P5 – Commercial Conveyancing

Professional Stage

2025- 2026 v1.1

P5: Commercial Conveyancing

The aim of this module is to give you the essential knowledge and understanding of the law and procedure relating to commercial conveyancing issues and transactions. The module covers taxation advice and issues involving risk (for example, money laundering and fraud). There is a focus on analysis of situations and documents to enable you to select the most appropriate next steps or advice to a client in order to advance the transaction or protect the client's interests.

This module will cover the following five scenarios and the associated documentation, procedures, requirements, and statutory controls:

(i) Grant of a new commercial property lease

(ii) Grant of a commercial property underlease

(iii) Assignment of an existing commercial property lease

(iv) Sale of a freehold commercial property subject to tenancies

(v) Tenant applications for landlord's consent (Asset management)

In addition, the module will cover the contents of a typical commercial property lease and security of tenure for business tenants under the Landlord and Tenant Act 1954 (LTA 1954).

The module covers:

1. Organisations and statutory regimes
2. Underpinning landlord and tenant law
3. Key documents – commercial conveyancing
4. Co-ownership and conflicts – relevance to commercial conveyancing
5. Regulatory matters in commercial conveyancing
6. Dealings and parties in commercial conveyancing
7. Commercial property leases – preliminary issues
8. Commercial property leases – key statutory provisions
9. Commercial property leases – contents of an FRI lease
10. Commercial property leases – landlord's consent
11. Taxation in commercial property matters
12. Commercial property leases – security of tenure for business tenants
13. Commercial property agreements – overage agreements; pre-emption agreements; development agreements; land promotion agreements; option agreements
14. Overview of a conveyancing transaction – commercial context
15. Taking instructions and initial steps
16. Deducing and investigating title
17. Drafting the contract and preparing the pre-contract package
18. Pre-contract searches and enquiries
19. Planning considerations in a commercial property transaction
20. Financing a purchase
21. Reporting to client and exchange of contracts

22. Preparing for completion
23. Completion
24. Post-completion
25. Looking ahead – proposed reform

Learning Outcomes

By the end of this module, you will be able to:

1. Identify appropriate steps and advise the client accordingly in relation to a commercial conveyancing transaction.
2. Analyse a typical commercial property full repairing and insuring (FRI) lease and amend this to take account of a client's instructions.
3. Identify whether a commercial property lease is protected under the LTA 1954, advise on the key steps to take in relation to contracting out of the LTA 1954 on commencement of the tenancy, and describe the key steps to be taken at the end of the lease by (i) a landlord who wants to end the tenancy and (ii) a tenant who wants to retain security of tenure.
4. Draft or amend (i) asset management licences, (ii) a contract using the Standard Commercial Property Conditions (Third Edition – 2018 Revision) (SCPC), (iii) a rent deposit deed and (iv) a statutory declaration to contract out of the LTA 1954. Amend the key clauses of a commercial property FRI lease to reflect a client's instructions. Complete HM Land Registry documentation to give effect to a commercial property transaction.
5. Explain (in outline) other types of document that are encountered in a commercial conveyancing context.
6. Identify situations that potentially give rise to conflicts of interest, issues of professional ethics or other issues under the applicable Codes of Conduct.

Linked online assessment: P5
TQT: 300 hours
Prerequisite knowledge: Foundation Stage Introduction to Property and Private Client and Advanced Stage Property and Conveyancing

Module Resources

In addition to the VitalSource manual, there is a reading list to accompany the module which is located in the ‘Study Guide and Content Updates – Professional Stage 1st Editions’ document in the VitalSource bookshelf, Training Provider hub and in myCILEX.

All CPQ candidates must read the relevant CILEx Regulation Education Standards Handbook.

