

LAWPACK



PROPERTY SERIES

# House Buying, Selling and Conveyancing

All you need to know about saving  
estate agent and legal fees when  
buying and selling property



Joseph Bradshaw

Revised by  
Georgia Bedworth

This is an excerpt from Lawpack's book *House Buying, Selling and Conveyancing*.

To find out more about buying and selling a house without a solicitor, [click here](#).

House Buying, Selling and Conveyancing  
by Joseph Bradshaw; revised and updated by Georgia Bedworth, barrister.

Published by  
Lawpack Publishing Limited  
76–89 Alscot Road  
London SE1 3AW  
[www.lawpack.co.uk](http://www.lawpack.co.uk)

First edition 1999  
Second edition 2001  
Third edition 2003  
Fourth edition 2004  
Fifth edition 2006  
Reprinted 2007

© 2007 Lawpack Publishing

Land Registry forms reproduced with the permission of HM Land Registry.

ISBN: 1-905261-35-7  
ISBN: 978-1-905261-35-2

All rights reserved.

### **Exclusion of Liability and Disclaimer**

While every effort has been made to ensure that this Lawpack publication provides accurate and expert guidance, it is impossible to predict all the circumstances in which it may be used. Accordingly, neither the publisher, author, retailer, nor any other suppliers shall be liable to any person or entity with respect to any loss or damage caused or alleged to be caused by the information contained in or omitted from this Lawpack publication.

For convenience (and for no other reason) 'him', 'he' and 'his' have been used throughout and should be read to include 'her', 'she' and 'her'.

# Contents

<i>Important facts</i>	vi
<i>Introduction</i>	vii
<b>1 Buying</b>	1
Damp	4
Electrics	9
Decorations	9
Plumbing	10
Surveys	11
CML Handbook	15
Seven good questions	16
<b>2 New houses</b>	19
First-time buyers	21
Last-time buyers	21
Part exchange	23
<b>3 Sell first or buy first?</b>	25
<b>4 Estate agency</b>	27
Estate agents say they ...	28
Now for the facts ...	28
Middlemen	32
<b>5 The moneylenders</b>	33
Bridging loans	33
House exchanges	34
Mortgages	34
<b>6 No agents, please!</b>	37
Why private vendors win	37
<b>7 Selling</b>	41
Fixtures and fittings: what is included?	41

Valuations are easy: use comparisons	42
Window dressing	45
Modernisation	46
Decorations	47
The hall	48
Central heating	48
Gates, fences and paths	48
Gardens	49
The front door	49
Ventilation	49
House names	49
For Sale boards	50
How to put up your own For Sale board	51
Advertising	52
The copy: composing your advertisement	53
The wording: what to put on; what to leave out	54
Photographs	55
Instructions to printers	56
There is a buyer for everything	57
Particulars	57
Photographs	59
Drafting	59
Disclaimers	61
Showing them round	62
How to negotiate	65
The opening from a serious prospect	66
Bargaining points	67
Anglers need patience	67
To sum up	69
What to say when a buyer says 'I will'	70
Never say die	71
<b>8 Home Information Packs</b>	<b>73</b>
So when the requirements do come into force, what will a vendor be required to do?	74
What must an HIP contain?	74
<b>9 Contracts</b>	<b>77</b>

<b>10 Gazumping and gazoffing</b>	89
The cure	91
How to prepare the 'legal' side of your sale	93
Not STC, but CST (subject to contract, contract subject to)	94
<b>11 The Registers</b>	97
Possessory title	104
<b>12 Introducing conveyancing for laypeople</b>	115
Selling a registered house	116
<b>13 Conveyancing: the sale and purchase of a registered house</b>	125
Planning for completion	156
Cash buyers	160
Builders	162
<b>14 Conveyancing: the sale and purchase of an unregistered house</b>	163
Overview	163
Looking more closely at the deeds	165
<b>15 Matrimonial homes</b>	185
<b>16 Flats</b>	189
What are the terms of the lease?	190
Service charges	190
Consents to assignment/subletting	192
Breaches of covenant	192
'Share of freehold'	193
<b>17 Commonhold</b>	195
<b>18 Tricks of the trade for layperson conveyancing</b>	197
Buying at auction	200
<i>Postscript</i>	203
<i>Glossary</i>	205
<i>Appendices</i>	211
<i>Index</i>	241

## CHAPTER 1

---

# Buying

First of all, you must find something to view. Answering estate agents' and private vendors' advertisements in local papers is one obvious way, and touring round finding 'For Sale' boards is another. But there are also the not so obvious, such as placing your own advertisements in newspapers and even shop windows in the locality you have decided is the one for you. There is also the direct approach of knocking on doors and asking 'Is this house for sale?' to which you might be lucky enough to get the answer, 'No, but that one over there is.' In any case, such an approach can often lead to a useful conversation about the area and its qualities and problems.

