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# PROPERTY PRACTICE

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## Revise SQE

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# Contents

<i>Contributors</i>	iv
<i>Introduction to Revise SQE</i>	v
<b>Part One: Freehold real estate law and practice</b>	
1 Key elements and structure of freehold property transactions: an overview	1
2 Pre-contract (1): deduction and investigation of title	16
3 Pre-contract (2): searches and enquiries and planning matters	49
4 The draft contract and exchange of contracts	36
5 Pre-completion, completion, and post-completion matters	116
<b>Part Two: Leasehold real estate law and practice</b>	
6 Structure and content of a lease	144
7 Grant and assignment of commercial leases	180
8 Commercial leasehold remedies	209
9 Termination of leases and security of tenure under Part II of the Landlord and Tenant Act 1954	236
<b>Part Three: Taxation</b>	
10 Property taxation	265
Index	287

**Key term: repayment mortgage**

Under a repayment mortgage:

- There are usually monthly payments of *both* interest and capital.
- The interest rate may be variable, fixed, or tracked (ie it follows/tracks a nominated base rate).
- As *both* interest and capital are repaid, *the full amount will be repaid* by the end of the mortgage term.
- The key advantage of a repayment mortgage is that, although monthly repayments will be higher, the buyer will be mortgage-free at the end of the term.

**Key term: interest-only mortgage**

Under an interest-only mortgage:

- There are usually monthly payments of interest *only*.
- Again, the interest rate may be variable, fixed, or tracked.
- However, as *only* interest is repaid, *the full amount will not be repaid* by the end of the mortgage term. The capital will remain outstanding.
- The key advantage of an interest-only mortgage is that monthly repayments will be lower; however, if the buyer wishes to keep the property, they will need to find another way to repay the capital (eg from savings or an investment).

**Advice on survey**

A buyer should also be advised on whether to commission a **survey** of the property before exchange of contracts (see also **Chapter 3**).

**Key term: survey**

A survey is a professionally produced report following an inspection of the property. There are three main types – a **basic valuation**, a **full structural survey**, and a **homebuyer's valuation and report/survey**.

For SQE1, you should be able to advise on which type of survey would be most/more appropriate in given circumstances (see **Practice example 1.2**).

The need for a survey of the property by a qualified surveyor will depend on a number of factors, including:

- its age (eg the property is more than 100 years old)
- its value
- whether it has been extended/alterred in the past
- whether the buyer has plans for extension(s)/structural alteration(s)
- whether it is of non-standard construction
- whether it is in a former mining area or one that is affected by subsidence (see **Chapter 3**).

The structural condition of the property can have an impact on its stability, value, use, enjoyment, marketability, and its value for secured lending purposes. If defects are discovered, a buyer may choose to withdraw from the transaction, require completion of works, or seek a reduction in the purchase price. In all circumstances, adverse matters and any reduction in the purchase price must be reported to the buyer's mortgagee, who may withdraw, be willing to offer less, or make a retention from the advance (ie retain part of the money until works are carried out).

**Key term: basic valuation**

This is the most basic form of 'survey' in that it does not assess the physical state and condition of the property in any detail. It is commissioned by a lender as a minimum requirement to ascertain the market value of the property and its value for secured lending purposes. Its basic purpose is to assure the lender that the property will be worth sufficiently more than its security so that the lender will get its money back in the event of the exercise of its power of sale (see **Revise SQE: Land Law**). It is simple and cheap, but of limited value to a buyer.

**Key term: full structural survey**

This is the most comprehensive form of survey and contains a detailed assessment of the physical state and condition of the property. It is also the most expensive type of survey, although it is important to be aware of any limitations within the report. The reassurance of a full structural survey may be worth the expense, especially if the property is old, particularly valuable, or there have been past or proposed alterations. It may be used to re-negotiate the purchase price if adverse matters are revealed and the results and any reduction in purchase price must also be reported to the lender.

**Key term: homebuyer's valuation and report/survey**

The detail of a homebuyer's valuation and report/survey lies somewhere between a basic valuation and a full structural survey. Although it will refer to the need for repairs/maintenance, it is important to appreciate the very real limitations attached to this type of survey. For example, physical inspection may have been limited to exposed and accessible areas. Although it is a compromise, its value to a buyer may be affected depending on these limitations.