Details of updates included in 2025- 2026 Module Specification

Note Changes in topic headings to follow the Commercial Conveyancing course book

- Module resources- reference to CRL Education Standards
- 1 topic heading: changed to ‘regimes’ from ‘controls’
- 1b: deletion of ‘controls’ replaced by ‘regimes’
- 1a: addition of ‘CILEX’ and ‘SRA’
- 2c: addition of ‘service of statutory demand’
- 3 topic heading: changed to ‘Key documents’ from ‘Technical basics’
- 3a: addition of ‘Heads of Terms’ and ‘Commercial Property Standard Enquiries (CPSEs)’
- 4 topic heading: addition of ‘and Conflicts’
- 5b: addition of ‘Remedies and’
- 6 topic heading: changed to ‘Dealings and Parties’
- 8b: deletion of ‘s1(6)’ replaced by ‘s1’
- 9 topic heading: reference to ‘FRI lease’ rather than ‘lease of whole’
- 9b: addition of ‘other payments’, ‘uninsured damage’, ‘Use’ and ‘Landlord’s release’
- 10a and b: addition of ‘amending’
- 10c: addition of ‘compliance with terms of lease’, ‘grounds for refusing consent’ and ‘(alterations and use)’
- 16: addition of ‘(subject to tenancies)’
- 17: addition of ‘or amend’
- 18a: addition of ‘highways search’
- 20b: addition of ‘overseas entity regime’
- 22a: addition of ‘rent authority letters’

1. Organisations and statutory regimes	An effective commercial conveyancer must know the relevant organisations with which they will regularly come into contact and have an overview of the key statutory regimes. Therefore, you will need to know the following: a) Organisations • CILEX • Law Society • Solicitors Regulation Authority • Royal Institution of Chartered Surveyors (RICS) ▪ Code for Leasing Business Premises (1st edition); ▪ Service Charges in Commercial Property (1st edition) • HM Land Registry (HMLR) • Commercial lenders • HM Revenue & Customs (HMRC) and Welsh Revenue Authority (WRA) – how to deal with HMRC/WRA; payment of tax b) Relevant statutory regimes • Construction (Design and Management) Regulations 2015 • Control of Asbestos Regulations 2012 • Party Wall etc. Act 1996 • Regulatory Reform (Fire Safety) Order 2005 (as amended) • Contracts (Rights of Third Parties) Act 1999 • Town and Country Planning (Use Classes) Order 1987; Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 • Energy Performance of Buildings Regulations (England and Wales) 2012 (and associated guidance) • Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 • Building Safety Act 2022 and higher-risk buildings regime (in outline)

2. Underpinning landlord and tenant law	An effective commercial conveyancer must be able to recognise when there is privity of contract and/or privity of estate between the parties to a commercial property lease and whether the covenants in a lease will bind the successors of the original parties. The conveyancer must also have an awareness of the remedies available for breach of a covenant in such a lease. Therefore, you will need to know the following: a) Landlord and Tenant (Covenants) Act 1995 • Authorised Guarantee Agreement (AGA): purpose, content, drafting a straightforward AGA • Overriding leases; s.17 notices; right to request an overriding lease b) Types of commercial occupancy arrangement • Leases; licences; tenancies at will c) Remedies for breach of covenant by tenant • Non-payment of rent / breach of other covenants – debt action, forfeiture, Commercial Rent Arrears Recovery (CRAR), pursue guarantors and / or rent deposit, specific performance, injunction, damages, self-help (*Jervis v Harris [1996]*), service of statutory demand d) Remedies for breach of covenant by landlord • Damages; breach of statutory obligation • Injunction • Specific performance • Self-help, deduction and set-off
3. Key documents – commercial conveyancing	An effective commercial conveyancer must be able to identify the key documents in relation to their area of practice and understand what each of them contains. Therefore, you will need to know about the following common commercial conveyancing documents: • Heads of Terms • Standard Commercial Property Enquiries (CPSEs) • Contract of sale incorporating Standard Commercial Property Condition (Third Edition – 2018 Revision) (SCPC) • Transfer of whole or part of commercial property • Agreement for lease of commercial property • Lease of commercial property • Underlease of commercial property • Licence to assign and other asset management licences • Wayleave • Agreement to surrender a lease • Deed of surrender of a lease