The internet is becoming an increasingly useful tool in searching for property. Websites such as [www.findaproperty.com](http://www.findaproperty.com), [www.propertyfinder.com](http://www.propertyfinder.com) or [www.hotproperty.co.uk](http://www.hotproperty.co.uk), to name but a few, have made the process of finding a property that you want to buy even easier. These websites contain flexible search engines which allow you to search in your chosen area, even if it's many miles away from where you currently live.

When you have viewed a number of houses within a short period of time it's sometimes, at the end of the day, difficult to remember which had what – the address alone is not always sufficient to bring the memories flooding back. So try to pick on some salient feature – the more ridiculous the better, such as 'the one with the surly butler', 'the one with the circular pink mirrors on the bathroom walls', 'the one to suit mother-in-law', etc., and make a note accordingly on the particulars if you have got some from an agent. Why not take your video camera (though the owners might think you are a burglar's agent, or worse a reporter!)? Remember, when viewing

property to which you have been introduced by an agent, that he gets his commission from the vendor – he owes very little, if any, duty to a purchaser. The higher the price he gets for the vendor, the more his commission, but he's got to be a bit of a dullard if the only reason he is sticking out for the extra couple of hundred pounds is because it will push his commission from £500 to £505.

Having found a house to view your main consideration is: can I make a home here? I suggest that there are two additional criteria to which you should pay attention. The first is already at the back of your mind: is it structurally sound? The second sounds a bit daft when you haven't yet bought, but old hands who have often been moved up, down and across the country for one reason or another will testify to its importance: will it be easy to sell if ever I need to move? We will look at each in turn.

Whether you can make a home in the house you are about to view is a highly personal question. Nevertheless, there are a few points that are common to many people. For instance, if you are getting on in years you have to consider whether children screaming at all times of the day and night are easily tolerated. Even if you are young, you might well find other people's kids too much to bear. A new, neat and tidy development where there is just a bunch of nice newly married couples but very few children is no guarantee of a quiet life for those who want one. Noisy, late-finishing house-warmings, followed by every conceivable sort of party, followed by slamming of car doors can disturb the sleep just as effectively as the screaming children the newly weds will soon produce!

If you are buying a semi or terrace (town/mews/cottage style) house, get to know as much as you can about who will be doing what at the other side of that joint and party wall, and if the vendors have the television, radio or CD player going full blast when you call, have it switched off and listen. When there are neighbours' drives that you look out over, try to make sure there will not be a boat or caravan blocking your view.

Vendors who insist on viewing 'strictly by appointment' often do so because they want to manipulate the situation – for example, if they have at one side a neighbour who takes his bagpipe band off every weekend in his caravan, while the young mariner at the other takes his boat and yapping dog away at the same time, who can blame such a vendor for insisting on weekend viewing? And it's a certainty that any vendor, if questioned, will only vouchsafe that the neighbours are quiet people who

keep themselves to themselves, but are of sterling worth if called upon in a crisis. And if he thinks you have an inkling that a band next door is trying to perfect its line-up and gets it all together on Mondays, Wednesdays and Thursdays, he will laugh that off with: 'Oh, it's quite lively, we quite enjoy it – keeps us young, you know. Actually, we've heard that they are splitting up – pity, really'.

If vendors don't mention why they want to sell and where they are moving to, ASK! If the answer doesn't have the ring of truth, you have been warned.

If you are a non-gardener or simply can't find the time for Britain's major hobby, don't be persuaded to buy just because the garden looks so well established, so neat and tidy already, and only appears to need a minimum of maintenance. All gardens need constant attention if they are to look as though they need no attention. A shower of rain just after you have viewed can germinate a thousand weeds.

Any objection from any member of your family should be listened to before you finally decide. Teenagers might say of an open-plan house that there is nowhere for them to go. Open-plan houses seem to suit the very young and the very old, but situations near rivers don't suit either. They are too wet for non-swimmers and too damp for the arthritic.

