



BINCHY
SOLICITORS

Free information sheet on property purchases for first time buyers

This is not legal advice!

Freesheets and the answers to frequently asked questions
Is not legal advice.

They are simply help notes to give somebody a basic grasp and understanding of legal procedures in different areas in an informative way that does not use "Legal Language".

There is no substitute for taking proper legal advice for your case. And you engage in no contract for legal advice or services with Binchy Solicitors, until you communicate with them and make arrangements to obtain legal advice from them in the context of the service that you are seeking.

If you wish to avail of a legal consultation or advice from Binchy Solicitors you can firstly e-mail us at: law@binchylaw.ie

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1. *Who are first time buyers?*

People who are **about to buy** their first home. For stamp duty purposes a first time buyer must not have previously held an interest in property in Ireland or abroad. Additionally the person must intend to occupy the property or someone else will occupy it on their behalf as his/her/ their principal place of residence without receiving a rent from the property unless it is under the rent a room scheme.

Under the rent a room scheme you can let part of the property and receive a rent for this but you must also occupy the property

We prefer to get talking to people **before** they act because that is when our advice can be of **most** help to them.

2. *Say someone has never bought a house before, what is involved for them?*

- a. They have to Organise a loan with their broker/bank
- b. They should get a solicitor in as soon as possible, not just to help with getting ownership of their new home, but also to deal with **all the problems** that have to be sorted out along the way. Solicitors have a very wide range of expertise and experience in this area, and first time buyers particularly should use this to their advantage.

3 *A first time buyer might wonder what a mortgage is ? i.e. what does it really mean to sign a mortgage?*

It is the security which a financial institution takes in order to give you a loan to buy your home and it is tied to your home until the loan is repaid in full. During this time the Bank have a very real ownership stake in your house.

Most mortgages are for Present and Future Advances which simply means that if you do not repay any other loan you have with the Bank who gives you the Mortgage Example a credit card loan your home could be at risk

The Banks have many powers under the mortgage document. Most importantly if you do not meet your monthly repayments the Bank can and will take possession of your home from you. There are a lot of other important things in the Mortgage which will have to be explained to you by your solicitor. And I have given a key list of just some of these terms for you at our website www.binchylaw.ie , where you can go and look at some of the conditions they

4. *When do I go to a Solicitor and why do I need one?*

Well I think you should go straight away, the minute you decide to buy a house, even if you haven't got a loan yet! And the reason is, as I mentioned a few minutes earlier, Solicitors have a very wide range of expertise and experience in this area, and will be of particular help to first time buyers on a lot of things they are going to have to deal with.

A little later on, When the bank agrees to lend you the money to buy your home they will issue what is called a letter of offer to your solicitor. This basically sets out the details for paying back the loan and the conditions under which the monies are being lent to you.

You need a solicitor for example to;

1. To fully Investigate the ownership documents for your new home, (and to for example make sure your ownership comes free of any one else's loans or liabilities).
2. To make detailed enquiries for you, eg to ensure there are no planning law difficulties, or to ensure that the house comes with rights to connect to services such as sewage water etc.
3. Solicitors normally strongly recommend you engage an engineer to help with the property, and I will in a few minutes explain why this is very advisable.
4. To go through and explain the Mortgage in detail to you and the terms under which the bank is giving you the loan.

5. *Do I need any information with me when going to my solicitor for the first time?*

The list changes depending on what you have already done about but your house. But here are some examples of valuable information you could bring in and would speed up business a lot for you :

1. If you have already ignored our advice! and signed a contract to buy a property, bring in the contract or property details normally supplied by the auctioneer.
2. Your letter of offer from the Bank and loan pack. There is no point in bringing part of what they gave you because we will have to go through it all!
3. Your PRSI No. or tax registration No. This will be needed later to stamp your ownership deed so we might as well have it at the start! I will talk more about Stamp duty later on.
4. If you are married you should bring your civil Marriage Certificate. We cannot use the church certificate which you got off the Parish Priest and we cannot use a photocopy.
5. If you have been separated or divorced you should bring a copy of the Court Order of divorce or any separation agreement with you.
6. Identification and a utility bill is now needed for all transactions unless you are an existing client.

6. **What will the first meeting with the Solicitor normally involve ?**

We go through

- The steps involved in getting ownership of your home.
- The people you would be wise to use, such as an Engineer and what they should do for you.
- If we have received the contracts for sale from the vendors solicitors, we make arrangements for hopefully (!) signing the agreement for sale and payment of a deposit. Normally this will involve a substantial down payment frequently, but not always 10%.
- Arrangements for getting the money from the bank.

There is often a discussion about trying to agree a closing date, as people are often very anxious to get possession.