	• AGA • Rent deposit deed • Rent review memorandum • Deed of variation of a lease • Assignment of an unregistered lease/transfer of a registered lease
4. Co-ownership and conflicts – relevance to commercial conveyancing	An effective commercial conveyancer must be able to advise on co-ownership in a business context and recognise when a conflict of interest could arise. Therefore, you will need to know the following: • Relevance of co-ownership issues to commercial transactions • Relevant case law • Client circumstances relevant to the co-ownership advice to be given in a commercial conveyancing transaction • Recognising and resolving conflicts of interest in relation to commercial co-ownership advice • Importance of a declaration of trust and a Will in relation to commercial co-ownership advice • Advising a party where their spouse or civil partner wishes to mortgage the family home for business purposes
5. Regulatory matters in commercial conveyancing	An effective commercial conveyancer must be able to advise on costs, comply with due diligence requirements, draft an undertaking for costs and appreciate the risks relating to money laundering. Therefore, you will need to know the following: a) Client care and client identification • Identifying a business client • Identifying a company client; beneficial owners; Companies Act 2006 - Memorandum of Association (including power to enter into a lease); Articles of Association; enhanced due diligence in accordance with 5th Money Laundering Directive; Register of overseas entities • Letter of engagement • Terms of business • Legal fees, VAT and disbursements • Risks of client identification - fraud in commercial conveyancing • Dealing with a party who is unrepresented b) Undertakings • Purpose of an undertaking • Remedies and sanctions for breach of an undertaking • Undertaking for landlord’s legal fees; risks - obtaining money on account from client

	c) Money – relevance to commercial property • Money laundering and other security checks • Application of the client account rules • Cybercrime risks d) Other fraud risks in commercial conveyancing
6. Dealings and parties	An effective commercial conveyancer must be able to identify accurately the parties to a transaction and the nature of the interest being created or transferred. Therefore, you will need to know the following: a) Parties • Sale of freehold: seller/developer; buyer • Grant of headlease: seller/developer landlord; original tenant • Grant of underlease: head tenant; original undertenant; head landlord • Subsequent assignment of leasehold interest: seller/current tenant; incoming buyer/new tenant • Other occupiers/relevant parties (e.g. mortgagee) • Guarantor in a lease: liability (original guarantor and former tenant); s.17 Landlord and Tenant (Covenants) Act 1995; potential for conflict of interest b) Interest created or transferred/assigned • Freehold: transfer of part; registration; new register entries in seller's existing title and buyer's new title • Headlease: registration; new register entries in landlord's title; tenant's new title • Underlease: registration; new register entries in head tenant's title; undertenant's new title • Guarantee under a lease: AGA; nature and effect
7. Commercial property leases – preliminary issues	An effective commercial conveyancer must be able to identify and deal with preliminary issues prior to dealing with a commercial property leasehold transaction. Therefore, you will need to know the following: • Tenant references • Arranging suitable guarantees and indemnities • Arranging rent deposits (including need for a rent deposit deed); drafting a rent deposit deed

8. Commercial property leases – key statutory provisions	An effective commercial conveyancer must understand the statutory framework regarding absolute, qualified and fully-qualified covenants and recognise how these impact on the different types of clause in a commercial property lease. Therefore, you will need to know the following: a) Distinction between an absolute, qualified and fully-qualified covenant b) Alienation (assignment, underletting, etc) • Nature of the various types of dealing (including distinction between possession and occupation)Landlord and Tenant Act 1927 ss.19(1) and 19(1A); Landlord and Tenant Act 1988 s.1 c) Alterations and improvements • Distinction between alterations and improvements • Landlord and Tenant Act 1927 s.19(2) • Compensation for improvements; Part 1 Landlord and Tenant Act 1927 d) Repairs • Notice by landlord requiring repair; Law of Property Act 1925 s.146; Leasehold Property (Repairs) Act 1938 s.1 e) Use • Landlord and Tenant Act 1927 s.19(3)
9. Commercial property leases – contents of an FRI lease	An effective commercial conveyancer must know the contents of a typical commercial FRI lease and must be able to amend clauses in a draft lease to reflect their client's instructions. Therefore, you will need to know the following: a) HMLR prescribed clauses: requirement for use; purpose; format b) Key clauses of a lease: • Description of demised premises; significance of extent of demise • Rent and rent review/other payments • Grant or reservation of easements and other rights • Service charge; provisions as to common parts • Insurance (including uninsured damage) • Contracting out of LTA 1954 • Guarantees and indemnities; provision for AGA • Break clause • Option to renew