Before you go out viewing, it's a good idea to get into your head what hectares, yards, feet and metres look like. When told a room is 20 feet by 14 feet or 6 metres by 3 metres, can you visualise it in your mind? Is the bath at your present abode of such a size that you can enjoy a long, lazy soak in it? Whether it is or not, measure it, and use the size as a comparison. Will your furniture fit? If it will, fine. If it won't then you have to choose – furniture or house.

Having made your first visit during the week, make your second at the weekend (or vice versa), so as to get a different perspective of the neighbours and the neighbourhood. Park your car some distance away and walk – you will see a lot more of the district that way.

With a bit of luck, there will be heavy rain before you move in, so while you're around, look for damp, and you never know, there might have been a burst pipe or a fire to ruin the decorations. Even if contracts are signed you may still say, 'You didn't tell me about this lot. To be fair you must put it right', but that very much depends on the contract, as you will see from chapter 9.

You are not really entitled to make these subsequent visits (but why should the sellers object?), and maybe the first thing you must really persuade yourself of is that though you are going to the house to poke around in somebody else's private domain, you must not be embarrassed about it. The vendors knew you and others were likely to do this from the moment they thought about putting the house on the market, and they have had ample time and opportunity to hide any dirty linen and to empty the cupboard of skeletons.

A lot can be learned while walking up the path. A gate that is falling to bits isn't a very good introduction. Is the path itself cracking and subsiding? Is the drive likely to help or hinder when you have a flat battery? Will icing cause problems in the winter? Can you see any cracks in the stucco or brickwork? If there is a lot of zig-zag cracking around the windows and doors they are signs of old or new subsidence. If the cracks have been filled in some time ago and have not re-appeared, all is no doubt well.

All houses subside a little after being built and it usually expresses itself in no more than cracked plaster. But if the cracks have been filled and parted again, or, worse still, bricks have cracked vertically, there is real trouble, as there is if a wall is starting to lean or taking on the shape of a saucer. You don't need to start digging around the foundations or paying a surveyor to do so to know that this one is not for you – unless it can be bought for the price of the land.

While still walking slowly up the garden path, have your first look at the downpipes, roof and chimney if there is one. Have another look up from the back garden later, and if it's a tall house bring along your binoculars so that you can inspect the chimney stack and pot. A swift look at the TV aerials in the vicinity will tell you about TV reception. If there are a lot of tall fancy ones about, reception is likely to be poor.

---

## **Damp**

---

Once again, you are looking to see if the structure is doing the thing that a house is supposed to do: shelter you from the elements. Damp is the indicator of most structural problems in a house. Water tries to get in from the top, ends, sides and bottom. As if that were not enough, we bring it in via pipes, and builders use thousands of gallons of water in the building of

a house. Houses are built of such things as bricks, mortar and wood, all of which are porous, and the soil in Britain seldom dries out, so the fabric of a British house is always damp to some extent. It's when that dampness passes an unacceptable level that things begin to rot and owners have to start paying out.

Blocked, overflowing gutters and cracked downpipes can be a source of water which will penetrate in sideways, as also can badly pointed chimney stacks. Driving rain can find its way in through cracks around doors and windows. Otherwise, sideways penetration of water is very rare as modern houses are almost certainly constructed with two outside walls roughly two inches apart and pinned together by metal wires or straps. The two-inch gap, called a cavity, forms an insulation barrier ensuring that water can penetrate only as far as the cavity and no further. However, in the building process careless builders have been known to drop mortar down the cavity and allow it to accumulate on the ties.

In this case the mortar build-up can form a bridge to convey water from the outer to the inner wall. If you are buying a house in the course of construction take your torch to have a look and tell the foremen if you find his brickies are laying up problems, as well as bricks, for the future. Once a house is completed and there is no internal evidence of damp from this cause you can be pretty sure there is none. If you really want to be sure, there is only one way to find out and this applies to much else – take the house down brick by brick!

In all modern, indeed in nearly all, houses, there will be a damp-proof course. This is needed because the ground in Great Britain is nearly always damp, the brickwork in the foundations will soak it up, and it will quickly spread round the house. A damp-proof course is a water-tight skin of some sort.

The old system was to set slates on the third or fourth brick course above the ground, and below the level of the floor joists. Slate doesn't bend and the slight movements of a house can, over time, fracture parts of the slate course. For many years now, builders have used mineral felt or plastic sheet, both of which are flexible and can cope with anything but a really radical structural movement. What it can't cope with is the owner who piles soil up against the wall to a height above the course.

Count to the third or fourth course of bricks and you will see the slate or black, bituminous material protruding a little somewhere along the line.

