

Transfers of Property

Assents

1. You (as Personal Representative) will need to provide the Solicitor with
 - (i) the Grant of Probate (where there was Will) or Grant of Letters of Administration (where there was no Will) of the deceased owner of the property. Ideally the person's name will be spelled the same on both the Grant and in the proprietorship register at the Land Registry or on the title deeds if the property is not yet registered at the Land Registry. An Assent does trigger first registration. If the property is already registered the land registry fee is less than if it is a first registration. The land registry fee is based on the probate value. The beneficiary or beneficiaries will inherit the property at the probate value so this is their acquisition cost for capital gains tax purposes. If the beneficiary does not reside in the property at the date of sale as their principal residence then capital gains tax will be payable on the gain. The advice of an accountant should be sought to declare gains within the 60 day deadline set by HMRC
 - (ii) We will require the ID for both you and the beneficiary so that we can undertake electronic verification of your identities
 - (iii) We need to know the value of the property
 - (iv) You need to let us have the deeds or at least the Land Registry title number
 - (v) If there is more than one beneficiary we need to know whether they wish to own the property as joint tenants or tenants in common. We do not act for them; only you
2. Once you have provided all the information we will prepare the Deed of Assent (Land Registry Form AS1), letter of engagement, terms of business and invoice which will be sent to you via your chosen method, within 10 working days. We will arrange for you to execute the same, date and return it to us together with settlement of our invoice which will include the land registry fee and ID checks. It is usual for the Estate to bear these costs
3. We will submit the registration application to the Land Registry within 5 working days of receiving the signed AS1 and cleared funds
4. Applications are taking approximately 4 to 8 months depending on the Land Registry's workload; much longer (at least a year) if it is a first registration. However, the protection of the beneficiary's ownership runs from the date the application is submitted. It is possible to expedite applications which take roughly 10 working days if there is another transaction dependent on the registration. As far as you are concerned the property has left the Estate on the date of the Assent so the beneficiary is responsible for it and any associated costs (eg insurance, utility bills, repairs) from that date rather than the Estate being responsible. If it had been rented at the time of completion the rent from the date of the Assent is declarable by the beneficiary but any rent up to that date is declarable on the Estate's tax return. Once we receive the updated title from the Land Registry we provide this to you to pass to the beneficiary. If we are instructed to administer the Estate and this process forms part of that work then we will inform the beneficiary

Deeds of Gift – where there is no mortgage on the Property

1. You make an appointment to see the Solicitor. The main question to be discussed is **why** you want to give your property away. It is one of your major assets and if it is to continue to be your home it is an epic decision. You need to be clear of the implications. Sometimes we may advise you not to do it! We have to be sure that you have mental capacity and understand the implications of what you are proposing to do. We also have to see you on your own to determine that you are not being unduly influenced by the recipient(s) of the property. This meeting may take up to one hour

2. If you decide to go ahead after we have explained about death, divorce, bankruptcy, inheritance tax and capital gains tax and deliberate deprivation of capital for care fees, security of tenure etc. we will provide you with our letter of engagement and terms of business within 10 working days of communicating your decision to us to proceed. This letter sets out the points discussed at our initial meeting and the costs involved. You will need to provide us with:-

(i) ID for all concerned so that we can undertake electronic verification of your identities

(ii) The title deeds or at least the title number

(iii) The value of the property

(iv) If you are retaining an interest in the Property (which invariably you should) you will have to instruct us on whether the property will be held as joint tenants or tenants in common. This will have a knock on effect on your Wills especially if you choose the latter option

(v) signed Conflict Authority. You can authorise us to act for both you and the recipient(s) provided there is no conflict of interest. We act for you in the transfer and for all owners in the land registry application. If a conflict does arise then we would discuss with you ceasing to act for all or one of you

3. Once we have all of the above information we will prepare the Transfer Deed (Land Registry Form TR1) and send it to you for approval together with our invoice. Our invoice includes the land registry fee which is based on the value of the property and will be more if this is a Land Registry first registration application. The value of the property is the acquisition cost of the new owners and there will be capital gains tax implications for any owners not occupying the property as their main residence at the date of any subsequent sale. This stage will take 10 working days from receipt of full instructions. If you approve the TR1, we will arrange for you to sign the Deed at your convenience with the Solicitor or our receptionist as your witness if you do not wish to attend to the signing of the Deed yourself. We are in your hands as to how quickly the Deed is signed.

