



April conveyancing round-up

1. Introduction

One of the problems of being a conveyancer is how undervalued we are – and I am not just talking about the pitifully low fees that we seem to charge. This month's round-up does show what a wide range of knowledge and expertise a conveyancer has to possess in order to carry out a supposedly 'simple' house purchase. Why don't we make clear to clients the wide range of issues that are covered when we are acting for them on a house sale or purchase and the risk/problems/issues we can (and do) protect them against. The recent publicity by Veyo (the proposed Law Society backed on line conveyancing system) with all its emphasis on how slow the process is and how Veyo will speed it up, gives clients completely the wrong impression of the conveyancing process; speed is not everything. The emphasis should be on the quality of service.

One aspect of the Law Society's work that is often under-appreciated, however, are the various Law Society practice guides. These are very useful to all conveyancers – not just solicitors. They cover a large number of topics and indeed they are not just related to conveyancing. They cover a wide range of practice areas. They can be very usefully used as a basis for in-house training and are well

worth exploring. They are freely available on the Law Society website to all; not just solicitors.

In December 2014 two guides related to conveyancing were updated – **Flood Risk** and **Contaminated Land**. It is with regard to Flood Risk that we are concerned this month. This month's round-up also includes a reminder of the importance of the CML Lenders' Handbook and an overview of recent changes to it and new rules for England with regard to septic tanks.



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Flooding



Everyone must by now be aware of the risk of flooding affecting property and the devastation it can bring to lives. Every year seems to bring more reported flooding incidents and examples of lives and business ruined, but it is still the case that some conveyancers do not routinely advise clients about the availability and advisability of flood reports. These are quite cheap to obtain and in the writer's opinion essential in almost every conveyancing transaction.

The Law Society Practice Guide is an essential tool for conveyancers and well worth detailed study. It is the Law Society's view as to what is best practice in this area. Thus not following it does not necessarily render a solicitor liable to a claim of negligence, but may well take some explaining as to why it was not followed. If nothing else, it will also explain the different kinds of flooding that can occur and dispel the view that flooding is not a risk if the property is not near a river or on the side of hill. Also note the importance to emphasise to clients the need to ensure that insurance will be available for the property before they actually commit to buying it.

Extended extracts from the Guide follow.

Extracts

1.2 What is the issue?

Solicitors are not qualified to give advice on flood risk or interpret technical flood reports. However, this note aims to provide you with information to help your clients investigate the terms on which buildings insurance cover, including flood risk, is available, prior to their entering into contractual commitments.

It provides general information in relation to flood searches and other means of investigation.

You should encourage your clients to make sure that insurance can be obtained for the property on acceptable terms before entering into a contract.

You should also liaise with clients in relation to which, if any, flood searches or other investigations, may be appropriate.
(My Emphasis)

2. Flooding risks

The Environment Agency estimates that one in six homes in England are at risk from flooding. Of these, 2.4m are at risk from flooding from rivers or the sea alone, 3m are at risk from surface water alone and 1m are at risk from both.

An estimated 200 homes are at risk of complete loss to coastal erosion over the next 20 years or so, and 2,000 more could potentially become at risk over this period (see *Flooding in England: A National Assessment of Flood Risk (PDF)*).

In Wales, over 200,000 properties are at risk from sea or river flooding and approximately 230,000 properties are at risk from surface water flooding.

It may not always be obvious that a property is at risk of flooding. Properties at risk do not need to be close to a river, or the sea, or on low lying ground to be exposed to flood risk. Surface water, groundwater and overflowing sewers are increasingly common causes of flooding. (My Emphasis)

The most common types of flooding are:

- **Surface water flooding** - occurs when heavy rainfall overwhelms the drainage capacity of an area.
- **Sewer flooding** - occurs when sewers are overwhelmed by heavy rainfall or when they become blocked.

