

Your Legal Questions

Tim Hannah
Partner & Solicitor



Q I am buying a property. Do I need a survey or can I rely on the lender's valuation?

A At the end of the standard mortgage valuation, you are likely to find words such as: "this is not a structural report and is based upon a limited inspection. It may not reveal serious defects and may contain inaccuracies and omissions. It is unlikely to be adequate for purchaser's purposes and should not be relied upon. You are strongly advised to obtain a further report"

The valuer is instructed by the lender and not by you and except in rare cases is not liable to you but only to the lender.

To establish liability directly against the valuer in those rare cases it will be necessary to show not only that he failed in his duty to carry out the valuation with reasonable skill but also that he had assumed responsibility towards you for the content of his report or the relevant part of it. For the reasons set out above this can be very difficult as his instructions come from the lender and the matters about which you wish to complain may not fall within the scope of his instructions.

Because of the general rule of caveat emptor which places the onus of discovering any physical faults in the property on the buyer it is always best to have an independent survey carried out because this is not only far more detailed but also creates a distinct contract between you and the surveyor on which you can rely.

Tim Hannah is a Partner and Solicitor in the Commercial and Property Department.

Direct dial 01934 637 920 / hannah@powellslaw.com