**Practice example 1.2**

Lill is buying a Victorian terraced house with the aid of a mortgage.

Which type of survey would you recommend in these circumstances?

The mortgagee will probably insist on a basic valuation. However, Lill should be informed of the limitations of this and that its general purpose will be to give the mortgagee assurance as to the value of the property as security. Lill should be advised to commission a more comprehensive survey and, given the age of the property (it is more than 100 years old), a full structural survey should be recommended. Lill should also be warned of the limitations of a homebuyer's valuation and report.

### Revision tip

For newbuild or newly converted properties, a lender will usually undertake a basic valuation and a further survey will not usually be appropriate (particularly when the property has yet to be constructed). Instead, the developer should provide a **structural defects insurance policy**.

### Key term: structural defects insurance policy

A structural defects insurance policy typically covers defects in design and construction for a period of 10 years. The National House Building Council (NHBC), through its 'Buildmark' scheme, provides the most common type of policy, although other products are available. For the first two years from construction (the initial liability period) the builder is responsible for remedying defects, and for the final eight years (the structural liability period) the NHBC is responsible for structural defects. The cover includes resolution processes as well as protection in the event of the developer's insolvency and for environmental liability (see **Chapter 3**). The full detail of the cover is beyond the scope of this book, but further information can be found at [www.nhbc.co.uk](http://www.nhbc.co.uk). For the purposes of SQE1, you need to be aware of the basic nature of the cover and that having it in place, for properties under 10 years old, is a requirement of most lenders (see **Chapter 4**).

## THE LAW SOCIETY CONVEYANCING PROTOCOL

For SQE1, it is important to be aware of the **Law Society Conveyancing Protocol**, when it should be used and its basic implications for property transactions.

### Key term: Law Society Conveyancing Protocol

The Protocol sets out to standardise the residential conveyancing process, making it more transparent and efficient and improving the experience for all involved. It provides a standard set of steps/instructions to follow when acting in the sale and/or purchase of a freehold or leasehold residential property as a home for an owner-occupier. It also provides standard forms to be used as part of the conveyancing process (eg the *Property Information Form* (see **Chapter 3**) and the *Completion Information and Undertakings form* (see **Chapter 5**)).

The Protocol is usually adopted as a matter of course in relevant transactions, and the forms are often used, even if the Protocol is not expressly adopted. It does not usually apply on the sale of newbuild properties. The most recent version of the Protocol is 2019 and you can access it at [www.lawsociety.org.uk](http://www.lawsociety.org.uk).

Although it is recommended, it is only compulsory to adopt the Protocol for firms that are part of the **Law Society's Conveyancing Quality Scheme**.

### Key term: Law Society's Conveyancing Quality Scheme

The Law Society's Conveyancing Quality Scheme provides, for members that are accredited as part of the scheme, a recognised quality standard for residential conveyancing practices. It aims to improve consumer confidence by including a client service charter and mandatory training and enforcement procedures. Membership is often a prerequisite to act for major lenders (see **Chapter 4**).

### ■ KEY POINT CHECKLIST

This chapter has covered the following key knowledge points. You can use these to structure your revision, ensuring you recall the key details from each point. Remember to refer to this chapter throughout your revision, so that you appreciate each stage in context:

- Conveyancing is the process of transfer of title (ownership) to property between the seller (transferor) and the buyer (transferee).
- The key stages of a conveyancing transaction, following taking instructions, are pre-contract, exchange of contracts, pre-completion, completion, and post-completion.
- The pre-contract stage involves investigation and deduction of title, agreement of the contract, and carrying out pre-contract searches and enquiries.
- At exchange of contracts, a deposit is usually paid and both parties become bound to complete the transaction on the agreed completion date.
- The pre-completion stage involves a number of practical matters including preparation and execution of the transfer and mortgage deed, pre-completion searches and enquiries, and the buyer's solicitor reporting to the lender.
- Completion involves the balance purchase price being paid and the keys and transfer being handed over. The buyer gains legal ownership (subject to registration at HM Land Registry).
- Post-completion involves the discharge of any existing mortgage as well as completion of the SDLT/LTT and HM Land Registry formalities.
- It is important to take comprehensive instructions at the beginning of a conveyancing transaction in order to comply with obligations on costs information and client care, pre-empt any issues, provide an efficient and effective service, and manage client expectations.