Once you have found the height follow the line right round the house to see if your vendor has been silly. If he has, pay really particular attention to the plaster, skirting board and any other woodwork on the opposite side of that patch inside the house and give general attention to the whole of the ground floor woodwork if there are wooden floors, because damp does spread. If no real damage has been done, removal of the offending material from the outside wall is imperative. This done, check to make sure that the air bricks are clear and if the damp is only slight it will soon disappear.

What can be done when the damp course is damaged or the house was built without one? You could get a builder to go round the house knocking out a brick at a time and inserting a damp course as he goes. It might work – it will certainly be expensive. There are firms who specialise in various, what can loosely be described as, ‘patent systems’. You can find them in the *Yellow Pages* and they will usually give a free estimate. Some of these systems have a good success rate. Most firms will give some sort of long guarantee. And here it’s worth making a general point about 10-, 20-, 30- or even lifetime guarantees and it’s this: it’s easy for the firm to give the guarantee, but who will guarantee that the firm will still be in business if ever you need them?

So that’s the base and sides dealt with; what about the roof? The most common form of construction for residential property is a pitched roof, covered with either slates or tiles. It’s often difficult to gain access to roof space, but if you have any doubts about the construction, it’s best to cope with the difficulty now. In the case of an old house, it’s reasonable to assume that any fault in the construction itself will have developed already and your external examination will have told you whether the roof is bowing or not. If it is and has been bowed or buckled for a number of years and there is no internal evidence of damp, it’s probably all right. However, if you decide to have a look in the roof space, take a good torch with you but keep switching it off to see if any daylight is coming in because of missing, broken or drifting slates or tiles. While you are up there you can check on insulation of ceiling, tanks and pipes, and if there is none or it isn’t done up to modern standards, you have found another bargaining point or two.

Recent decorations can provide internal evidence of damp. Vendors do titivate their houses up ready for sale; and they also, sometimes, do it to cover up evidence. If you suspect this has happened, see if you can borrow

a damp meter from your friendly DIY shop, but be careful that you are not tracing the run of a water pipe or drain and mistaking it for damp. The instructions that come with the meter will tell you about all that.

Flat roofs need special attention. If a pitched roof covered in slate or tile goes wrong, the replacement of a few slates or tiles will, more often than not, solve the problem. But the only remedy for a badly damaged flat roof is often the complete replacement of the covering. The most usual coverings are lead, asphalt roofing felt and sometimes zinc, and it's important that roofs be laid to a proper fall so that water doesn't gather in any depressions. If you can see any such pools then trouble is on its way – sooner or later.

As the covering is exposed to heat in one season and cold in another and sometimes both on the same day, and its expansion and contraction rate is not equal to the boards on which it's laid, you can often see the skeleton impression of the boarding showing through the covering. Now, that boarding should run at right angles to the gutter; if it's parallel to the gutter, water will gather in the depressions, which will have nothing on the depression that will settle over you when you get the builder's quotation (avoid estimates) for the repairs. Felt roofs last about ten years, asphalt up to 30 years. Evidence of downward damp can be seen on ceilings, upstairs walls and chimney breasts. The fault can often be located and dealt with by climbing a ladder and cleaning out the gutter. Where there are stains all round the upper walls, unless you are getting a real bargain, it might be as well to try elsewhere.

It's not always easy to examine floors, particularly when they are covered with lino or carpets. A vendor refusing to let you have a careful look might give grounds for suspecting his: 'Oh, the floors are all right, you can take my word for it.' It's particularly desirable to have a thorough examination made if there are any indications of springiness, such as ornaments rattling, when you walk across the floor, or you suspect that it's rotting joists that are allowing the floor to part company from the skirting board. The floor into a bay window is the favourite place for the rot to set in and by an outside door is runner up. If your vendor tells you that you can have every confidence in it, ask him to jump up and down on it for a while; after all, he knows the way round his cellars better than you do.

Timbers can be affected by dry rot, wet rot, beetle or woodworm. Dry rot is insidious. It's a fungus and it glories in finding a bit of damp wood to set

up business in. It gets down between the fibres of wood and dries the wood out. Dry-rotted wood looks as if it has been dehydrated to a brown cracked appearance and crumbles to dust at a touch when in an advanced stage of development. Unfortunately, the damage is well under way before there is any external manifestation of it as mentioned above. But the conditions under which it thrives can be spotted: damp, smelly, unventilated corners.

