



## [Conveyancing Marketing Services Ltd](#)

### **Disbursements in Conveyancing**

The definition of a disbursement is a payment that has to be made to a third party such as The Land Registry for online or direct registration of property title in England or the UK generally.

When you see the word disbursement on a conveyancing estimate or quote you would assume therefore that the items listed under the disbursements section would be payments that the solicitor will be making on your behalf to third parties.

This is not always the case and items are often wrongly listed in the disbursements section.

Some conveyancing firms charge an unrealistically low conveyancing fee hoping that the consumer will just compare that fee to other companies' fees and accept it on face value as a lower quote. However, it is very important to check the TOTAL amount quoted by the conveyancing firm as some companies are in the habit of including part of their conveyancing fees in the disbursements section.



Listed below are genuine disbursements with an explanation of what the payment is for. We have also listed some items that you may find in the disbursements section of some firms that are not genuine disbursements but are part of that firm's charges:

## **Genuine Disbursements**

Stamp duty If you are buying or transferring a property and it is liable for stamp duty the amount will be shown as a disbursement. Stamp duty is a government tax levied when a property is sold or transferred. This tax is payable by the buyer of the property or share in the property. Some properties are exempt from stamp duty because of where they are situated. For current stamp duty rates and details of stamp duty exempt areas visit [www.inlandrevenue.gov.uk](http://www.inlandrevenue.gov.uk).

## **H M Land Registry fees**

When you buy a property, take out a new mortgage or transfer a share in a property the transaction must be registered at the Land Registry. The Land Registry charge a fee for registering the transfer and this is on a sliding scale depending upon the price of the property. To check the current Land Registry fees visit [www.landregistry.gov.uk](http://www.landregistry.gov.uk)

## **Official Copy Entries and Filed Plan**

When you sell or re-mortgage a property your solicitor will apply to the Land Registry for an Official copy of the deeds relating to your property and an Official Copy of the filed plan relating to your property. If the Official copy refers to a document that is not set out in the Official copies then your solicitor will also have to obtain an Official copy of that document. Sometimes when you are buying your solicitor will obtain an Official copy of the filed plan to use for search purposes.

## **Searches**

When you buy a property or take out a new mortgage you will have to have certain legal searches carried out against the property. There are many types of conveyancing search but the most typical are:

### **The local authority search**

This is a search of the registers of the local authority and covers the following matters:

### **Planning decisions and pending applications**

The search must stipulate what applications for any of the following have been approved or rejected or whether there is a decision pending by the relevant authority:

- Planning permissions
- Listed building consents
- Conservation areas
- Certificates of lawful use of existing use or proposed use or developments
- Building regulations approvals
- Building regulations completion certificates
- Planning designations plans and proposals
- Highways
- Land required for public purposes
- Land to be acquired for road works
- Drainage agreements and consents
- Nearby road schemes
- Traffic schemes
- Nearby railway schemes
- Outstanding notices in relation to building works, the environment, health and safety, housing
- Contravention of building regulations
- Planning enforcement. Notices, orders directions and proceedings under planning acts
- Compulsory purchase
- Contaminated land
- Radon gas
- Additional local enquiries

The local authority may also answer specific additional enquiries. The CON 29 has an additional question section CON 29 Part II from which the conveyancer can select additional enquiries.

A typical enquiry would be whether the property is affected by a public footpath or by-way. The local authority charges an additional fee per enquiry. The conveyancer can also raise additional enquiries of the local authority in a separate written enquiry. The local authority charges an additional fee for this service.

## **Water / Drainage Search**

This is a search of the registers of the water authority local to the property. It must cover the following:

- Public sewer maps
- Foul drainage and surface water
- Public adoption of sewers and lateral drains

- Public sewers within the boundary of the property
- Public sewers near to the property
- Building over a public sewer, disposal main or drain
- Map of the waterworks
- Adoption of water mains and service pipes
- Sewerage and water undertakers
- Connection to mains water supply
- Water mains, resource mains or discharge pipes
- Current basis for sewerage and water charges
- Charges following change of occupation
- Surface water drainage charges
- Water meters
- Sewerage bills
- Water bills
- Risk of flooding due to overloaded public sewers
- Risk of low water pressure or flow
- Water quality analysis
- Water quality standards
- Sewage treatment works

## **Environmental search**



An environmental search is carried out with an agency that provides such searches. The law does not currently require local authorities to keep a register of contaminated land. An environmental search will check whether the land upon which the property is built has been contaminated. New properties are often built upon old landfill sites or upon sites that were previously used for commercial purposes. It is now a legal requirement that developers survey land intended for building to ensure it has not been contaminated.

If it has been contaminated the developer must decontaminate the land before building upon it. However, this was not always the case and some property is built on land that is contaminated. An environmental search will also check whether the property is affected by flooding or other environmental risks or hazard (such as

factories or commercial outlets nearby). You can currently obtain a free mini environmental search (which cannot be used for legal purposes) from [www.homecheck.co.uk](http://www.homecheck.co.uk).

## **Mining searches**

There are various types of mining carried out in the UK today. These include coal, chalk and tin. Your solicitor will check if the property you wish to buy is in a mining area and if so will carry out a search to ensure that the property has not been/will not be adversely affected by the mining activities.

## **Chancel repair search/check**

In the past when the Church sold off or gifted land they sometimes required the new owner to pay towards the upkeep of the church or its lands. Some property is still subject to this liability. There was a recent case where one unsuspecting couple were forced to pay hundreds of thousands of pounds to the church because their property was subject to this liability. If your solicitor believes that the property you wish to buy may be subject to this liability they will carry out a chancel repair search/check.

