.

If we decide to stop acting for you, for example, if you do not pay an interim invoice or comply with a request for a payment on account, we will tell you the reason and give you notice in writing.

Under the Consumer Protection (Distance Selling) Regulations 2000, if we have not met with you, then for some non-business instructions you may have the right to withdraw, without charge, within 7 working days of the date of which you ask us to act for you. If we start work with your consent within that period, you lose the right to withdraw. Your acceptance of these terms and conditions of business will amount to such consent. If you wish to withdraw instructions, you should give notice by telephone, email or letter to your conveyancer. The Regulations require us to inform you that the work involved is likely to take more than 30 days.

Additional Legal Services

Our fixed fee quoted on our statement of fees covers all conventional work associated with the conveyance of a property. Additional fees are payable for work outside the normal conveyancing transaction. These fees are payable even if the transaction does not proceed.

Arranging Indemnity Insurance	£75.00 + VAT
General Power of Attorney	£100.00 + VAT (each)
Deed of Trust	£395.00 + VAT
Transfer of Equity/Deed of Gift	£495.00 + VAT
Deed of Postponement	£125.00 + VAT
Deed of Covenant	£150.00 + VAT
Deed of Variation of a Lease	£500.00 + VAT
Removal of a Registered Restriction or Notices	£95.00 + VAT
Drafting or approval of Assured Tenancy Agreement	£100.00 + VAT
Mutual Deed of Covenant for flying Freehold	£150.00 + VAT

Transfer of Legal Aid Charge or other current loan	£190.00 + VAT
Drafting additional Contract packages for Sale contract	£175.00 + VAT (each)
Deed of Easement (to grant rights)	Quote available on request
Statutory Declaration for Title rectification	£95.00 + VAT
Voluntary First Registration for a sale property	£300.00 + VAT
Electronic transmission of money within the UK	£30.00 + VAT (each)
Electronic transfer by Fast Pay next day	£20.00 + VAT (each)
Cheque returned unpaid	£15.00 + VAT
Cheque stopped at customers request	£15.00 + VAT
Data Protection Act 1998 – access to personal records	£30.00 + VAT
Purchase of a Freehold reversion for a Leasehold Property	£395.00 + VAT
Dealing with Third Party Lawyers (e.g. On a matrimonial dispute)	£190.00 + VAT
Preparation of Contract package for auction sale	50% of Fixed Fee + VAT
Approval of Contract package prior to auction purchase	50% of Fixed Fee + VAT
Commercial work	Charged at an hourly rate
Uplift of Overage Arrangements	Charged at an hourly rate
Copy Title Deeds following purchase completion	£30.00 + VAT
File Retrieval after completion from archive storage	£30.00 + VAT
Administering Service Charge Retentions	£100.00 + VAT
Second or subsequent Mortgage Discharge fee	£125.00 + VAT
Simultaneous exchange & completion	£150.00 + VAT

Your acceptance of these terms and conditions whether by return of the Client Information Form or the giving of instructions or any payment to us or by advising us in writing authorise us to disclose to the other parties in the transaction and their agents and advisors information which we have in relation to the transaction. You may withdraw this authority at any time.

Other services offered by The Owen Kenny Partnership

Although the contact that you will have had with us at the present time relates only to property matters, the partnership as a whole offers a wide range of other basic and specialised services. Set out below is a list of some of the other more common services that we offer, should the need arise.

- Family Law

- Tenancy Agreement or landlord/tenant problems

- Wills, Trusts, Probate, Powers of Attorney

- Civil disputes

- Boundary and building disputes

- Debt Recovery

This list is not exhaustive but is a guide only.

If you have a problem which you think we can help with, please call the receptionist and she will point you in the right direction for someone who can assist you.

All you need to know about Property transactions in our easy-to-read pocket guide.

This informative guide covers all the main issues and allows you to make an informed and educated decision based on your own individual circumstances.

Guide includes;

- Offer acceptance
- Surveys
- Exchange of Contracts
- Completion
- Buying a Property to Let

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