7. **Costs & Expenses**

There are a few areas of cost with respect to buying a house. The first is stamp duty and other State taxes and charges which can be the most expensive areas where a buyer has to pay stamp duty.

A solicitor's fee can vary depending on the level of work involved in any particular purchase. The best way to get an accurate estimate is to bring in as much information as possible about the property to the solicitor at the first meeting. Normally you can get this information from the vendor's auctioneer. If not your solicitor can find a lot of this out on the telephone before you meet him. So we would suggest that you call him in advance and allow him an opportunity to speak to the vendors solicitor and get enough details in order to have an estimate prepared for you in advance.

On our website at the www.binchylaw.ie we give you a short list of just some of the problems the solicitor might have to work on for you and which could increase your legal cost:

Examples Only

- There could be difficulties about the title (ownership) documents you are being offered, which involve time and effort in order to right them for you and your Bank (not every title is the same, even in modern schemes).
- Stage payments may be proposed if the house you are buying is being built when you sign your Agreement for Sale.

I would suggest however that you ask your solicitor for a quote on your first visit once you have given him/her full details of the purchase. We as solicitors are obliged to give an estimate of the potential legal costs at the beginning of the deal. There are

Other Costs you will incur

- State registration fees.
- Engineering Fees (where you engage someone)
- VAT on all services, paid to the State at 21% of all fees charged

8. **What is a booking deposit?**

This is small advance deposit often asked for by the Auctioneer, to assure your interest in going ahead with the purchase. We know there is a strong pressure on buyers to pay this and hopefully to ward off other interests. And the idea is that once the booking deposit is paid the house is to be taken off the market, and the house may not be sold to somebody else. Buyers should be aware though that it does not actually stop a vendor from doing a deal with another buyer, and your best solution is to act promptly and to get your solicitor in immediately to look after your interests.

9. **How does paying the booking deposit affect you?**

On the other hand the payment of the booking deposit does not mean that you are bound to complete your purchase. You are frequently asked for this before any contract is signed and so if any problem arises, you usually get this deposit back if you cannot go ahead.. It really only shows that you are serious and wish to buy the house in sale. Generally you will not be bound to buy your home until you sign the Agreement for Sale/Contract for sale and pay the full deposit which is often 10%. When paying a booking deposit however you should not sign any commitment to buy the house, unless it makes it very clear that is not a contract.

Above all you should never ever sign a contract for sale without considering it with you solicitor. The reason is not that we are looking for a job! There is little or no way back if you sign without considering the consequences, and solicitors are trained and experienced professionals there to address and hopefully eliminate the risks for you.

12. **How long will it take for me to buy my home?**

It can often get done in six to eight weeks from signing the contract and paying your deposit. But it will depend on many factors, and sometimes there can be much longer delays arising for many different reasons.

We will always discuss a possible closing date at your first meeting and you can provide for specific date in the Contract for Sale. However you should be aware that if complications arise they can very often cause significant delays, and the normal terms of contract will not help you necessarily to solve the problem very quickly. If closing on the exact date is **vital** for you, tell your solicitor and explain why. He or she can contact the other side and see if *"time can be made of the essence"* in the particular case. This will not often be agreed as it can cause problems for the vendor, and normally you are well advised to keep your position reasonably flexible in relation to the closing date.

If you are buying a house that is being built it normally takes a minimum of six months before you can move into your own home. The time frame for completion will be set out in the Building agreement in this case.

13. **Do I get any savings as a first time buyer?**

Normally first time buyers will not have to pay stamp duty. That can save you many thousands of Euros.

14. What is stamp duty?

Stamp duty is a government tax which is charged on the document transferring the ownership of your home to you. It is normally a percentage of the market value of the house. Presently if you are buying a new house that is fully built as a first time buyer and the price of this house is less than €190,500 you will not have to pay stamp duty. If you are buying a second hand house which is less than €317,500 you will not have to pay stamp duty. This is a considerable saving You should always check with your solicitor as to whether or not you might have to pay this tax.

You are not a first time buyer for the purposes of stamp duty if you have already owned a property outside of Ireland.

15. Do I pay stamp duty if I buy a site on which I intend to build my new home?

If you buy a site from a stranger who is not involved in building your home, you will be charged the full rate of stamp duty for non residential lands on the market value of the site being transferred.

On our website at <http://www.binchylaw.ie> I have given you a full list of the current rates of stamp duty applicable to houses and sites. This will be reasonably accurate and you can treat it as a guide when doing your estimate, but always ask your solicitor to double check the figures when you meet them and to give you their own estimate.

