

DEALING WITH COMPLETION DAY NIGHTMARES



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Agenda

- Guides to help you
- Scenarios
- Buyer delay
- Standard Condition 7
- Notice to complete
- Seller delay
- Practical considerations
- Final Thoughts

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- Guides to help you:
- The Law Society, the Solicitors Regulation Authority and the City of London Law Society
- Standard Conditions of Sale
- Law Society Code for Completion by Post
- Notice To Complete



An aerial photograph of a suburban neighborhood. The houses are mostly single-story with red or brown tiled roofs. Many have swimming pools in their backyards. Some roofs are covered with solar panels. The streets are paved and have some parked cars. The overall scene is a typical suburban residential area.

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Scenarios

1. Buyer delay - Mortgage advance
2. Seller delay - Adverse entry on OS1 / Seller can't give vacant possession

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Delayed Mortgage Advance – Buyer Delay

You act for Mr and Mrs Smith. You exchanged 2 weeks ago and completion is today. You have done your pre-completion searches which are clear. The clients have sent their balance of funds and you submitted your Certificate of Title straight on exchange.

You then went on holiday, left the file with a colleague asking them to call the lender and ensure monies can be released. That colleague was off sick and the call was never made. The lender didn't receive the COT?



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- Best Case Scenario: seller already moved and no chain?

7.2 Late completion

- 7.2.1 If there is default by either or both of the parties in performing their obligations under the contract and completion is delayed, the party whose total period of default is the greater is to pay compensation to the other party.
- 7.2.2 Compensation is calculated at the contract rate on an amount equal to the purchase price, less (where the buyer is the paying party) any deposit paid, for the period by which the paying party's default exceeds that of the receiving party, or, if shorter, the period between completion date and actual completion.
- 7.2.3 Any claim for loss resulting from delayed completion is to be reduced by any compensation paid under this contract.
- 7.2.4 Where the buyer holds the property as tenant of the seller and completion is delayed, the seller may give notice to the buyer, before the date of actual completion, that he intends to take the net income from the property until completion. If he does so, he cannot claim compensation under condition 7.2.1 as well.

A circular inset image on the left side of the slide shows a close-up of a person's hand holding a silver pen, writing on a white document. In the background, a white cup of coffee is visible on a saucer. The image is partially obscured by a white curved shape that separates it from the text.

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Contract for Sale

Contract Rate: 4% above the Bank of England Base Rate

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- Worst Case Scenario if seller is purchasing and there is a chain?





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Contract for Sale: Special Condition:

In the event that the balance of purchase monies shall not be received by the contractual time for completion on the completion date, the Buyer shall in addition to and not in substitution for any other remedies available to the Seller, pay to the Seller in addition to all contractual interest payable as expressed in this Contract, the sum equivalent to:

- i. Any loss suffered or expense incurred by the Seller in arranging bridging finance for any purpose dependent upon the sale.*
- ii. Any interest or other associated costs payable in respect of the Seller's related conveyancing transaction. The cost of re-arranging removal or storage arrangements consequent upon the delay. The reasonable costs due to the Seller's Conveyancer in respect of the recovery of such sum and for any additional work arising from the delay in receiving the monies due. This clause shall not merge on completion of this Contract.*