- You may give a buyer generic advice on types of mortgage, and the two main ones are a repayment mortgage and an interest-only mortgage.
- You should give advice to a buyer on which type of survey would be most appropriate in the circumstances.
- Most firms adopt the Law Society Conveyancing Protocol, which provides standard documentation and forms for typical residential property transactions. It is compulsory for firms that are part of the Conveyancing Quality Scheme.

### ■ KEY TERMS AND CONCEPTS

- conveyancing (page 2)
- exchange of contracts (page 2)
- completion (page 3)
- pre-contract stage (page 3)
- investigation of title (page 4)
- deduction of title (page 5)
- pre-contract searches and enquiries (page 5)
- requisitions on title (page 5)
- caveat emptor (page 5)
- pre-completion stage (page 5)
- post-completion stage (page 6)
- synchronisation (page 9)
- Energy Performance Certificate (page 9)
- repayment mortgage (page 10)
- interest-only mortgage (page 10)
- survey (page 10)
- basic valuation (page 11)
- full structural survey (page 11)
- homebuyer's valuation and report/survey (page 11)
- structural defects insurance policy (page 12)
- Law Society Conveyancing Protocol (page 12)
- Law Society's Conveyancing Quality Scheme (page 13)

### ■ SQE1-STYLE QUESTIONS

The other chapters in this book include five SQE1-style questions per chapter. However, as this chapter provides foundational information only, it is not appropriate to include SQE1-style questions here.

### ■ ANSWERS TO QUESTIONS

Answers to 'What do you know already?' questions at the start of the chapter

- 1) Conveyancing is the process of transfer of title (ownership) to property between the seller (transferor) and the buyer (transferee).

- 2) True. Until exchange of contracts, the parties are usually free to withdraw from a conveyancing transaction. They will not usually be liable for wasted time and costs.
- 3) False. Exchange of contracts is when the parties become committed to enter into a property transaction and complete on the agreed completion date. Completion is when the actual legal transfer takes place (subject to registration).
- 4) False. Exchange of contracts is when the deposit monies are usually paid, with the balance purchase monies and keys being handed over on completion.

Answers to end-of-chapter SQE1-style questions  
Not applicable.

### ■ KEY CASES, RULES, STATUTES, AND INSTRUMENTS

The SQE1 Assessment Specification does not require you to know any statutory authorities or specific case names for this topic. Specific sections of statutes (if any) are set out for ease of reference. Although neither a statute nor a statutory instrument, you should be aware of the Law Society Conveyancing Protocol, as specific reference is made to it in the SQE1 Assessment Specification.

## Pre-contract (1): deduction and investigation of title

### ■ MAKE SURE YOU KNOW

This chapter provides an overview of the deduction and investigation of registered and unregistered freehold titles. It will focus on the process of analysing HM Land Registry official copy entries (in registered land) and the process of analysing an epitome of title and deducing ownership (in unregistered land). It will go on to consider issues that could arise from an investigation of title and the further action/practical solutions required. For the SQE1 assessments, you will need to understand the detail of each of these elements, as well as how they fit into the bigger picture (see **Chapter 1**).

### ■ SQE ASSESSMENT ADVICE

For SQE1, you are required to understand what deduction and investigation of title involve, as well as how title issues may be dealt with.

As you work through this chapter, remember to pay particular attention in your revision to:

- the differences between registered and unregistered title
- the meaning of deduction of title and how it is achieved with registered and unregistered freehold titles
- the meaning of investigation of title and the different processes involved for registered and unregistered freehold titles
- understanding title documents, identifying problems, and finding solutions to title issues.

### ■ WHAT DO YOU KNOW ALREADY?

Attempt these questions before reading this chapter. If you find some difficult or cannot remember the answers, remember to look more closely at that area during your revision.

