



# Your Guide to Transfer of Equity with GloverPriest



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# *Conveyancing* GUIDE TO TRANSFER OF EQUITY

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Transfer of equity is the legal process of changing the ownership on a property. You might use this to add or remove a spouse as an owner after a marriage or divorce, or to adjust the ownership share.

There can be a number of reasons why you might need to arrange this. You may want someone else to become a joint owner of your home or you need to remove someone from the deeds for whatever reason. Either way, our team is here to help.

## There are two types of property transfer

### Full transfer of ownership

If you are gifting the property in its entirety to another person (e.g. a child or family member), you would be transferring full ownership of the property.

### Part transfer of ownership

If, for example, you are the sole owner of a property and you want to transfer a share (e.g. 50%) in the property to your partner, spouse, child or someone else, you would be transferring part ownership of the property.

The basic property transfer process is the same in most cases, whether you are transferring full or part ownership.

## THE CONVEYANCING QUALITY SCHEME

We are members of the Law Society's Conveyancing Quality Scheme (CQS) which provides a recognised quality standard for residential conveyancers. Membership of the CQS provides an assurance of quality and service to our clients as well as to professional regulators, lenders and insurers. This assurance based upon:

- (a) the integrity of our Senior Responsible Officer and other key conveyancing staff;
- (b) our adherence to good practice management standards; and
- (c) adherence to prudent and efficient conveyancing procedures



# *The* TRANSFER OF EQUITY CONVEYANCING PROCESS

Apply for a remortgage/new mortgage (if you need one). Because the property's ownership is changing, court order, affecting its equity, your mortgage provider will need to account for this. Speak to your provider or financial adviser about your options and if possible, agree a mortgage in principle.

Instruct a conveyancer. If someone will be joining your title, both parties can be represented together. However, if someone is to leave, the parties will need to have separate legal representation.

Let your conveyancer take care of the legal work. As part of their fee, your conveyancer will confirm things with your mortgage provider (if required), as well as the property's freeholder (if there is one).

Complete. Your conveyancer will send the mortgage deed for you to sign and then facilitate the transfer of any funds between parties. Outgoing parties will need to complete and sign an ID1 form, in the presence of their conveyancer.

After-completion. Your conveyancer will calculate any stamp duty liable to HMRC and facilitate payment of it. They'll also ensure details of the new ownership are logged with the land registry.



# Key FAQS

## What is 'equity'?

For a home owner, 'equity' is the value of a property minus the amount of the mortgage outstanding.

## Why might I need to transfer equity?

Examples of when you might transfer equity include:

- Selling your share in a property
- Separating from a partner or spouse
- Buying out an ex-partner
- Buying out a joint owner
- Adding a new partner or spouse to the title of your property
- Gifting a property (or share in a property) to a child or family member
- Inheritance Tax (IHT) planning.

## What if there is a mortgage on the property?

If there is an existing mortgage in place and you intend to pay it off before the equity is transferred, there is no need to tell your mortgage lender.

If you intend to remortgage or keep your existing mortgage after the transfer of equity, you will need to obtain the lender's consent.

The lender will need to be satisfied that either you (as a sole owner), or you and the new joint owner, will be able to pay the mortgage.

Obtaining a 'Decision in Principle' from the lender will confirm that your existing or new lender is happy with the proposed change in ownership.

If you are relinquishing equity and there is a mortgage in place, you will need to be released from the terms and conditions of the mortgage.

## How long does the process take?

A simple transfer of equity can take around 4-6 weeks to complete. However, each transaction is different, and the time taken to complete the transfer can vary greatly.

If there is a mortgage on the property, the transfer will take longer as you will have to wait to receive written consent from any lenders involved. Likewise, if the transfer is required as part of a larger legal dispute – for example, a divorce that is being resolved by the Court – the transfer may be held up until all disagreements have been resolved.



## Stamp Duty tax implications of Transfer of Equity

If you want to transfer property into joint names – after marriage, for example – you could also be charged stamp duty. This happens when the house is subject to a mortgage.

Even though no money changes hands, they are taking on half of the mortgage debt. As such, anything above the threshold will be subject to stamp duty land tax.

## Does property transfer have tax implications?

The tax implications of an equity transfer depend on the nature of the transfer. There's currently no capital gains tax charged on transfers to your spouse, civil partner or a charity or if part of a divorce. Anyone else, including children, and the property is subject to the capital gains tax (CGT). You get an annual exemption of £11,000, and anything beyond that will be charged at 18% or 28%. The tax rate depends on whether you're a basic or higher rate taxpayer, as well as the size of the gain.

To reduce the CGT, you could transfer the property, or a share, into your spouse's name to utilise two annual allowances and potentially reduce the CGT. For instance, if you wanted to transfer to a child. This is all something a conveyancer could help you with.

A transfer of equity like this could be treated as a potentially exempt transfer (PET) for inheritance tax (IHT) purposes. The liability only reduces gradually over seven years if the value is greater than £325,000. After seven years, it would no longer form part of your estate.

## Can you transfer equity to someone under 18?

You will need to set up a trust deed. Legally, someone under 18 can't hold the property but this document allows a trustee to hold it until they turn 18 and the equity is transferred to them.

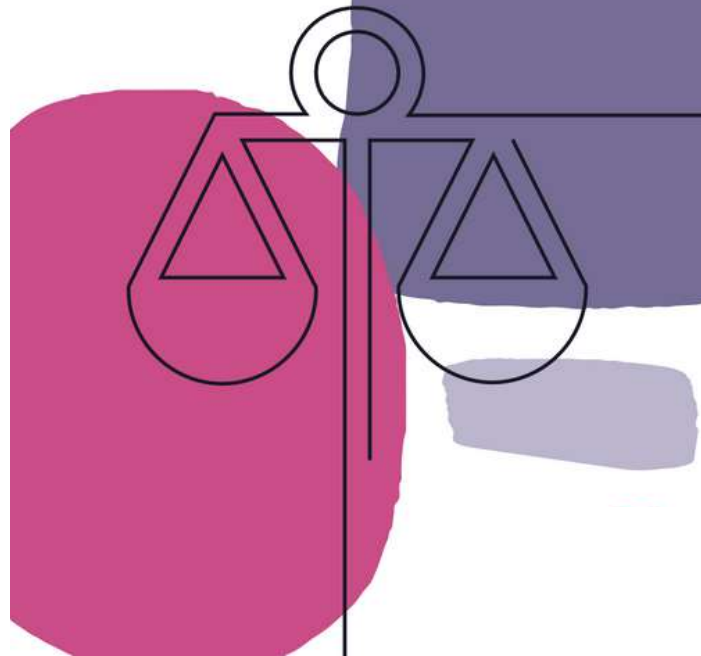
## What is chargeable consideration?

The amount of property being transferred is what comes under 'consideration'. This could include both equity and the value of the mortgage. It will depend on the size of this total whether you pay stamp duty.

But that's not all it depends on. It's also down to the nature of the transfer. For example, couples who are legally separating or transferring equity by court order, don't need to pay stamp duty. Because individual situations can affect what's paid, it's important to discuss expected costs with a solicitor.

*for more frequently asked questions  
visit [www.gloverpriest.com](http://www.gloverpriest.com)*

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