	• Service of notices • Alterations and improvements • Alienation • Use • Insolvency of landlord or tenant • Forfeiture • Liability for breach of covenant • Contracts (Rights of Third Party Rights) Act 1999 • Obligations on tenant to register the lease (on grant) and to close the title (on determination) • Dispute resolution • Landlord's covenant for quiet enjoyment • Provision for enforcement of covenants against other tenants by landlord • Landlord's release from liability • Time limits; limitation periods • "Lift and shift" clauses c) Identifying the need for, and drafting of, straightforward amendments to lease clauses d) Identifying, and dealing with, specific issues arising out of a lease/underlease of part
10. Commercial property leases – landlord's consent	It will invariably be necessary to apply for the landlord's consent to any dealing relating to a lease of commercial property. Therefore, you will need to know the following: a) Paying Landlord's costs • Provision in lease for costs to be paid by tenant • Undertaking for costs: drafting or amending an undertaking • Best practice; obtaining money on account from client b) Landlord's consent to assignment • Applying for licence to assign; compliance with terms of lease • Landlord's obligations; Landlord and Tenant Act 1927 and Landlord and Tenant Act 1988 • Grounds for refusing consent; circumstances and conditions which do not have to satisfy the requirement of reasonableness • Contents of licence to assign; drafting or amending

	c) Landlord's consent for other matters • Licence to underlet; compliance with terms of lease; Landlord and Tenant Act 1988, ss.1 & 2; grounds for refusing consent • Licence for alterations or improvements/fitting out; grounds for refusing consent • Licence for change of use • Application for consent; compliance with terms of lease • Effect of Landlord and Tenant Act 1927 (alterations and use)
11. Taxation in commercial property matters	An effective commercial conveyancer must be able to explain to clients the key taxation implications of a commercial property transaction, whilst understanding the limitations and qualifications to be placed on the advice given. Therefore, you will need to know the following: a) Value added tax (VAT) • Option to tax and when it would be exercised • VAT on sale of freehold; VAT on grant or assignment of a commercial lease; transfer of a business as a going concern (TOGC) (in outline) • SCPC provisions relating to VAT b) Stamp duty land tax (SDLT) or Land transaction tax (LTT) • SDLT (in England))/LTT (in Wales) on grant or assignment of a commercial lease; charge on net present value (NPV) of rent on grant of a new commercial lease • SDLT/LTT on purchase of a freehold commercial • SDLT/LTT on purchase of a mixed-use building • SDLT/LTT on linked transactions • Reliefs; exemptions NB: you will not be required to undertake any SDLT/LTT calculations c) Capital gains tax (CGT) • CGT and how it relates to a commercial conveyancing transaction • Capital gains of UK companies – application of corporation tax rather than CGT (in outline) d) Other taxation issues • Capital allowances (in outline) • Business (non-domestic) rates (in outline) e) Limiting or qualifying any taxation advice given to clients