## **Commons registration search**

Some land was formerly 'common' land. This means that the public have rights to pass over it and occasionally to graze sheep and cattle, gather wood etc. If your solicitor suspects that the property you wish to buy may have been registered as 'common land' they will carry out a commons registration search. This search is typical upon properties that front a village green or common land.

## **Land Registry search**

When you buy, transfer or mortgage a property your solicitor will search the Land Registry to check that no one has registered a claim or a right in the property since the Official copies were issued by the [Land Registry](http://www.landregistry.gov.uk). This ensures that you do not buy a property that has a financial charge or other right registered against it.

## **Land Charges search (also known as a bankruptcy search)**

When you buy or mortgage a property your solicitor will carry out a search against your name in the Land Charges register. This search will reveal if you are currently bankrupt, are an un-discharged bankrupt or are about to be made bankrupt.

- **Telegraphic transfer fees** - If you are buying a property your solicitor will have to send the purchase money to your seller's solicitor by telegraphic transfer. If you are selling or re-mortgaging your solicitor may have to repay your existing mortgages or loans by telegraphic transfer. The bank makes a charge for this and the solicitor passes that charge onto you.
- **Local search indemnity insurance** - If you are buying or re-mortgaging a property and do not want to have a full local search carried out, if your lender agrees, your solicitor can obtain local search indemnity insurance to protect your lender/you against any problems that might have been revealed in a local search.
- **Other indemnity insurance** - Indemnity insurance is widely used by solicitors to deal with problems in deeds, leases, insolvency, restrictive covenants, missing landlords etc. This insurance is arranged by the solicitor and the premium is paid by you.
- **Leasehold disbursements** - Your solicitor should not include any fee for dealing with a lease in the disbursements section as this should be included in their conveyancing fee. You will however find that you must pay your new Landlord a Landlord's notice fee for registering you as the new owner and your lender as interested as a mortgage lender. If there is a separate management company you may have to pay a Management Company fee for registering you as the owner and your lender as the mortgage company. Occasionally, Landlords and/or Management companies may require new tenants to sign a document agreeing to obey the terms in the lease. This document is called a Deed of Covenant. The Landlord/Management company may make a charge for supplying and registering this deed. You may also find that you are asked to pay Ground Rent, Buildings Insurance and Service Charge in advance.
- **New properties and some 'Right to Buy' properties** - When you buy a property from a developer, the local authority or a housing association they insist upon providing a standard form of Transfer deed. They usually make a charge for this known as an Engrossment fee which must be paid by you.
- **Value Added Tax (VAT)** - Where VAT applies to the solicitor's charges and the disbursements this will be shown.

## **Additional Leasehold Property Disbursements**

The following disbursements may also apply:

**A Notice Fee** to the Landlord for stamping the Notice provided by your solicitor to the Landlord notifying that you are the new owner and details of your mortgage company. An average would be £75 plus VAT but this does vary enormously from nothing up to £200. It depends on the Landlord. Your solicitor will find this out and notify you at the earliest opportunity.

**If there is a separate management company** they may also require a notice and may also charge a fee. Again your solicitor will find out what this is and notify you as soon as possible.

**Ground Rent/Service Charge.** Sometimes the Vendor has paid in advance to the end of the year and you might need to repay part of this.

If it is a new lease there will be a small amount of extra stamp duty and fees. This is worked out on the ground rent and the term of the lease and again the solicitor will notify you at the earliest moment.

### **Items that may be listed as disbursements which are not genuine disbursements (hidden extra solicitors fees to watch out for)**

- **Legal fees for acting for a mortgage lender** - Unless your lender has appointed their own solicitor (i.e. a different solicitor to the one you are using) the fee charged for acting for a mortgage lender will be paid to your solicitor and should therefore be shown as part of their total conveyancing fee. This fee may be charged separately by your solicitor on a purchase or a remortgage and even for dealing with repayment of a mortgage on your sale. (CMS do not charge this fee)
- **Solicitor's indemnity insurance** - By law all solicitors must carry indemnity insurance of at least £1 million pounds to protect their clients against that solicitor's negligence or fraud. Some firms try to pass the cost of this insurance on to their clients. (CMS do not charge this fee)
- **Petty disbursements** - This is a notional charge for telephone calls, photocopying, faxes and postage. In fact it forms part of the solicitor's fee for the conveyancing and should be included in the total conveyancing fee quoted by the solicitor. (CMS do not charge this fee)

- **File storage** - Solicitors are obliged to store your file for six years and some store for at least twelve (as recommended by the Law Society). Some solicitors seek to charge you for the storage of your file. (CMS do not charge this fee)
- **Expedition fees** - Some firms of solicitors charge extra if you ask them to complete a transaction as a matter of urgency. (CMS do not charge this fee)
- **Search packages** - Some firms charge inflated prices for a search package. We have seen the price of search packages quoted at up to £100 more than the actual cost of the package. The solicitor collects the fee for the package, pays for the searches and keeps the difference as conveyancing fees. (CMS solicitors charge only the actual cost price of searches)
- **Engrossment Fee** -An Engrossment Fee may be charged when a buyer is purchasing a property that has just been built or converted. This is because the documents and planning information on new developments are generally more detailed. As a result, the solicitor will issue a charge for providing these documents, which the buyer must sign. The typical cost of an Engrossment Fee is variable, but it will usually be in the region of £50 to £100, exclusive of VAT.



**Conveyancing Marketing Services Ltd**

**Website:** <http://www.conveyancing-cms.co.uk>

**Facebook:** <http://www.facebook.com/CMS.Conveyancing>

**Twitter:** <https://twitter.com/CMSLtd2>

**Pinterest:** <http://pinterest.com/cmsltd2/>