- 1) Explain what is meant by a good root of title in the context of unregistered freehold titles.

[Deduction and investigation of title - unregistered freehold titles, page 21]

- 2) Where will ancillary rights and restrictive covenants usually appear in a registered title?  
[Deduction and investigation of title - registered freehold titles, page 18]
- 3) Explain the necessary land charges searches on the acquisition of an unregistered freehold title.  
[Deduction and investigation of title - unregistered freehold titles, page 21]
- 4) True or false? On a sale by the last surviving beneficial joint tenant, where title is registered, it will be necessary to appoint an additional trustee to receive the capital monies.  
[Co-ownership, page 30]

### DEDUCTION AND INVESTIGATION OF TITLE

For SQE1, it is important to be able to distinguish between *deduction of title* and *investigation of title* (see **Chapter 1**). The requirements differ according to whether there is **registered title** or **unregistered title** to the property.

#### Key term: registered title

Registered title is where the seller's title is registered at HM Land Registry. Title is deduced by the seller's solicitor providing to the buyer's solicitor official copies of the registers of title, as well as a copy of the title plan and official copies of any documents referred to and filed under the title (see **Deduction and investigation of title - registered freehold titles**).

#### Key term: unregistered title

Unregistered title is where the seller's title is not registered at HM Land Registry. Title is deduced by the seller's solicitor providing to the buyer's solicitor an epitome of title, which is comprised of copy paper title deeds and documents (see **Deduction and investigation of title - unregistered freehold titles**).

*Investigation of title* is an important first step by the seller's solicitor as a precursor to *deduction of title*. It allows them to pre-empt any potential issues that are likely to be raised by the buyer's solicitor, specify the relevant incumbrances in the contract (see **Chapter 4**), and consider possible solutions to problems at an early stage. The buyer's solicitor will then carry out their own investigation of title, raise requisitions on title (see **Chapter 1**), and will need to make sure that the seller's solicitor resolves any issues. The buyer's lender will also need to be satisfied that title is good and marketable and in accordance with its requirements (see **Chapter 4**) so that they may be able to sell the property in the event of default by the buyer/borrower, to cover the outstanding debt.

From December 1990, it became compulsory throughout all of England and Wales to register title to land on sale or change of ownership. Following the Land Registration Act 1925, registration was introduced on a piecemeal basis, starting with the main metropolitan areas and cities. Therefore, unregistered titles may still be encountered, particularly where land has not changed hands for well over 30 years.

### Revision tip

HM Land Registry Practice Guide 1: First Registrations confirms when first registration became compulsory in areas throughout England and Wales. This should always be consulted when dealing with unregistered land in practice to ascertain whether the title should have been registered previously (because registration was compulsory in the relevant area at the time of an earlier disposition, eg transfer of ownership). If so, the seller's solicitor should be asked to do everything necessary to procure registration before the transaction proceeds.

## DEDUCTION AND INVESTIGATION OF TITLE - REGISTERED FREEHOLD TITLES

In land with registered title, title is deduced (ownership proved) by the seller's solicitor providing official copies of the registers of title (**official copies**) and a copy of the title plan filed at HM Land Registry (sometimes referred to as the 'filed plan'). They must also provide official copies of any documents referred to in the registers and filed at HM Land Registry, where the full detail is not set out in the register (see **Practice example 2.1**). It is a requirement of the Law Society Conveyancing Protocol (see **Chapter 1**) that the documents must be official copies (not photocopies) and must be no more than six months old when issued.

Official copies and filed plan are applied for using HM Land Registry form OC1, with form OC2 being used for official copies of documents referred to in the title. Applications may be submitted online for firms with access to HM Land Registry online services (the HM Land Registry portal).

### Practice example 2.1

You act on the sale of a freehold property, title to which is registered at HM Land Registry. An entry in the *property register* (see **Key term** below) states that 'the property has the benefit of the rights granted by but is subject to the rights reserved in a Conveyance of the land in the title dated 14 November 1990 (copy filed)'. The title is also subject to the restrictive covenants in a Conveyance of the land in the title dated 26 September 1928, and these are set out in full in the *charges register* (see **Key term**).

