DEMANDS & NEEDS STATEMENT AND SUITABILITY

When we investigate the title to the Property in connection with your purchase, it is possible that we may discover that the property has a defect in the title. A title defect is an error or omission in the title deeds or associated documentation and may have an adverse effect on your ability to sell or remortgage the property and, if the issue is not resolved, it may have a negative impact on the value of the property.

An example of the type of defects is shown below

Is it the seller's responsibility to resolve this problem?

In an ideal world, yes, and in the first instance we will always look to the seller to rectify the situation at their own expense. There is no guarantee, however, that the seller will agree to do so and there is no legal avenue available to you to compel the seller to remedy the problem.

If the seller refuses, what are my options?

If a defect in title is identified there are a number of options available to you:-

- **TO WITHDRAW FROM THE TRANSACTION**. This is, however, unlikely to be your desired outcome.
- **TO CONTINUE WITH THE TRANSACTION IRRESPECTIVE OFTHE DEFECT**. This may not be feasible if a lender is involved. This could also affect future saleability and/or mortgageability of the property
- **TO ATTEMPT TO REMEDY THE DEFECT**. In our experience this may not always be possible, if it is possible it will take some time to achieve and may be more expensive and time consuming than the final option below.
- **TO OBTAIN DEFECTIVE TITLE INDEMNITY INSURANCE**. In these circumstances we may offer you the option of proceeding with the purchase with the assistance of "indemnity insurance". If you do wish to proceed with the transaction this option could provide a quick and relatively cheap way of overcoming the title problem provided that you are fully aware of the implications of taking out the insurance.

What is indemnity insurance?

Indemnity insurance is an insurance policy which covers you for losses arising as a result of the defect, in particular where an affected person or organisation takes issue with the defect in title.

As a result, it is imperative that you do not directly or indirectly inform that affected person or organisation of the existence of the defect, or the fact that you have indemnity cover as this will invalidate the Indemnity Insurance and you will not be covered against any losses. It is essential that you understand that Indemnity Insurance WILL NOT remedy the defect in the title, it merely provides a solution that allows you to proceed with a transaction despite the defect.

If you do take out an indemnity policy a specimen of the policy will be provided to you for your consideration before the policy is taken out. It is imperative that you read through the whole of the policy and understand the limitations and conditions attached to the policy.

Does this make the problem go away?

Indemnity policies are usually accepted by buyers and mortgage companies to deal with defects in title and to enable the transaction to proceed to legal completion. However, there is no guarantee that a future buyer or their mortgage lender will accept these policies and therefore could refuse to purchase the property from you in the future.

Can Levi Solicitors arrange this insurance for me?

Yes. However, under the Financial Services Authority (FSA) regulations we are required to ensure that the indemnity policy that we recommend is suitable for your needs.

We deal with Countrywide Legal Indemnities and Guaranteed Conveyancing Solutions for defective title indemnity insurance but we are not contractually obliged to conduct business in this way. Our recommended policy will be issued by either Countrywide Legal Indemnities or Guaranteed Conveyancing Solutions or First Title, leading providers of title insurance products and regulated by the FSA

TYPES OF DEFECTS	
Absentee Landlord	Where the Landlord has been missing for at least 12 months and cannot fulfil its obligations under the Lease
Access and/or Services	Where the deeds do not show any, or contain inadequate rights for access to the property or for the connection of the service pipes across adjoining land to the mains (access and/or services need to have been in existence for at least 12 months)
Contingent BuildingsInsurance	Where there are inadequate insurance obligations contained in the lease over a property
Deed of Postponement	Applicable for "Right to Buy" properties where the discount charge has yet to expire and the property is being re-mortgaged (for the protection of the mortgage company only)
Defective Title	Where the property is registered at the Land Registry with Good Leasehold title rather than absolute title and/or the property is subject to an outstanding freehold rent charge and/or the property is subject to a previous ineffective Deed of Enlargement (property needs to be at least 12 months old)
Flying and/or CreepingFreehold	Part of a property extends above or below another property and the deeds do not contain the necessary rights of support and access for maintenance and/or enforcement scheme to enforce support, repair and maintenance provisions over the adjoining affected property (property needs to be in existence and unaltered for more than 12 months)
Insolvency Act	A Deed of Gift or Transfer at Undervalue has taken place within the last 5 years
Lack of NHBC or Architect's Certificate	Where the relevant NHBC certificate or Architects Certificate has not been produced (the property must be at least 4 years old and no parties to the transaction are aware of any existing structural problems)
Lack of Planning Permission and/or Building Regulations	No evidence has been provided to confirm that the planning permissions for works to the property have been obtained and/or relevant consent for building works to the property have been obtained. Please note that the policy provides no warranty for the quality of the work nor does it provide any protection/confirmation that the building works complied with Building Regulations. If you have any concerns with regard to the adequacy of the building work or compliance with building regulations you should instruct a surveyor to provide you with a report (building works needs to have been carried out more than 12 months ago).
Lost Title Deeds	Some or all of the title deeds have been lost, destroyed or mislaid and contain relevant information, restrictions or obligations (the use of the property needs to be in existence and unaltered for more than 12 months)
Maisonette	The lease contains inadequate provisions as to repair and/or maintenance of the building of which the property forms a part
Restrictive Covenant	Where there are known or unknown covenants in the deeds that restricts the use or type of building and the covenants have been breached or potentially breached (the property needs to be in existence and the use of the property unaltered for more than 12 months)
Sewer	Where all or part of the property is erected over either a public or private sewer or drain and it may be necessary for the Local Authority to carry out or request to be carried out works of repair
Unadopted Drains	Whereanunadoptedsewerordrainrunsfromthepropertytothemainpublicsewerwhich may require maintenance or repair
Unknown Rights andEasements	The property is subject to unknown rights, easement, exceptions or reservations contained in a missing deed dated at least 20 years ago (property needs to be more than 12 months old