- **Groundwater flooding** - occurs when underground water levels rise above surface level. This is most likely to occur in low lying areas underlain by permeable rocks.
- **River flooding** - occurs when a watercourse cannot cope with the water draining into it from the surrounding land.
- **Coastal flooding** - results from a combination of high tides, low lying land and, sometimes, stormy conditions.

In June 2013, the Government agreed a Memorandum of Understanding (MOU) with the Association of British Insurers (ABI) to develop a not-for-profit flood insurance scheme, known as Flood Re. This MOU replaces the Statement of Principles, which previously governed the position. The Government consulted on several aspects of the Flood Re scheme in June 2013.

Flood Re is intended to ensure that homeowners whose properties are at high flood risk can obtain affordable flood insurance with cover at a set price. However, it is proposed that certain categories of properties (e.g. leasehold, small businesses, Band H properties) will be excluded from the scheme.

It is anticipated that Flood Re will become operational in summer 2015. In the meantime, ABI members will voluntarily continue to abide by the terms of the Statement of Principles. This means that insurers will continue to provide cover to existing customers who are not at significant risk of flood, or whose properties are in locations where the Government has announced plans to reduce flood risk to below 'significant' level within five years. The cost of insurance premiums and excesses will reflect the insurer's understanding of a property's flood risk.

The GOV.UK website has further information about Flood Re, including the scope of, and exclusions from, the scheme.

3. Conveyancing transactions

3.1 When acting for a buyer, tenant or lender

In all conveyancing transactions, when acting for a prospective buyer, tenant or lender, you should mention the issue of flood risk to your client and, if appropriate, make further investigations. (My Emphasis)

The main ways of learning more about the risk of flooding are:

- conducting searches
- making enquiries of the seller, and
- instructing a valuer or surveyor to carry out a physical inspection, survey or valuation generally and to provide advice on the impact of flood risk.

It may not be sufficient to rely on the results of any one category of investigation.

Different clients, including lenders, will have different appetites for risk.

Before your client enters into a binding commitment to buy, lease or finance property you should:

- consider advising the client to establish the terms on which buildings insurance, including flood risk cover, is available
- consider advising your client to discuss the level of risk to which the property is exposed with their building surveyor or, if necessary, a flood risk assessment consultant.

Where appropriate you should discuss with your client whether they are instigating their own investigations. As a result you may wish to make further enquiries of a commercial company. You may wish to record these discussions and your client's decisions.

3.2 When acting for a lender

You may have additional obligations when acting for a lender. Lenders are increasingly likely to investigate the potential flood risk of prospective security either as part of their valuation process or by searching. Lenders may impose additional requirements in their instructions to you as a result of their investigations.

4.2.1 Residential transactions

You will often be required to advise your client to arrange insurance cover usually starting from the date of contractual commitment.

If the lender is not arranging buildings insurance, which is almost invariably the case, the obligations in section 6.14.2 of the CML Lenders' Handbook or section C 28 of the BSA Mortgage Instructions are likely to apply in most cases.

Lenders may impose additional requirements in Part 2 of the CML Handbook.

For example, you may be required to ensure that the excess payable does not exceed an amount notified to you by the lender in Part 2 of the CML Lenders' Handbook.

You may wish to record the lender's requirements.

4. Flood searches

4.1 Government agencies

4.1.1 The Environment Agency flood maps

The Environment Agency website allows the public to view information on flooding from rivers, the sea, surface water and reservoirs. It does not give information about risk of flooding from groundwater.

The following maps are available on the Environment Agency website:

- Risk of Flooding (Rivers and Sea)
- Risk of Flooding (Surface Water)
- Risk of Flooding (Reservoirs)

Risk of Flooding (Rivers and Sea) Map

The Risk of Flooding (Rivers and Sea) Map provides a national assessment of the likelihood of flooding from rivers and the sea at any location. It takes into account flood defences, predicted flood levels and ground levels. It provides an indicative flood rating for a 50m x 50m grid square and describes the risk of flooding based on four categories.