12. Commercial property leases – security of tenure for business tenants	An effective commercial conveyancer must understand how the LTA 1954 operates in practice in relation to a commercial property lease. Therefore, you will need to know the following: a) LTA 1954 – relevant provisions • Security of tenure provisions; tenancies falling outside LTA 1954 • Contracting out of LTA 1954; effect; statutory requirements; drafting of statutory declaration • Notices under s.25, s.26 and s.27 LTA 1954 • Notices under s.40 LTA 1954 • Competent landlord • Grounds for refusing new lease • Compensation provisions
13. Commercial property agreements: overage agreements; pre-emption agreements; development agreements; land promotion agreements; option agreements	Use of a particular type of commercial property agreement (such as an overage agreement) may sometimes be necessary to meet the client's objectives. Therefore, you will need to know the following: a) Overage agreements b) Pre-emption agreements c) Development agreements d) Land promotion agreements e) Option agreements *NB: This topic will be covered in outline only - you will not be required to draft an agreement.*
14. Overview of the conveyancing transaction - commercial context	An effective commercial conveyancer must appreciate how the various types of commercial transaction progress and ensure that they can identify the stage reached in a particular transaction. Therefore, you will need to know the following: a) Key stages; sale of a freehold commercial property; grant of a new lease or underlease of commercial property; assignment of an existing lease of commercial property b) Key steps to take on behalf of the client
15. Taking instructions, initial steps and advice	An effective commercial conveyancer must be able to take instructions accurately and in sufficient detail. Therefore, you will need to know the following: a) Preliminary matters • Checklists to take instructions; software solutions • Energy Performance Certificate (EPC) for a commercial property • Minimum Energy Efficiency Standard (MEES) and related regulations • Content of commercial letting agent's Heads of Terms • Asbestos reports • HMLR-compliant lease or transfer plan

	• Consent of landlord's mortgage lender and/or any superior landlord to the grant of a lease or underlease (if applicable) b) Confidentiality duties and concerns (including confidentiality in land registration matters)
16. Deducing and investigating title	An effective commercial conveyancer must be able to identify how to deduce or investigate title in a commercial property transaction. Therefore, you will need to know the following: a) Key elements of deducing or investigating title (registered and unregistered) in relation to the: • Grant of a new lease of a commercial property • Grant of a new underlease of a commercial property • Assignment of an existing lease of a commercial property • Sale of a freehold commercial property (subject to tenancies)
17. Sale – drafting the contract and preparing the pre-contract package	An effective commercial conveyancer must understand how the terms of the SCPC differ from those in a residential contract for sale and be able to draft or amend a straightforward contract incorporating the SCPC. Therefore, you will need to know the following: a) Form of contract • SCPC • Key provisions: particulars of sale, SCPC standard conditions; special conditions • Content of the contract package b) Conditional contracts (in outline) • Purpose • Condition precedent • Condition subsequent • Examples of when a conditional contract might be used
18. Purchase – pre-contract searches and enquiries	In addition to the standard searches carried out in any conveyancing transaction, there are additional considerations in relation to a commercial matter. Therefore, you will need to know the following: a) Pre-contract searches • Importance of a survey; physical inspection; importance of a schedule of condition • Pre-contract searches - standard searches in a commercial context: local authority search and local land charges search (local search); drainage search; environmental search; highways search • Environmental matters; environmental legislation – Environmental Protection Act 1990 and Environment Act

	1995; identifying the 'appropriate person' and potential liability for remediation/clean up
	• Pre-contract searches – non-standard searches in a commercial context
	  ○ Chancel search
	  ○ Company search
	  ○ Land charges search
	  ○ Bankruptcy-only search (and the need to repeat before completion)
	  ○ Location-specific searches (e.g. commons registration, coal mining)
	
	b) Pre-contract enquiries
	• Seller's duty of disclosure – latent/patent defects
	• Commercial Property Standard Enquiries (CPSEs)
	  ○ format; purpose
	  ○ CPSE.1 - General pre-contract enquiries for all commercial property transactions; main headings; contrast with CPSE.7 – General short form pre-contract enquiries for all property transactions
	  ○ CPSE.2 - Supplemental pre-contract enquiries for property subject to tenancies for commercial use
	  ○ CPSE.3 – Supplemental pre-contract enquiries for commercial property on the grant of a new lease
	  ○ CPSE.4 - Supplemental pre-contract enquiries for commercial property on the assignment of the lease
	  ○ CPSE.6 - Supplemental pre-contract enquiries for property subject to residential tenancies