What action must you take to deduce title?

**You must deduce title by providing official copies and a copy of the title plan. You must also produce an official copy of the Conveyance dated 14 November 1990, so that the buyer has full information about the rights (HM Land Registry has a copy filed). You do not need to provide an official copy of the Conveyance dated 26 September 1928, as the covenants are set out in full in the charges register.**

### Key term: official copies

Official copies of the registers of title carry a title number, which is unique to the title and is comprised of two or three letters relating to the administrative area (eg 'WM' for parts of the West Midlands), followed by a number, an edition date (when the title was last updated, eg following the last sale) and a precise **search from date**. There are three separate registers comprising the registers of title: the **property register**, the **proprietorship register**, and the **charges register**.

Once received, the buyer's solicitor must review the official copies as part of the process of investigation of title (see **Chapter 1**). The key elements are referred to below, but as an initial step, the buyer's solicitor must check that they are official copies and are less than six months old (see above).

### Key term: search from date

The specific date and time on which the official copies were issued by HM Land Registry (eg '28 December 2022 at 14:30:25'). The buyer is usually not permitted, under the contract, to raise requisitions on title after exchange of contracts, other than in respect of matters appearing on the title after this date (see **Chapter 4**). The date is also crucial to the buyer's pre-completion HM Land Registry search (see **Chapter 5**). The *search from date* should not be confused with the *edition date* (see above).

### Key term: property register

The property register describes the property, its extent, and rights benefiting the property. It includes the following information:

- Whether it is a freehold or leasehold title (ie tenure - see **Chapter 1** and **Revise SQE: Land Law**).
- A description, with reference to the title plan. In the case of a residential property, this will usually be the full postal address.
- Any exclusions or limitations on the title (eg in former mining areas it is common for mines and minerals and associated rights of working to be excluded from the title - see **Title problems and solutions**, below).
- Rights benefiting the property (eg easements that the property has the *benefit* of - see **Revise SQE: Land Law**). It is also possible that rights

burdening the property could be included here (eg an entry might state that the property has the benefit of the rights granted by, but is subject to the rights reserved in, a specific conveyance, a copy of which is filed at HM Land Registry (see **Practice example 2.1**)).

- Declarations as to light and air (see **Title problems and solutions**, below).

When reviewing the property register, it is important to verify the tenure and the extent of the property and check that they are consistent with the memorandum (written note) of sale and the buyer's and lender's expectations. Any exclusions should be pointed out and the client should be asked to confirm their understanding as to the boundaries. It should also be checked whether the property has all the necessary rights benefiting it, and additional enquiries concerning them should be raised (see **Title problems and solutions** and **Chapter 3**).

The buyer's solicitor will also need to check that the property description within the contract is consistent with that in the official copies (see **Chapter 4**).

#### Key term: proprietorship register

The proprietorship register contains details as to the ownership of the property, the **class of title**, and any **restrictions** on dealings. It includes the following information:

- Name(s) and address(es) of the registered proprietor(s). See **Title problems and solutions**, for what to do if the registered proprietor(s) is/are not the same as the seller(s).
- For dispositions registered after 1 April 2000, the price paid by the current owner.
- Whether an indemnity covenant was given by the owner on the purchase (see **Title problems and solutions**).

#### Key term: class of title

The class (or quality) of title is state guaranteed. There are three options that apply for both freehold and leasehold titles, and one that applies to leasehold titles only:

- *Absolute title* is the best and most widespread class. The state guarantees the title, generally subject only to entries appearing on the registers of title and **overriding interests**. In the case of absolute leasehold title, HM Land Registry will also have approved the landlord's title.
- *Possessory title* is usually given where title deeds were lost prior to first registration, or the owner's title is based on adverse possession (see **Revise SQE: Land Law**). It is also subject to any adverse matters at the date of first registration.

- *Qualified title* is given where there is a specific defect in title referred to in the registers of title (eg a missing title document containing unknown covenants), such that absolute title cannot be given.
- *Good leasehold title* (leasehold only) is given where HM Land Registry approves the leasehold title but not the landlord's title (see **Chapter 7**).

See **Title problems and solutions** for how to deal with problems arising from the class of title and unknown covenants.