- Very low
- Low
- Medium
- High

The Risk of Flooding (Rivers and Sea) Map does not:

- give information about a specific property,
- provide information on flood depth, speed or volume of flow
- show flooding from other sources such as groundwater, surface water flooding, or overflowing sewers.

Risk of Flooding (Surface Water) Map

The Risk of Flooding (Surface Water) Map incorporates local surface water flood risk information. It provides:

- an indication of where water will collect and flow, and

- depth and velocity information for high, medium and low chances of flooding.
- The Risk of Flooding (Surface Water) Map does not give information about a specific property.

Risk of Flooding (Reservoirs) Map

The Risk of Flooding (Reservoirs) Map models the worse case scenario extent of flooding if a reservoir was to fail and release the water it holds.

Other area maps

Separate PDF maps are available that show what is at risk of flooding (e.g. people, infrastructure, property) at a river basin district scale.

Because of these limitations of the Flood Maps, they should not be used as the sole means of assessing the flood risk for a property. (My emphasis)

The Environment Agency service is only designed to be used by the general public.

4.1.2 Natural Resources Wales flood maps

General information about flood risk in Wales is available on the Natural Resources Wales website. This should not be used as the sole means of assessing the flood risk for a property.

It is anticipated that the public will be able to view information flood risk maps for Wales on the Natural Resources Wales website from March 2015.

In the meantime, the Environment Agency Flood Maps (see section 5.1.1.) can be used to find out more about flood risk in Wales.

4.1.3 Land Registry Flood Risk Indicators

Land Registry has combined its data with flood data from the Environment Agency and Natural Resources Wales to produce its Flood Risk Indicator, which provides information about the possible risk of flooding to a property.

The result is provided on a title-by-title basis for registered properties within England and Wales. It can be purchased online via Land Registry's Find a Property Service.

Land Registry states that the information only shows the predicted likelihood of flooding from rivers or the sea for defined areas and notes that it is not detailed

enough to account for precise properties.

As noted above, the Land Registry data is based on the Environment Agency and Natural Resources Wales data, and so the Flood Risk Indicator should not be relied on as the sole means of assessing flood risk for a property. (My Emphasis)

4.3 Commercial searches

Some commercial searches provide information about all kinds of flood risks, including surface water and groundwater flooding information.

The market for flood searches is not regulated. There are different types of searches available with marked variations in the cost, quality, range, analysis and interpretation of data.

It is not always easy to establish which data sets are being used, how accurate the data is and how often it is updated. Before choosing a search provider, you should attempt to check that the search will provide the information most aligned with your client's requirements, which may not be straightforward.

Providers and their products are subject to change.

As well as providing information from various data sets, a flood search should also provide an assessment of the risk of flooding. Depending on the means used to describe the likely incidence of flooding, these can be more or less easy for you or your clients to understand.

When reporting the results of any flood search to your client, you should tell them that you are not qualified to advise on technical matters regarding the results and that they should raise any questions they have with either their surveyor or the consultant who prepared the report.

A general environmental search may provide some limited information about flood risk, but commercial search providers are increasingly providing dedicated flood searches and reports.

You should consider the terms and conditions on which the search or report is provided, including any limits on the liability of the provider.

Generally, searches or reports for commercial property can be tailored for the property and its use, or proposed use, and will be more detailed than for residential property.

6. Enquiries of the seller, landlord and borrower

Enquiries about flooding should be raised with the seller, landlord or borrower as appropriate as part of the pre-contract enquiries.

You should not rely solely on replies given to enquiries about flood, environmental or other physical issues in respect of the property. The answers provided may indicate the need for:

- further enquiries
- further investigations
- further information.

5.1 Residential properties

The Law Society Property Information Form (TA6) asks for details of any flooding that may have affected the property.

7 Buildings insurance

Some insurers may have investigated the insurance risk by collating data sets in order to evaluate the terms on which they are willing to insure against flood risk.

Encouraging your client to investigate the terms on which insurance is available from a number of different insurers can contribute to their assessment of the likely level of flood risk.