4. We will submit the Land Registry application within 5 working days of receiving cleared funds in settlement of our invoice and the correctly signed and dated Deed. The owners assume responsibility for all outgoing, including insurance and maintenance, from the date of the Deed. All owners' signatures will be required to sell, mortgage or lease the property from that day forward. In the event of disputes an order for sale from the Court can be sought but Hargreaves Gilman do not provide this kind of advice

5. Applications are taking approximately 4 to 8 months depending on the Land Registry's workload; much longer (at least a year) if it is a first registration. However, the protection of ownership runs from the date the application is submitted. It is possible to expedite applications which take roughly 10 working days if there is another transaction dependent on the registration. Once we receive the updated title from the Land Registry we provide this to all concerned

Deborah Millington - SOLICITOR/PARTNER/SUPERVISOR

LL.B qualified September 1992 and specialising in this area of the law ever since

Anthony Richard Learoyd LL.B Solicitor qualified June 2015 and specialising in this area of the law ever since

James Cox LL.B Solicitor qualified March 2021 and specialising exclusively in this area of the law since March 2022

Transfers of Equity – where there is a mortgage on the Property

1. Your first step is to contact the Lender to see if they are happy for the property to be transferred subject to the existing Mortgage or decide whether you are redeeming any existing Mortgage and taking a new Mortgage or releasing one of the owners from their Mortgage obligations. We (Clare Baker) would provide you with an Estimate of our costs. Once you have returned the Instruction Form, providing us with all the relevant details, we open the file within 2 working days and provide you with our letter of engagement and terms of business
2. You provide us with all documents including ID and upfront payment requested in the letter of engagement. If money is changing hands we also need to see proof and source of funds. Depending on the circumstances we will only act for one of the parties involved as the other will need separate legal representation. In limited circumstances and only if no conflict exists we can represent both parties if a Conflict Authority is signed by all parties authorising Hargreaves Gilman to act. This stage depends on how quickly you comply with the terms of the letter of engagement
3. We undertake all our compliance checks within 10 working days of receipt of all documentation and information eg how much the property is worth, what is the amount of the outstanding Mortgage. We will let you know if there are any stamp duty implications. If the Transferor is not receiving full value of the share being transferred/sold then there will be implications in respect of the gift element. Whether this is the transferor's residence and whether you are married is also relevant as far as capital gains tax is concerned. Transfers between spouses are exempt for tax purposes. A gift between unmarried couples will be subject to the 7 year survival inheritance tax rule. We can only advise you on your personal circumstances
4. We await the Mortgage Offer from the Lender. Please note that we also act for them so again if a conflict of interest arose we are under a duty to report all facts to the Lender, even if you consider them confidential. We would let you know that this situation had arisen. We are in the Lender's hands as to how quickly an Offer is issued to us. We have to comply with their instructions so they may wish us to carry out searches at your cost. If this is the case, we would let you know the additional cost of such searches
5. Within 10 working days of receipt of the Mortgage Offer we would prepare the Transfer Deed (Land Registry Form TR1) and arrange for the parties to execute the same together with any new Mortgage Deed. This is usually a face to face meeting with the Solicitor when our client bank account details will be provided and you will be informed of the amount required to complete. Some Lenders wish to be a party to the Deed and this can take weeks for them to sign and return to us. If you are redeeming an existing Mortgage and taking a new one the date of completion will be the date this occurs. There is additional work required in drawing down your new Mortgage
6. We will submit the registration application to the Land Registry within 10 working days of receiving a correctly executed and dated Deed and settlement of our invoice by way of cleared funds.

7. Applications are taking approximately 4 to 8 months depending on the Land Registry's workload; much longer (at least a year) if it is a first registration. However, the protection of ownership runs from the date the application is submitted. It is possible to expedite applications which take roughly 10 working days if there is another transaction dependent on the registration. Once we receive the updated title from the Land Registry we provide this to you

Head of Conveyancing/Supervisor: Peter Stephen Gerard Westwell LL.B
Solicitor qualified June 2002 and specialising exclusively in residential property ever since