#### Key term: restrictions

Restrictions restrict or prevent dealings with the title. The two most common ones likely to be encountered in practice are the Form A restriction (sometimes arising in the context of co-ownership - see **Co-ownership**) and a restriction to protect a mortgagee's interest (see **Title problems and solutions**).

#### Key term: overriding interests

These are interests that, although not substantively registrable, can bind a purchaser (see **Revise SQE: Land Law** for more detailed information). They include interests of persons in actual occupation, local land charges (see **Chapter 3**), legal easements arising by virtue of long user (prescription) and legal leases of seven years or less. The existence of overriding interests is usually ascertained through pre-contract searches and enquiries (see **Chapter 3**).

#### Key term: charges register

The charges register contains adverse matters affecting the property (ie incumbrances or things that *burden* it). It includes the following information:

- mortgages and charges
- covenants burdening the property
- easements over the property
- leases
- notices.

See **Title problems and solutions**, for how to deal with all of these entries when acting for a buyer.

### DEDUCTION AND INVESTIGATION OF TITLE - UNREGISTERED FREEHOLD TITLES

In land with unregistered title, title is deduced (ownership proved) by the seller's solicitor providing to the buyer's solicitor an **epitome of title**, which is comprised of copy paper title deeds and documents, and which must

evidence a **good root of title**. The seller's solicitor must investigate title (see **Chapter 1**) to ascertain the root of title, so the *first step* will always be to obtain the original **title deeds** and documents and then to confirm that the property has not previously been registered. It would be best practice for the seller's solicitor to conduct an index map search at this stage (see **Chapter 3**).

### Key term: title deeds

These are usually comprised of conveyances, deeds of gift, assents (see **Personal representatives**), mortgages, land charges searches (see **Land charges searches**), and, sometimes, ancillary documents, such as old pre-contract searches and copy planning documents.

Normally, the owner, a solicitor/firm of solicitors, or the seller's mortgagee (if the land is subject to a mortgage) may hold the title deeds. A mortgagee will usually provide them to the seller's solicitor subject to an *undertaking* to hold them to their order and not deal with the property without their consent or discharge of the sums secured by the mortgage (see **Revise SQE: Ethics and Professional Conduct**).

### Key term: epitome of title

An epitome of title is simply a list of material title deeds and documents, set out in date order, starting with the root of title, and including other documents cross-referred to in it.

For example, the root of title may say that the property has the benefit of easements or is subject to the easements or covenants set out in an earlier conveyance (which are not set out again in the root of title), or it may even define the property by reference to a plan annexed to an earlier conveyance. In these circumstances, these documents would need to be included in the epitome of title so that the buyer has full information about the title to the property. It is also good practice to include old land charges searches that are available (see **Land charges searches**).

Copies of the documents (not the originals) are attached to the epitome of title at this stage. On a typical *sale of the whole* of the land comprised within the title, the original documents are handed over on completion. On a typical *sale of part* of the land comprised within the title, certified copies of the original documents are handed over on completion (see **Chapter 5**).

### Key term: good root of title

The seller's solicitor must find a good root of title when investigating the title deeds and documents. A good root of title is defined in s 44 Law of Property Act 1925 as a document that:

- is at least 15 years old
- deals with the whole of the legal and equitable/beneficial interest in the property (ie it refers to the transfer of the *fee simple* (freehold) by the

transferor(s) as beneficial owner(s) - see **Revise SQE: Land Law and Co-ownership**)

- provides an adequate and identifiable description of the property
- does not cast doubt on the title.

Once the root of title has been ascertained for the purposes of the epitome of title, other documents may be set aside unless they are *cross-referred* to in the root of title (see **Practice example 2.2**).

Set out below are some key things to consider when selecting the root of title:

- The *best document* for a root of title is a *conveyance* (ie a transfer of land). This is because the property will usually have been transferred for value, often between unconnected parties. There will therefore be the so-called 'double guarantee' that the title will have been investigated before on the previous purchase.
- A *mortgage* may also be used, but it is less satisfactory as it does not usually contain all title information (eg details of incumbrances).
- A *deed of gift* or an *assent* (ie a transfer of property by personal representatives (PRs), see **Personal representatives**) may also be used as a good root of title, although they do not usually have the added benefit of the 'double guarantee' of a conveyance, so they will not be the best root of title.