Even if the property is leasehold and the landlord insures, if flood becomes an uninsured risk, the tenant may be liable to make good any flood damage and rent may not be suspended, depending on the wording of the lease.

The Law Society Standard Conditions of Sale (fifth edition) and the Law Society's Standard Commercial Property Conditions of Sale (second edition) oblige the buyer to assume the risk from exchange of contracts.

You should discuss responsibility for insuring the property, and the point at which insurance should commence (for example from exchange of contracts), with the buyer or tenant if appropriate.

You should consider advising the buyer to investigate the terms on which buildings insurance is available for all risks, including flood, prior to being contractually committed to the purchase or other transaction.

The Law Society Conveyancing Protocol states that you should suggest that buyers investigate the buildings insurance position at an early stage in the transaction and in any case in advance of exchange of contracts.

Making investigations of a number of insurers may indicate whether the property is at risk (Stage A, step 7 and Stage C, step 46 of the Protocol).

Where a property is perceived to be at risk of flooding, insurers may decline to insure, require high premiums, impose high excesses or impose unusual conditions.

The British Insurers Brokers Association may be able to assist in locating specialist brokers if your clients encounter difficulties.

The Department for the Environment, Food and Rural Affairs have produced a guide, 'Obtaining flood insurance in high risk areas', for those experiencing difficulty in obtaining flood insurance.

Clients who are buying and encounter difficulties in obtaining insurance on usual terms will be on notice of

the risks and may not wish to proceed at all, or at the same price, as a result. They may not be able to proceed, even if they wish to, if this prevents their being able to obtain suitable mortgage finance.

Conclusion

The sensible thing must be to ALWAYS advise clients to undertake a Flooding Search of some sort – many environmental searches cover this anyway in outline at least anyway.

CML LENDERS' HANDBOOK UPDATE

Introduction

The CML Handbook is one of the most important tools available to modern day conveyancers. To put it simply, it sets out the instructions from our most important clients – the lenders. It comes in three parts – Part 1 is common to all lenders and sets out the instructions on which the lenders could reach agreement. Each lender, however, has its own part 2 which sets out that lender's additions to and variations of the basic Part 1. There is also a Part 3 for use where the lender has separate representation.

So the Handbook's requirements must be considered in every transaction – and not just those involving a mortgage. It may well be that a cash buyer will accept a particular problem – but don't forget that if that problem is not acceptable to lenders, there will be problems on a subsequent sale. And do make sure that fee earners look at the on-line version of the Handbook and not a printed version – the Handbook does change – which brings us to the point of this Report. Part 1 changed on December 1st last year – and as a result this meant that virtually every lender's Part 2 also changed. But Part 2s do change regularly any way; never rely on a hard copy.

And a final reminder: 29 lenders – generally mutual lenders – subscribe to the Building Societies' Association mortgage instructions and NOT the CML Handbook. Fee earners must consult this separately. Again, there are general instructions that apply to all and then specific instructions for each individual lender.

The CML has published the following summary of amendments. A few comments of my own are also included in brackets.

Amendments made on 1 December 2014

A significant number of amendments came into effect from 1st December 2014 for Part 1 for England and Wales. Some Part 2 questions were deleted or amended as a result. There was also renumbering of s 3.1.

Part 1 General

An amendment to update references to solicitors' and licensed conveyancers' respective Codes of Conduct.

1.5 General

An amendment to refer to the solicitor's regulator.

Paragraphs 1.17; 2.2; 10.4; 14.3.3

Amendments to above paras if necessary to move to all upper case to provide consistency across the Handbook, where the Part 3 is referenced in Part 1.

Section 3 Safeguards

Amendments to update references to the relevant guidance and legislation.

(Note, however, that the differences between SRA regulated firms and licensed conveyancers still remain. So SRA regulated firms will still need to identify clients by using the documents specified in Lists A and B).

