

A recent upturn in the housing market means there are more people now looking to buy a house than there were just a couple of years ago. Demand is increasing but supply may not necessarily be able to meet it. As a result, there is evidence that some people may be rushing into buying a new home so that they don't miss out.

This may have implications for house buyers, since mistakes can be made and certain things overlooked. For instance, the Legal Ombudsman is currently seeing a number of complaints regarding Stamp Duty Land Tax. This is a tax paid when buying a house above a certain value and is collected by HM Revenue and Customs (HMRC).

Your lawyer will usually prepare a financial statement before completion and collect the stamp duty payment from you. They should then pay this money to HMRC on your behalf. Unfortunately, as the rules stand, if your lawyer doesn't make this payment for whatever reason, it is still your responsibility; and HMRC will request the money from you along with interest and penalties if it isn't paid.

We have put together some tips, based on our experience of resolving disputes around this issue, which should ensure that you have a better understanding of the issues and potential risks.

Tips on resolving disputes and potential issues and risks

- 1. Try and avoid any nasty surprises.** Make sure you know from the start how much stamp duty you will have to pay. Speak to your lawyer in the first instance and then double check the amount payable yourself. You can [use HMRC's stamp duty calculator here](#). Once you've transferred the money to your lawyer, seek assurances that they have made this payment and don't assume anything. Remember, ultimate responsibility for making sure HMRC receives the correct amount rests with you.
- 2. Consider getting like for like quotes.** After completion (when you get the keys to your new home) your lawyer has to fill out paperwork to send your stamp duty payment to HMRC. Most law firms charge for this: typically £75 to £100 on top of their fees. Therefore a quote that is £50 cheaper on legal fees might not be cheaper overall if there is an extra £100 payable for filling out the stamp duty form. Do your homework.
- 3. Seek confirmation that your lawyer has met the 30 day deadline.** Stamp duty has to be paid within 30 days of completion; otherwise a penalty fee is incurred. It may be worth checking with your lawyer a few days after completion that they have paid the stamp duty for you. If it isn't paid within 30 days because of a problem with your lawyer, and you incur a penalty fee, make sure you complain to the lawyer in the first instance. If you're unhappy with their response, then bring your complaint to the Legal Ombudsman.

- 4. Know your options if the lawyer ceases trading.** Sometimes law firms go out of business, meaning they don't get round to paying outstanding stamp duty costs. But HMRC will still expect the payment. If this happens, you should contact HMRC to explain the situation and then get in touch with the firm's regulating body in the first instance: this will usually either be the Solicitors Regulation Authority (SRA) or the Council for Licensed Conveyancers. They will be able to help advise on next steps, and may be able to help you recover your money via a compensation fund. But don't be tempted to put things off if you know that your solicitor has stopped trading. The longer stamp duty payment is delayed, the more financial penalties and interest you might be asked to pay.
- 5. Be wary of fraudulent activity.** Very occasionally law firms are guilty of fraudulent activity regarding stamp duty, which means that, for example, they may hold onto your money intentionally. If you become aware of anything suspicious, particularly after being alerted to any non-payment by HMRC, you can seek help from the Legal Ombudsman. We will investigate any aspects of poor service and, if we suspect there has been misconduct, we'll also refer the matter to a regulator. Speak to your lawyer first of all and if they are unable to provide answers, contact us immediately.
- 6. Avoid the temptation to cut corners.** Because stamp duty can be an expensive additional payment when buying a house, it can be tempting to look for ways to minimise it. Generally, be wary of any scheme offering to reduce your stamp duty liability – if it seems too good to be true it usually is. For example, paying £260,000 for a property with £249,000 apportioned to the house and £11,000 to a second hand mirror (which usually would not attract stamp duty) is unlikely to be legal. If in doubt seek advice from your solicitor and/ or tax adviser.
- 7. Be clear about lender or builder promotions and what they mean.** Some mortgage lenders will offer to 'pay your stamp duty'. Usually, this means the lender will send an extra amount, equivalent to the stamp duty, to your lawyer with the mortgage advance. Similarly, a builder may offer an allowance against the house sale price: for example, with a £200,000 house you pay the builder £198,000 so you have effectively saved the £2,000 stamp duty that you have to pay. In both scenarios it is still your responsibility to ensure the payment is made, so follow up with the mortgage lender/ builder and your lawyer to make sure everything has been sorted out.

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