For SQE1, you should be able to identify the best and most appropriate root of title in given circumstances. **Practice example 2.2** provides an example of deduction of title in practice.

### Practice example 2.2

A solicitor acts on the sale of a freehold property, title to which is unregistered at HM Land Registry. The title deeds and documents are comprised of the following:

- land charges searches
- an assent to the current seller, dated 15 March 1972, which provides that the property is defined in the conveyance dated 12 February 1967
- a mortgage dated 30 January 1975
- a conveyance dated 12 February 1967, which provides that the property:
  - (a) is defined on the plan annexed to the conveyance dated 15 March 1952 (the 'Conveyance'), (b) has the benefit of the rights referred to and fully set out in the Conveyance, and (c) is subject to the restrictive covenants referred to and fully set out in the Conveyance
- the Conveyance
- a conveyance dated 28 December 1942.

Which document provides the *best and most appropriate* root of title and which documents should be included within the epitome of title?

The assent should be a good root of title, but the 1967 conveyance will probably be the best and most appropriate, as it will provide the usual 'double guarantee'. In any event, a copy of the assent (to evidence devolution to the seller) and the Conveyance (to give full information as to the property description, ancillary rights, and restrictive covenants affecting the property) should be provided. The mortgage should also be included as it affects the seller's interest in the property. It is also best practice to provide the copy land charges searches. The 1942 conveyance does not need to be provided as it is not cross-referred to in the root of title or other relevant documents.

Once received, the buyer's solicitor must review the documents in the epitome of title as part of the process of investigation of title (see **Chapter 1**). The key elements are elaborated upon below and summarised in **Figure 2.1**, but as an initial step, the buyer's solicitor must check there is a *good root of title*.

The buyer's solicitor will also want to check that the property is *not already registered* and that there are no cautions against first registration. This can be ascertained by carrying out an index map search (now known by the acronym 'SIM' - 'search of the index map') (see **Chapter 3**).

It is also important to check whether the property *should have been registered* before (see above).

The buyer's solicitor must now examine the title deeds and documents, adopting the approach set out in **Figure 2.1** and elaborated upon below.