Paragraph 4.1 Valuation of the property

Amendment to clarify that solicitors and conveyancers are not expected to advise on any discrepancies between the valuation report they receive and what the lender has, if the lender does not supply the report directly to them.

Paragraph 5.5.1 Planning and building regulations

Amendment to clarify that if the conveyancer can provide an unqualified certificate of title with respect to planning and building regulations the lender will not insist on indemnity insurance. It also removes the Part 2 question which allowed lenders to specify further requirements as to time limits, on the basis that the lender should be able to rely on the professional judgment of the legal representative.

(Thus, if there are now planning issues, provided there is 'no reasonable prospect of enforcement action' and that the conveyancer gives an unqualified certificate of title, there is no longer any need for indemnity insurance. But what is a 'reasonable prospect'? There is no time limit for bringing proceedings for an injunction for breach of building regulations, for example, but local authorities very rarely bring such proceedings – is this a lack of a reasonable prospect? Presumably, if the conveyancer gets it wrong, the lender would be able to claim against him/her under the clear certificate of title that was given.

Paragraph 5.5.2 Planning and building regulations

A clarification to 5.5.2 in light of the amendment to 5.5.1, which instructs the conveyancer to report to the lender if the conveyancer cannot give an unqualified certificate of title.

Paragraph 5.6.1 Good and marketable title

An amendment that lenders will not insist on indemnity insurance being obtained in certain situations.

Paragraph 5.11.2 Restrictive covenants

An amendment that lenders will not insist on indemnity insurance being obtained in certain situations.

The change is only minor, but significant. Hopefully it should mean fewer arguments about whether a policy is required when a covenant was breached more than 20 years ago.

Paragraph 5.14.13 Leasehold property

Amendment to allow either evidence of service of notice on the landlord or any management company or receipt of notice from the landlord or management

company introduced to recognise the practical difficulties in obtaining a receipt of notice.

Now this is good news. No longer can we be held to ransom by management companies etc who try to charge a small fortune for giving a receipt.

Paragraph 5.14.16 Leasehold property

A change to recognise that original leases may not be available because it has either been lost or destroyed through Land Registry dematerialisation policy.

Paragraph 5.15.2 Management company

An amendment to require that the conveyancer arranges for the borrower to follow the procedure necessary to become a member of a management company after completion, if appropriate, rather than on or before completion, as it was practically difficult to achieve by or before completion.

Paragraph 5.16.2 Insolvency considerations

Minor change to replace 'certify' with 'satisfy' reflecting that there are no longer paper searches capable of certification.

Paragraph 6.4.1 Incentives

Removes stipulation that the DIF must come from the conveyancer as it may come from the seller or developer direct.

Paragraph 6.6.2 Properties let at completion

Additional text in Part 1 'if the letting does not comply, or' to reflect the preceding sentence more accurately.

Paragraph 6.9.2 Easements

An amendment to remove requirement to mortgage adjoining land in limited circumstances, where valid easements exist.

Paragraph 6.14 Insurance

This section has been much simplified to remove the list of risks and range of Part 2 questions in relation to buildings insurance requirements. A part 2 has been retained to allow for lenders to include specific requirements.

More good news. Previously we were supposed to

ensure that the policy covered the range of risks specified; now we must act as follows:

You must make reasonable enquiries to satisfy yourself that buildings insurance has been arranged for the property from no later than completion.

You should remind the borrower that they:

- Must have buildings insurance in accordance with the requirements of the mortgage contract no later than completion, and
- Must maintain such buildings insurance throughout the mortgage term

Easily complied with by a standard provision in your pre-contract report to the buyer.

Paragraph 11.2 Signing and witnessing of documents

A change to recognise the current requirements regarding signing of documents – aligns to the current Land Registry requirements with regards documents related to land.

Paragraph 14.1.1 After completion

Removing the requirement to save a copy of results on the mortgage file as this is already covered by the general requirement at s 14.3.