Wet rot gets going when the wood becomes so saturated that the fibres break apart, weakening the wood. It tends to happen at the end of timbers (hence the attention to skirting board gaps) where water can get in between fibres, but of course, it can occur elsewhere; around sink, bath and WC wastes are likely areas. Depending on how far the wet rot has gone it can be cured, often quite inexpensively, by replacing the rotted timber and rectifying the fault that caused it. Take a strong torch with you into the cellar (if there is one), because the floor joists are more likely than not to be nicely exposed for your inspection. Poke around with a strong penknife – if you can slide it into the wood at right angles to the run of the grain you've found something.

The third ill that can affect timbers is beetle or woodworm. Woodworm is the caterpillar of the beetle. The flying beetle alights and injects her egg into timber and flies away until she is ready for a repeat performance. The egg develops into a worm which, feeding on the life-giving juices of the timber, transforms itself into a beetle in the image of its mother, and burrows out into the light of day leaving behind it a tunnel in the wood and a little pile of sawdust beside it. Which all goes to show that if you simply go round, no matter how meticulously, squirting things into the worm holes, you can't be sure you have got all the little beggars; that is why you need a specialist firm in to say whether the beetle is still active, and if it is, to give you a quote for pressure spraying the timbers.

To find out if the worm has been active enough to cause real danger, the penknife test is used. As with the wet and dry rot, badly affected timber can be replaced and your decision must be based on the amount of repair required; so if you find evidence of wood rot of any kind, call in one of the specialist firms who will give you a quotation and offer a guarantee. If the problems have been discovered early enough the cost need not be ruinous.

There are a lot of solid floors about nowadays, so if such a floor has parted from the skirting board the supporting fill has rearranged itself and that is why settlement has taken place – it can be rectified, but make sure there is

no zig-zagging on the outer wall because in that case the foundations might be rearranging themselves too.

---

## Electrics

---

Another point to cover is the electrical system. A sure sign of wiring that has had its day is the plug with round pins. The whole house needs re-wiring. In older houses during your inspections of the roof space and cellar, look out for any wires that pass across the joists. If you see two element wires twisted together and festooned along you can be pretty sure some re-wiring is necessary to bring the electrical system up to modern standards of efficiency, and, above all, safety.

Some electricity companies will be only too glad to make a visual inspection without charge and they will give a free quotation for any work required. If for any reason the supply is cut off, as it no doubt will be, if there is to be any gap between the time when the vendor leaves and you move in, no re-connection will be made if the whole system is not up to standard.

You should also be aware of recent changes to building regulations which require any recent changes to electrics to have been carried out by a qualified electrician. If you spot any new wiring, this might be something to keep in reserve to ask when it comes to enquiries before contract. If the work was done after January 2005, the vendor should have a certificate to prove that it complies with the regulations.

---

## Decorations

---

Decorations can cover a multitude of sins, and are, of course, like sin, a matter of personal preference. Costs of decorating can be high particularly if you have tall ceilings, with fancy cornices or moulding. The rooms might look immaculate but always take the precaution of lifting a picture off the wall to find out if pale patches will remain when the vendor has gone. Incidentally, whether you redecorate because you dislike the colour scheme or because the place is a dirty tip, the cost will be pretty much the same, although, if the wallpaper is already peeling off it might be cheaper!

---

## Plumbing

---

We've dealt with unwanted water getting into the house and causing damp – now we will have a look at the water that we do want in the house. If you are to get your water from a well, you will need someone to tell you if the well is sufficiently deep to avoid pollution of the water by any drains that might be or become defective. A well must also be situated at a reasonable distance from any possible source of contamination. In fact, before you go any further, a few words with the local authorities would be in order – they might already know the situation and have costly plans for the owner or his successor.

Find the tap at the highest point and try the pressure. Also try the hot water pressure to the bath – you don't want to wait all day for the bath to fill. Neither do you want to spend all day pulling on the WC plunger, so drop a piece of paper into the pan and see if you can send it on its way with one shot, and while you are about it note if the pan or the washbasin is cracked.

When you walk round the garden and find a portion that is squelchy or there is an ominous line of subsidence in the driveway it might be that the vendor is a bit of a stinker and is not levelling with you. However, you can square him up by getting a firm in to test the drains. If they use the water pressure system, they could cause damage so get the vendor's written permission first – as a matter of fact, if the firm has anything about them they will have a standard form intended to indemnify themselves, so have a word with them to make sure it isn't amended to land you in the ...