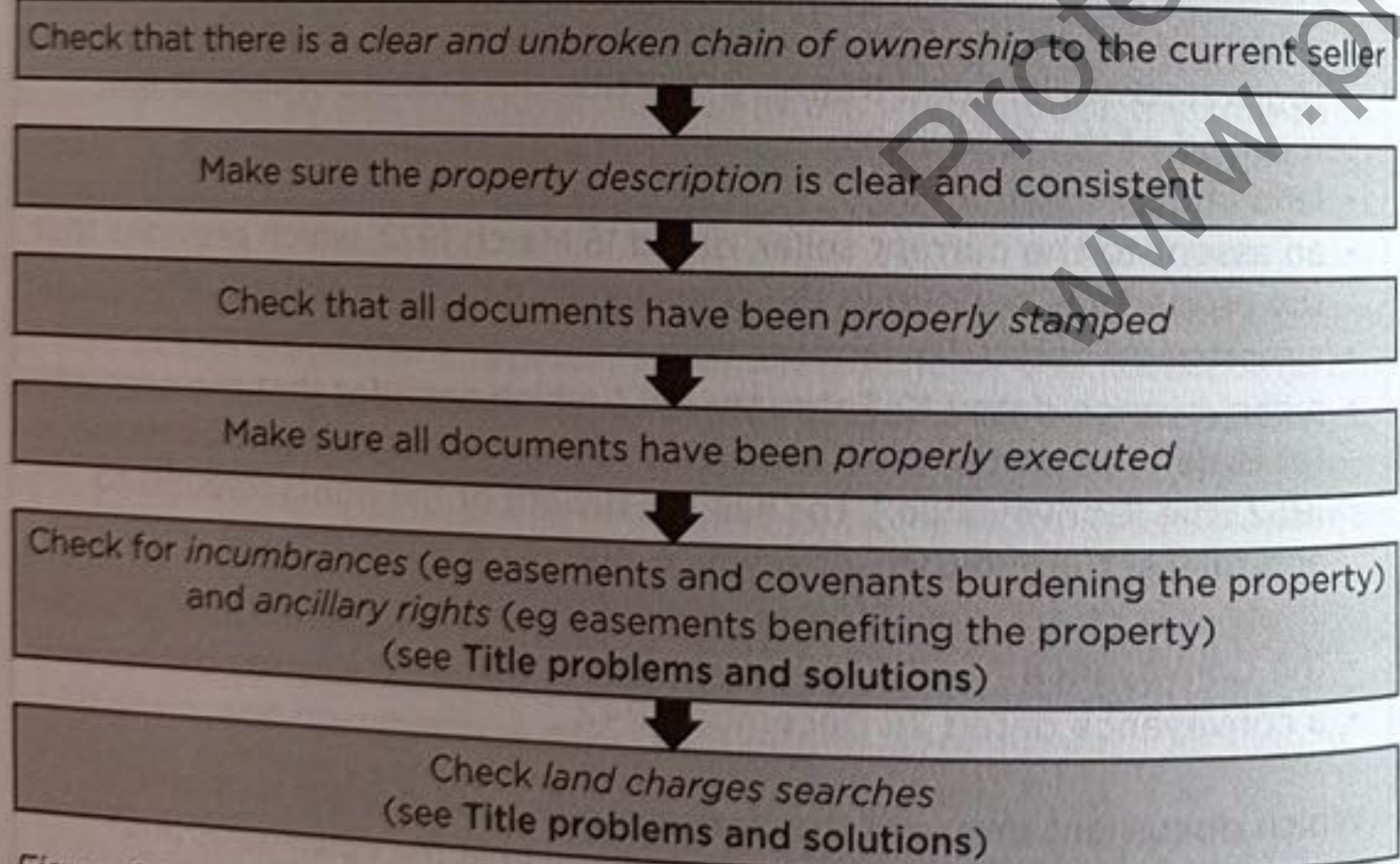


Figure 2.1: Investigation of title - unregistered freehold titles

### Clear and unbroken chain of ownership

The chain of ownership must lead to the current owner(s):

- Spellings should be double-checked, and the seller's solicitor should be asked to account for any missing links from the root of title.
- Evidence of any deaths (certified copy death certificate) or changes of name (eg certified copy marriage certificate) will need to be provided.
- For a disposition by PRs (see **Personal representatives**), a certified copy of the grant of representation must be obtained (see *Revise SQE: Wills and the Administration of Estates*).

### Property description

This must be clear and consistent throughout the title documents and should also be reflected in the contract (see **Chapter 4**).

### Proper stamping of documents

Prior to the introduction of *Stamp Duty Land Tax* in December 2003 (a tax on land transactions - see **Chapter 10**) there was a system of *Stamp Duty* in place (a tax on documents). The regime involved sending certain conveyancing documents to the stamping authorities, where they would receive physical stamping.

There were two types of Stamp Duty:

- The first was 'ad valorem' Stamp Duty which was payable on the value of a conveyance on sale. Lower value transactions were exempt or subject to a reduced rate, if there was a 'certificate of value' in the document, confirming that the value did not exceed the relevant threshold. Ad valorem Stamp Duty was not payable on mortgages after 1971 and deeds of gift or assents after the end of April 1987 (provided there was a 'certificate of exemption' in the document).
- The other type of Stamp Duty was the Inland Revenue *Particulars Delivered* (or PD) stamp, which required conveyances on sale (and some other documents) to be stamped from 1931.

### Revision tip

For the purposes of SQE1, it is not necessary to know the exact rules for stamping particular documents at particular times. In practice, this is something that can be ascertained using tables within practitioner texts. However, you should be aware of the need for conveyances on sale to be properly stamped for both ad valorem Stamp Duty and Particulars Delivered, depending on the rules that were in operation at the time of the previous land transaction. If any documents are not stamped or properly stamped, the seller should remedy this at their expense, dealing with the payment of any interest or penalties.