Paragraph 14.1.5 After completion

A change to reflect the much increased use by conveyancers of electronic registration processes at the Land Registry and to reflect the Land Registry's move toward dematerialisation and increased digitisation as they now have a policy of destroying all original documents they are sent; The amendment also clarifies that conveyancers will not need to keep original documents on file on behalf of lenders, given that the Land Registry will have official copies.

Paragraph 14.2.1 Title Deeds

Addition of wording to clarify that stated documents should be held 'pending completion of the retainer'.

Paragraph 14.3.1 Your mortgage file

A change to clarify that documents which a reasonably competent conveyancer would retain and should be kept- and to clarify that material held electronically is suitable compliance (i.e. hard copies need not be held)

Paragraph 15 Legal costs

Removed last sentence of section as advised that this is no longer a requirement under Law Society or SRA regulation.

Paragraph 16 Properties let after completion

In addition at s 16.4.1 to clarify that the instruction only applies prior to the end of the retainer and deletes s 16.4.4.

Paragraph 17.2 Discharge

Addition of words 'if required' to reflect that part 2 option.

Conclusion

So generally sensible changes – and well done also to the Law Society for suggesting some of the changes! But there is still a long way to go way to go. Why couldn't the Handbook be re-ordered to place things in a more logical order, rather than the haphazard way they are at the moment in the Building Societies' Association Instructions, which are much better in that respect.



NEW RULES ON SEPTIC TANKS FOR ENGLAND

Introduction

Registration of septic tanks and private sewage disposal systems in both England & Wales was introduced in 2010. There are criminal sanctions for non-compliance. However, following the General Election of that year and the devolution of more powers to the Welsh Government, the two countries went their own ways.

Wales:

Septic tanks must have been registered with the Environment Agency by 30th June 2012.

England:

Registration was suspended by the Coalition Government (subject to the septic tank complying with various conditions) pending a further review.

The Review

This was completed in October 2014 and new rules (**relating to ENGLAND only**) in the **Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2014** came into force as from 1st January 2015. Basically it perpetuates the differences between the two countries in that in Wales all septic tanks etc must be registered, whereas in England some will need a permit to discharge although many (in theory) are exempt from the need for this requirement. However, the writer's experiences with the situation following the suspension of registration in England suggest that many septic tanks in England that are potentially exempt will not in fact be so due to failure to comply with the relevant conditions. So to qualify as exempt, the septic tank must have been regularly maintained and emptied at least once every year. One often comes across situations where the seller states that the tank has never been maintained or even emptied – and on one occasion where the seller did not actually know where the tank was situated.

3. **The Environment Agency Website** contains the following guidance addressed to owners of properties with septic tanks:

1. Overview

You must either apply for a permit or qualify for an exemption in England if your home has a:

- septic tank
- small sewage treatment system (known as a 'treatment plant' or 'package plant')

2. Permits

You may need a permit for your septic tank or treatment plant if it:

- discharges a large amount of effluent (treated sewage); or
- is in a 'sensitive area', e.g. near a water supply; or
- doesn't qualify for an exemption

You need to make sure you follow the conditions of your permit.

Discharge into ground

You must apply for a permit if your septic tank or treatment plant discharges both:

- more than 2,000 litres (2 cubic metres) of effluent a day
- into the ground through a drainage field, e.g. an 'infiltration system'

Use the table to get an estimate.

Number of properties	Total number of bedrooms	Discharge per day
1	Up to 12	2,000 litres or less
2	Up to 10	2,000 litres or less
3	Up to 8	2,000 litres or less

Discharge into water

You must apply for a permit if your treatment plant discharges both:

- more than 5,000 litres (5 cubic metres) of effluent a day
- into surface water, e.g. a river, stream or estuary

You can't usually get a permit for a new septic tank (i.e. installed on or after 1st January 2015) that discharges into water. And see below as to all discharges into water being phased out.

You must follow the rules for maintaining and using your septic tank or treatment plant if you have an existing septic tank.