I would like to instruct vendors not to read the next paragraph, but if they can't resist reading I implore them not to draw any guidelines from it to help them with their sales!

Central heating systems need examining. Ask to see last year's receipts for the fuel used. If it's a system such as gas, ask if it has been regularly serviced. Find a radiator at the highest point in the house and as you turn the air-release screw hold a lighted match to it. If you set up a lighted gas jet it isn't because gas has got into the system, it's the product of some corrosion that has started. It might only need some anti-corrosion fluid putting in the system – on the other hand that might not be sufficient. In any case, all the more reason to have a careful look round for leaks particularly at joints. Leaks also tend to make nasty stains on carpets.

If you remember most of the tips given above, a vendor will not notice how much you are noticing. A glance takes in that the electric socket on the skirting board has square holes, and the same glance tells you that the floor is well up to the skirting board, and as you walk over to the bay to admire the view your ears tell you that the presents from Blackpool and Malaga on the sideboard are not doing a clog dance accompanied by castanets. And while you are admiring the view, you might as well test the window to see if it opens.

---

## Surveys

---

There might seem to be a lot to look at, but houses are big things and cost big money. You can't expect to get satisfaction if you buy one with the same nonchalance as when you buy a new light bulb.

Can you rely on a lender's surveyor's report thinking: 'Well, he will tell me if there is anything wrong with it'? Well, he will and he won't. His job is to tell the building society whether the land and buildings thereon (as the saying goes) is good enough security for the money they are thinking of lending you to assist you in your purchase. He has no obligation to you although he does owe you a duty of care; he will not stick his neck out telling you that the structure is perfectly sound, but you can be sure that he will let the building society know if the foundations or the roof are in danger of collapse, and that whereas they think they are getting a desirable residence as security, there is the distinct probability that in a year's time all that would be left for them to get their money back on would be a plot of land covered in rubble. (Incidentally, it doesn't necessarily work quite like that. When a borrower defaults, the building society does take and sell the property. In the extremely rare case where they don't raise sufficient money to cover the defaulter's indebtedness, and their own and their agents' and solicitors' costs, then the defaulting borrower can still be sued for the balance.)

A vendor of a property less than ten years old is apt to say that it's guaranteed by the National House Building Council (NHBC). Well, not quite! What a builder gets for his purchaser is a ten-year cover. It's sometimes called a 'ten-year structural warranty', but this is inaccurate. It covers more than just the structure, particularly for homes registered for

cover since 1 April 1999. Since 1988, the scheme has been known as 'Buildmark'. An alternative to NHBC is Zurich Municipal.

You require the balance of the period of cover to be transferred to you, but NHBC and builders don't require it. Add a clause to the contract saying the vendor will assign it to you (using a Form CS12, or HB12).

The protection which NHBC gives is in two sections. First, the builder's obligations and second, NHBC's insurance cover. Under the first section, the builder has to put right at his own expense any defects that arise as a result of his failure to comply with the NHBC minimum standards of workmanship and material and which are notified to him in writing during the first two years of the house's life. Don't think that buying a recently built house means that you will get a repair-bill-free ten years - you won't. A house owner is not relieved of his normal maintenance responsibilities, and the agreement doesn't cover normal wear and tear, or normal shrinkage. Some items such as fences, white goods and lifts are not covered at all.

Under the second section, cover is in three main parts. First, against loss of deposit in the event of the builders' insolvency between exchange of contracts and completion. Second, against the costs of repairs that result from the builders' insolvency or failure to meet an arbitration award or judgment which arise during the period up to two years from the date of the NHBC certificate. Third, the cost of more serious items which arise during the third to tenth years from the date of the certificate (please note that the 'certificate' is also known as the 'Ten-Year Notice'). There is a fourth element of cover: the NHBC is the building control authority in place of the local council. This covers costs of putting right breaches of the statutory building regulations.

The NHBC cover saves you from the consequences of basic bad building and that's about it. That is to say, broadly, the cover is for such items as subsidence or settlement, and other major structural defects due to non-compliance with standards, such as collapse or serious distortion of joists or roof structure, or chemical failure of material affecting the load-bearing structure.

Since 1 April 1999, the cover has been expanded and includes, among other things, double glazing, defective flooring, defective flues and wet applied plaster. It also includes insurance against the cost of cleaning up

contamination of the plot on which the house stands, if a statutory clean-up notice is served on the owner.