16. Do I need an engineer and if so why?

Yes. I would advise every client to engage an engineer in almost every purchase:

17. Buying a second hand house.

You need an engineer to carry out a structural survey of the property and also do a Planning Search. It is more important for the structural survey to be carried out as it may uncover possible problems with the property that would not be obvious for you or I. For example dampness, structural cracks to name but a few. It is essential that you get the Engineer to do this **before** you sign your Contract for Sale. If you do not do so, you will take the property as it is and you have no come back against the vendor for problems that surface afterwards. This could be very costly.

18. What if I'm buying a property that is currently being built?

If you are buying a site for the purpose of building your home and it's a once off house not forming part of a housing estate you will need to engage a civil Engineer to watch over the construction. In particular if you are obtaining a mortgage and your builder is not covered by Home Bond the bank will require your engineer to certify for each stage payment. This means for example if the foundations of your home have been dug the engineer will confirm that this has been done to the bank so that the payment to the builder for this work can be released from the bank. Most builders are covered by Homebond.

This is an additional insurance taken out by builders that covers your deposits and stage payments released to the Builder up to a certain limit. It also covers minor and major defects that may show in your home after the building is complete. This cover remains in place for 12 years from the date the house was finished. Your solicitor will explain the details of this cover to you where it is relevant to your purchase.

19. *What if I am building a once off house by direct labour*

If you're building by direct labour it is also important that an Engineer is engaged to oversee the building and to ensure that there are no structural problems being hidden while the house is being built. The engineer will be required to provide a declaration of compliance with your planning permission once the property is finished and this will form part of your ownership documents.

In all situations where a house is being built you will need an engineer to do a snag list once the house is complete.

20. *What is a snag list?*

A snag list is a list of unfinished items that need to be completed by the builder before he receives his final payment from the buyer. Examples would include unfinished skirting boards, scratches on window, missing door knobs, unpainted rooms etc. These are examples only of what you would find on a snag list and if you do not have the items on this list dealt with by the builder before he is given his final payment he cannot be forced to finish these works once payment has been made.

Generally when you are buying a site the engineer should be engaged to confirm that the site you are buying has adequate access to it, has correct boundaries which are within the confines of the title of the Vendor, that services can be easily connected and so forth.

21. *House under construction forming part of a housing estate*

Normally builders involved in such developments are covered by home bond and will have their own estate engineer who will provide declarations of compliance with Planning permission once the house is complete. You will be required to do a snag list which your engineer will carry out once the house is complete.

22. *How much will an Engineer cost?*

For a structural survey they are relatively inexpensive. We supply a list of local engineers or surveyors offering this service with a guide to their approximate fees for this service depending on whether they have to do:

- Basic structural survey
- Detailed formal structural survey and report
- On site supervision and certification of stage payments for your bank.

A proper survey and engineering advice is certainly good value for money. It means you do not acquire problems that you later have to deal with on a re-sale for example.

23. *What if I'm buying a property with my partner and we're not married.*

There are some extra things you should consider and keep in mind.

There is no difference in most of the procedures as already outlined. However we would recommend that you ask your solicitor early on about a co-ownership agreement

A Co-Ownership Agreement basically is an agreement that we will draw up for you detailing

- How the monies have been paid for the house
- How the loan repayments are going to be met
- Any other important contributions to the house and
- It will also say how the money from the property will be split between you if you split up.

Such an agreement is not always necessary, but in certain circumstances it is desirable and may help avoid disputes in the event of the couple splitting up.

24. *What if the bank will not give me the money I need to buy my first home?*

Unfortunately this can happen given the increase in property values over the past decade. However if there is anybody who finds themselves in this position I would recommend that they approach their Local Authority, whether the Corporation or the County Council. There are various housing schemes available such as the Shared Ownership Schemes, Tenant Purchase Schemes and Affordable Housing Schemes. These schemes essentially allow for a buyer who is in that position to buy their own home with reduced mortgage repayments and for a reduced price.

25. *My parents want to give me a site so that I can build my first home?*

It is common where the parents have land that they will opt to transfer a site to a child as a gift for the purpose of building their first home. While the child will be acquiring the site for free they will normally require a mortgage to finance the building of the house. The advantage of this is that the site is taken by the child tax free. There is no Capital Gains Tax for the parent nor is there any stamp duty or gift tax. However if the site is transferred to the child and his spouse or partner there will be tax implications.

26. *Should I consider making a will?*

Yes. It is a common view that wills are for old people however this is not the case. The will simply sets out what you wish to happen to your property in the event that you die. If you have just bought your new home you must remember that you are now the owner of a valuable asset and you may wish to decide who is to take this asset in the event of your death. It is always worthwhile to take the opportunity to ask your solicitor about making a will once the purchase of your house is complete.