You can use the table to estimate your discharge

Number of properties	Total number of bedrooms	Discharge per day
1	Up to 39	5,000 litres or less
2	Up to 37	5,000 litres or less
3	Up to 35	5,000 litres or less
4	Up to 33	5,000 litres or less
5	Up to 31	5,000 litres or less
6	Up to 29	5,000 litres or less
7	Up to 27	5,000 litres or less
8	Up to 25	5,000 litres or less

You must apply for a permit if your septic tank or treatment plant discharges into the ground through a drainage field, e.g. an 'infiltration system':

- in the protected area around a water supply (known as 'source protection zone 1') - check the groundwater map
- within 50 metres of a private water supply for drinking or food production, e.g. a well, spring or borehole (this doesn't include water supplies that are used for watering crops)

3. Exemptions

You must follow the rules for maintaining and using your septic tank or treatment plant ('general binding rules') if you don't need a permit.

You need to check that it:

- doesn't pollute surface water e.g. rivers and lakes) or groundwater
- is maintained as instructed by the manufacturer - this includes having your septic tank regularly emptied ('desludged')
- is only used for domestic sewage - this is typically waste from toilets, sinks and drains in a home or small business, e.g. a nursing home, guest house or pub

You must apply for a permit if your septic tank or treatment plant doesn't qualify for an exemption.

Use a drainage field

You must build a drainage field around your septic tank or sewage treatment plant if you release sewage into the ground (e.g. in your back garden).

Drainage fields hold treated sewage before it's released. They're also known as infiltration systems.

Your drainage field must meet the British Standard in place at the time it was installed. That's currently BS 6297:2007.

To make sure this is the case you can:

- check if the manual or other documentation that came with your tank or treatment plant includes a certificate of compliance with BS 6297:2007, or another British Standard
- ask the company that installed your equipment to confirm that it complies with BS6297:2007 or the British Standard in place at the time it was installed

Installation requirements

Your septic tank or sewage treatment plant must:

- be installed according to the manufacturer's specification (i.e. the instruction manual or technical set of requirements that comes with the equipment)
- be large enough to handle the amount of sewage you expect to produce
- meet the British Standard for septic tanks and sewage treatment plants that was in place at the time it was installed (currently BS EN 12566)

Your septic tank or treatment plant met the British Standard in place at the time of installation if any of the following apply:

- it has a CE mark
- the manual or other documentation that came with your tank or treatment plant has a certificate of compliance with a British Standard
- it's on British Water's list of approved equipment

You can also ask the company that installed your equipment to confirm that it complies with the British Standard that was in place at the time the equipment was installed.

Maintenance requirements

You must repair or replace your tank or treatment plant if it isn't in good working order, for example if it has:

- leaks
- cracks in tank walls or pipes
- blocked pipes
- a failed motor
- a failed pump
- a failed electrical supply

You must empty your septic tank or sewage treatment plant whenever it becomes full. You should empty it at least once a year even if it's not full.

The company you use to dispose of your waste sludge must be a registered waste carrier.

Requirements if you sell your property

If you sell your property, you must inform the new operator (the owner or person responsible for the sewage treatment plant or septic tank) in writing that a sewage discharge is in place.

Include the following information:

- a description of the treatment plant and drainage system
- the location of the main parts of the treatment plant, drainage system and discharge point
- details of any changes made to the treatment plant and drainage system
- details of how the treatment plant and septic tank should be maintained (and the maintenance manual if you have one)
- maintenance records if you have them

So plenty there for conveyancers to think about when buying properties without mains drainage.

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The author of our April newsletter is Paul Butt, a Solicitor who has over 25 years' experience lecturing to property lawyers. He was formerly an Associate Professor at the College of Law and Senior Lecturer at the University of Chester. He is the author (inter alia) of the Legal Practice Course textbooks on Conveyancing and on Commercial Property and is Editor of Aldridge's Leasehold Law. He is a Consultant with Rowlinsons, Solicitors in Cheshire.