Since 1 April 2003, the Council of Mortgage Lenders (CML), the House Builders' Federation (HBF), the new home warranty providers (NHBC, Zurich and Premier Guarantee) and the Law Society of England and Wales have introduced a solution to the problem of home buyers reaching legal completion and moving into the newly built property before the property has been classified as satisfactorily complete, and in some cases, before the pre-handover inspection. It has been agreed that lenders will not release the mortgage funds for a new property until the buyer's conveyancer has received confirmation in the form of a cover note that the property has received a satisfactory final inspection and that a new full home warranty will be in place on or before legal completion.

If you are a second or subsequent buyer, you cannot claim on the NHBC for defects that the first purchaser reported to the builder, nor defects that were visible, on reasonable inspection (whatever that is), at the time of purchase.

During its existence, the National House Building Council has done sterling service for the owner-occupier, particularly the original purchaser from a builder, in raising minimum standards of building and finish. If you are thinking of buying a newly built house, see if the builder is on the NHBC Register. If he isn't, it might be that he has been kicked off. If he has, there may be problems with obtaining cover regardless of the fact that he may have hung on to the documents. On the other hand he might be a splendid, upright, entrepreneurial character who knows what he, like his father before him, is about and is determined not to have any 'pen-pushers' telling him what to do. Ask some of his previous buyers. They'll soon tell you how good he is. Mind you, he might be the salt of the earth, but he will never sell his house to anyone wanting to raise a loan on it and a cash buyer will never sell it to anyone wanting to raise money to aid the purchase. Fact is the absence of an NHBC Certificate for a new house renders it un-saleable unless something similar is in place which enjoys market recognition. Generally, this means insurance or the benefit of one of the other schemes recognised by the Council of Mortgage Lenders. See next section.

You will see from the necessarily brief description given above some of the things the NHBC is and isn't. When you are in any deal which involves the ten-year structural warranty, write off to their Council and get just as

much information as you can. While we are dealing with newly built houses, it's as well to ask a vendor of a second-hand house whether he intends moving into one. Builders' dates for completion are seldom kept and can often be weeks, or even months, wide of the mark. Also, find out if you are likely to be tagging yourself into a chain and how long it is.

Given the climate in England and Wales, and the rarity of a long summer drought, the NHBC guarantees given in the past three or four years could well have expired before we experience a drying out of sub-soils, thus testing the foundations and possibly starting some nasty movements in many a dream home. So, the old hands will prefer to buy a house that is six or seven years old, where any weak spots have had time to show.

All the above might seem like a great song and dance production number, and if you employ a surveyor to make a full inspection of the property that is exactly what the vendor will tell you he did. Surveyors are responsible and can be held for cash damages at law if they put it down in writing that a house is sound, but experience proves otherwise. For example, when you move in together with a grand piano and a host of can-can dancing friends for a house-warming party and the floor is not strong enough to support the revelry, the surveyors could have to pay for new timbers for the floor, and wooden legs for you and your friends. So surveyors have to be very cautious, otherwise they don't get their insurance renewed. The premiums are high in any case and that, and the interminable time surveyors spend looking at property to make sure they are safe, is reflected in their bills. It's also reflected in their reports, which are sometimes splattered with gems of ambiguity.

If you opt for anything less than a **full structural survey** (very costly), all you will get are such masterpieces as 'from a head-and-shoulders inspection through the loft aperture the roof timbers appeared to be sound', or this page filler: 'the kitchen tiles are of a somewhat dated design'.

However, don't buy the idea that a full structural survey is a kind of insurance. If, after you move in, you spot things that the surveyor missed, don't think that a polite letter saying, 'Dear Mr Tape, please will you send me £2,000 to pay for repairing the woodrot that you didn't warn me about' will take any tricks. It won't. It's not easy to sue for professional negligence, which is not the same as getting it wrong. You (on your own) have to prove that the surveyor (backed by his professional association and his insurance company, even into the House of Lords) didn't use the level of skill and

care that one would normally expect a qualified person to use. Not easy! Also, even if you do succeed, there is no guarantee you will get the costs of putting the problem right. The usual measure of damages is the difference between the amount the surveyor valued the house at and the actual value of the house with the defects.

A house which has been standing 50 years may be ready for a face-lift, but it isn't likely to fall down tomorrow, and though the finish on recently built houses might not be of the best, it's ridiculous to be frightened of what our builders have produced by the hundreds of thousands for private buyers. And there is always the National House Building Council guarantee.

## **CML Handbook**

---

This is perhaps as good a place as any to make one cardinal observation. There are – in the estimation of solicitors and the banks, building societies and other organisations that lend money to aid a purchase – right ways and wrong ways of doing things.

