Buying property through a limited company

Buying residential property through a limited company requires informed decision-making and expert legal guidance at every step. This briefing note explains the process and our fees for the corporate elements you must fulfil when you purchase a property through a company. It does not cover the residential elements and transaction charges. Your conveyancer will estimate separately.

It is important to note that buying a property through a company is not more straightforward than buying a property personally due to additional lender and company law procedures and requirements.

It is a popular option for many investors and can bring tax advantages, but it is essential to consult your accountant and IFA about those elements. This briefing note does not constitute legal advice.

The company must also comply with company law and follow the procedures outlined by statute and the company's constitutional documents.

The basic procedure

Once you have found a property you wish to purchase, you will need to locate funding. The company may have sufficient funds to purchase the property outright, but it will likely need to borrow funds in the form of a mortgage. Each lender has different criteria for their company requirements, and every mortgage is tailored to its own specifications.

The company must also comply with company law and follow the procedures outlined by statute and the company's constitutional documents.

Once instructed, we will (amongst other things the lender may require):

- Review the mortgage offer to see whether any specific corporate conditions exist to comply with.
- Review the company's constitution to check a) whether the company has the authority to buy/sell property and b) whether the company has the authority to borrow money and register a charge at Companies House.
- Produce board minutes, documenting the approval of the mortgage offer and the purchase.
- Subject to the company's constitution, it may also be necessary to produce shareholder resolutions granting the directors the necessary authority/powers.
- Prepare and file the charge at Companies House on behalf of the company and the lender (a specific requirement of any lender).

Our rate for this section is £495 plus VAT based on a normal transaction. If your matter has additional complexity, we will need to revise this estimate in agreement with you.

Independent legal advice

It is increasingly common for lenders to insist that the company's directors give personal guarantees for any loan to a company, particularly if the company is newly incorporated.

A personal guarantee is where, in the event of default by the company, the directors guarantee the company's obligations under the mortgage deed, e.g. to pay the mortgage. The personal guarantee may require the guarantor to seek independent legal advice. Depending on the lender's criteria, we may be able to take instructions on this and act on this internally from another office.

Once instructed, we will (amongst other things the lender may require):

- Review the personal guarantee, provided by the lender.
- Arrange a meeting with you to discuss the terms and conditions of the personal guarantee and answer any questions you may have. We will also send you our advice in writing and arrange for the personal guarantee and any supporting documents to be signed.

Our rate for independent legal advice is £495 plus VAT per person. Each individual will need separate advice.

Loan agreements

It is common for individuals who own companies to loan the purchasing company some of the consideration either individually or through another company they own. This process must be administered correctly because if it is done incorrectly, the loan may be interpreted as a gift, which may lead to adverse tax implications and be in breach of the mortgage you have in addition to this loan. Each mortgage lender will have requirements for the personal loan aspect and your IFA must declare this at the start if you are borrowing money separately.

Once instructed, we will (amongst other things),

- Produce a loan agreement documenting the terms and conditions on which the companies have agreed to lend and borrow or review a loan agreement produced by your accountant.
- Ensure the loan agreement is not a gift and attracts interest, complying with the lender's requirements.
- Finalise the loan agreement.

Please note that we can only act on behalf of the purchasing company, and therefore, any advice in relation to the loan agreement will be given accordingly.

Our rate to review a standard loan agreement is £500 plus VAT, and our rate for drafting a standard loan agreement starts at £950 plus VAT.

Private loans and additional company work

Where a company grants or receives a loan (as stated above), the directors of the company must ensure that a) they have the necessary constitutional powers and b) fully and accurately document, in the form of a resolution, the approval of such loan.

Once instructed, we will (amongst other things the lender may require):

- Review the company's constitutional documents to check whether they have the power to loan/borrow money and whether there are any special conditions/procedures to comply with.

- Produce board minutes for the company (and, in the event of a company-to-company loan, minutes for both the borrower and lender), documenting the approval of the loan agreement.

It may also be necessary for the company to obtain shareholder approval. We will advise you accordingly throughout the transaction. Our rate to review the company's constitution and produce board minutes is £300 plus VAT.

This briefing note and charge rates are based on a standard transaction. Each matter will be reviewed on a case-by-case basis and our rates may need to be adjusted accordingly.

At SO Legal we have the relevant departments, expertise and commercial awareness to carry your transaction from start to finish in the most efficient and practical manner, however, a high level of cohesion between yourselves, your accountants and persons with an interest in the company is key to a smooth transaction.

If you have any questions about buying property through a limited company, please do not hesitate to contact our team at enquiries@solegal.co.uk.