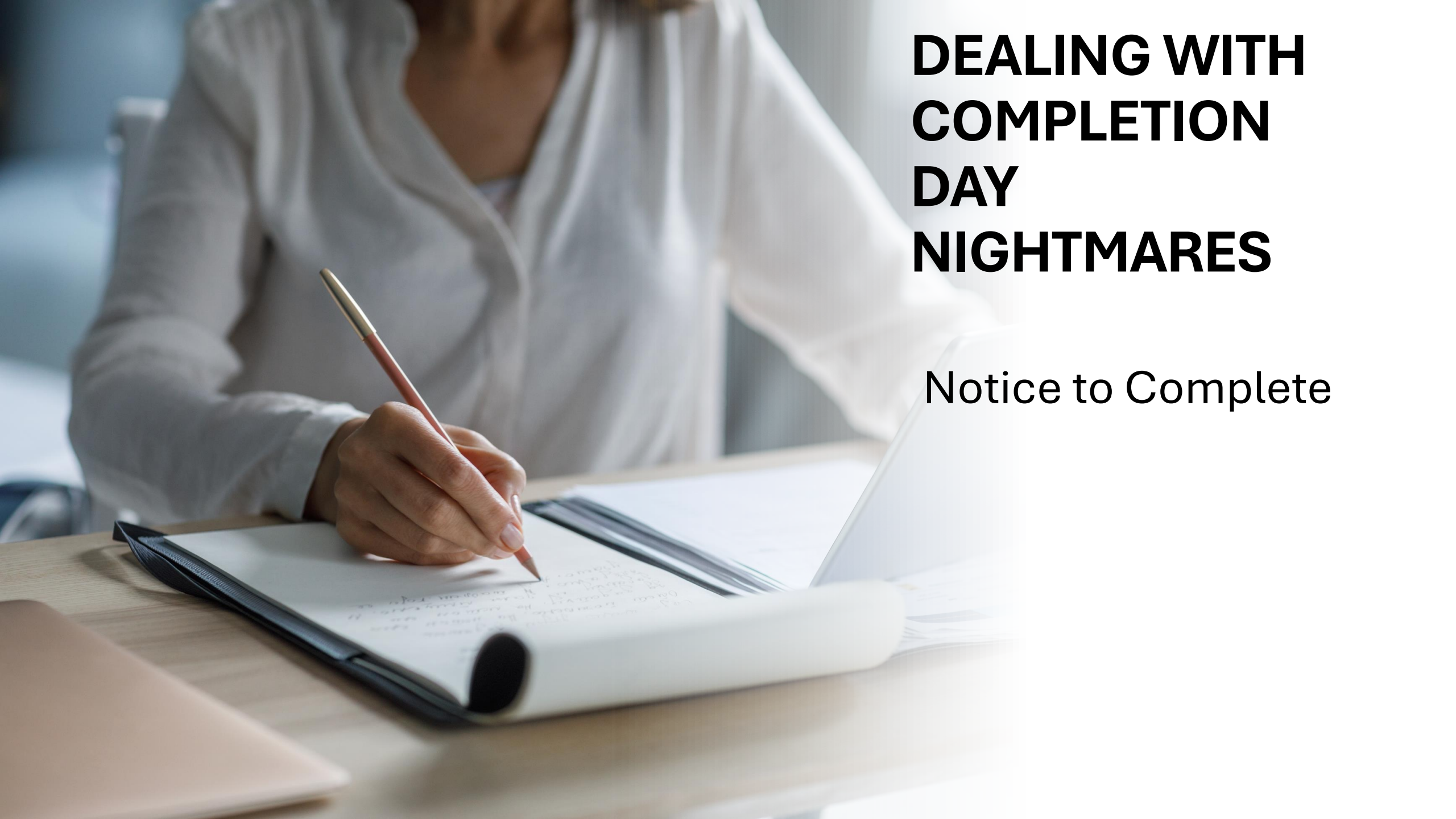


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Consider this:

Acting for buyer:

- Mortgage advance didn't arrive on completion day
- No notice served
- Arrived the next morning
- Sent completion monies to sellers with a day's interest (pursuant 7.2 of the Standard Conditions of Sale). Completed, keys released. Advised client.
- Then ...
- Seller conveyancer is refusing to send the transfer unless removal costs, mortgage interest, other alleged costs paid.



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Notice to Complete

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“Time is of the essence”

Imagine the scene:
Christmas is coming...



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Standard Condition 7.4

7.4 Buyer's failure to comply with notice to complete

7.4.1 If the buyer fails to complete in accordance with a notice to complete, the following terms apply.

7.4.2 The seller may rescind the contract, and if he does so:

(a) he may:

(i) forfeit and keep any deposit and accrued interest

(ii) resell the property and any contents included in the contract

(iii) claim damages

(b) the buyer is to return any documents he received from the seller and is to cancel any registration of the contract.

7.4.3 The seller retains his other rights and remedies.



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Seller fails to vacate

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Standard Condition 7.5

7.5 Seller's failure to comply with notice to complete

7.5.1 If the seller fails to complete in accordance with a notice to complete, the following terms apply.

7.5.2 The buyer may rescind the contract, and if he does so:

(a) the deposit is to be repaid to the buyer with accrued interest

(b) the buyer is to return any documents he received from the seller and is, at the seller's expense, to cancel any registration of the contract.

7.5.3 The buyer retains his other rights and remedies.

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- Adverse entry on OS1 – Seller delay

HM Land Registry

Application by purchaser for official search with priority of the whole of the land in a registered title or a pending first registration application

Use one form per title.

Any parts of the form that are not typed should be completed in black ink and in block capitals.

If you need more room than is provided for in a panel, and your

OS1

HM LAND REGISTRY USE ONLY
Record of fees paid

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Practical Considerations





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Final thoughts and questions