Buying a new house from a builder who is the salt of the earth – as honest as the day is long sort of thing – who cannot offer NHBC or similar protection (see section 6.6 of the *Handbook* noted below) is something you are perfectly at liberty to do if you are not borrowing their money, but don't be surprised to find you may have trouble selling later.

There are other issues of a more technical nature, which will be referred to in the coming chapters; if you want to know what they are, have a look on the internet. Or ask a ten-year-old child to do it for you. (Perhaps the kid that got the new DVD player working!) Much of this 'lore' (not 'law') was published in 1999 as the Council of Mortgage Lenders' *Handbook for England and Wales*. You can find it at [www.cml.org.uk](http://www.cml.org.uk). Check for updates (only available online as hard copies are no longer produced) as it has been changed on several occasions since first published.

Try to read Part I of the *Handbook*; it tells you what all the solicitors you will deal with ought to be doing. Part II sets out the special requirements of some of the main CML members. If you are buying and your lender is not named in the *Handbook*, ask them if they are members, and what their Part II requirements are. Then follow them to the letter! The CML *Handbook* is not the final word on what to do, but be warned, you can ignore all or any

of it if you wish, if you are not borrowing money to aid the purchase, but if you gloss over some of the problems discussed in the *Handbook*, you may find you will have trouble selling later, or will be put to expense that perhaps your seller should have incurred when you bought the house.

---

## Seven good questions

---

You can usefully look a vendor straight in the eye and ask him a few pertinent questions, the answers to which could determine whether you should spend further time and money on the project.

1. Is the property freehold? If it isn't, what is the ground rent and how long has the lease to run?
2. Does the owner have to pay any maintenance charges to anyone apart from builders, decorators, etc., to whom he himself has given specific orders?
3. Is the road and main drain taken over by the council or do the frontagers have to club up every now and then to have them repaired?
4. If you are in a business or profession, can you put up your brass plate and can your spouse hang out the washing or are there any restrictions?
5. Has anyone got the right to traipse across any part of your property? Ever?
6. If there is any evidence (extra cookers, sinks, etc.) of more than one family living in the property, what guarantee is there that they will all move out, thus ensuring that you get full vacant possession on completion?
7. Has the property ever been flooded or faced serious risk of flooding?

In case you are thinking of making alterations, ask if the vendor happens to know if there are any restrictions in the deeds on this point (this would particularly apply to leases) and if there aren't, whether there are any restrictions imposed by the local authority – such as a preservation order. A vendor might not declare all that he knows at this point, but don't worry too much as we have other ways of making him talk as you will learn later.

Think long and carefully about buying a house that will only fit your requirements if you make a number of structural alterations. Such alterations invariably cost more than the number you first thought of. It's the etceteras and extras that are costly. In any case, if you are buying a house on an estate, it will be a property of a certain class and by improving it you risk bringing it out of that class and making it difficult to sell, if and when you decide to move again.

This is the third criterion you must have in mind when you go viewing. Put the question: is it a good investment, in so far as I will be able to realise it without too much anguish, if ever I need to? You might think that, compared with similar properties, the one you are looking at is a snip. It no doubt has to be, to attract a viewer at all! You don't want to be in that vendor's situation ever, so you would be wise to avoid buying a house situated near any of the following: a fish and chip shop, a take-away cafe, a hospital, a public house, a church, a garage or repair shop, a fire station, or a public lavatory. All the foregoing, and a few more besides, can be anything from a nuisance to a serious disadvantage; even if you happen to be deaf and have no sense of smell, others are not so afflicted. Any estate agent who knows anything at all, knows that such badly located properties should only be put on the market at the height of a house-selling boom when, literally, anything will sell.

At the first whiff of any rumour about plans for any kind of non-residential development round about where you live, get together with your previously independent and apathetic neighbours and protest loud and long at any hint of intrusion by such property-price-debasers into what has previously been such a highly respectable area, unless, that is, you stand to make a vast profit because the property under discussion is your very own. In such a case, the protesters are dog-in-the-manger reactionary luddites opposed to all forms of progress which public spirited individuals (you) are slaving away trying to introduce.

Sometimes it takes ages to find a property that comes up to scratch and suits your requirements; sometimes it's a case of beginner's luck. In either case remember you are not the only bargain-hunter around, and the race goes to the swift. Don't go groggy when the finishing line is in sight – be ready with your own pack of conveyancing forms.