19. Planning considerations in a commercial property transaction	An effective commercial conveyancer must have an understanding (in outline) of planning matters and appreciate how these may impact on their client's proposed use of the property. Therefore, you will need to know the following: a) Planning • Town and Country Planning Act 1990 requirements (in outline); meaning of "development"; building works and change of use • Town and Country Planning (General Permitted Development) Order 2015 (in England); permitted development; Article 4 direction; Town and Country Planning (General Permitted Development) Order 1995 (in Wales) • Outline planning permission; full planning permission; reserved matters • Planning conditions • Use classes; Town and Country Planning (Use Classes) Order 1987 (as amended) • Compulsory purchase and compensation • Planning enforcement

	• Planning (Wales) Act 2015 (in outline) b) Building Regulations • Building Regulations 2010 requirements (in outline); protection of health and safety in and around buildings • Approved inspector scheme • Building Regulations enforcement • Relevance to commercial property transactions • Certificate of compliance c) Community Infrastructure Levy (CIL) • Purpose of CIL; Planning Act 2008 • Procedure (in outline) • Assumption of liability • Link to local search
20. Financing a purchase	An effective commercial conveyancer must understand how their client intends to fund the acquisition of the property and must have an understanding (in outline) of the elements of mortgage financing relevant to a commercial property transaction. Therefore, you need to know the following: a) Mortgage financing – relevance to commercial transactions • Commercial mortgage offer; common terms • Guarantors: significant risk of a conflict of interest; best practice b) Foreign companies – need for a foreign lawyer "opinion" letter; overseas entity regime
21. Reporting to client and exchange of contracts	An effective commercial conveyancer must be able to review their file, identify any outstanding issues and report to their client before exchange of contracts in a clear and concise manner that highlights any issues or concerns. A conveyancer must also understand the purpose and significance of an exchange of contracts. Therefore, you will need to know the following: a) Report to client on purchase • Purpose of reporting to the client on a purchase • Content of a typical report • Drafting a report b) Preparing to exchange • Pre-exchange file review

	c) Exchange of contracts • Methods of exchange (telephone, post, in person) • Law Society's formulae for exchange; purpose; requirements for a memorandum of exchange; implied undertakings • Process of exchange of contracts; immediate steps to be taken upon exchange • Registration of estate contract; purpose; application to HMLR
22. Preparing for completion	It is necessary for an effective commercial conveyancer to know the particular steps to take in order to prepare for completion of a commercial property transaction. Therefore, you will need to know the following: a) Preparing to complete on a sale/assignment/grant • Preparation of engrossments of documents • Signature of documents; use of e-signatures; HMLR requirements • Mortgages; mortgagee requirements (dependant on type of transaction) • Completion statement; apportionments; rent authority letters • Compliance with/removal of any HMLR restrictions in the register b) Preparing to complete on a purchase/assignment/grant • Carry out pre-completion searches (including official search with priority (Form OS1 or OS2); company search) • Completion statement; apportionments • Obtain funding to complete
23. Completion	Completion is one of the most important stages in a commercial property transaction and must be carried out in a timely manner. Therefore, you need to know the following: a) Time for completion • Time specified in contract using SCPC; SCPC standard condition 9.1; special condition b) Process of completion

24. Post-completion	An effective commercial conveyancer must be able to carry out the post completion work in a timely fashion, in accordance with any relevant deadlines and priority periods. Therefore, you will need to know the following: a) Post-completion process – sale/assignment/grant • Insert date in Form TR1 and other relevant documents • Redeem any mortgages on the day of completion out of the sale proceeds in accordance with undertaking given (if applicable) • Send evidence of discharge of/compliance with any mortgages to buyer's conveyancer and seek release from undertaking (if applicable) • Pay commercial letting agent's fee; account to client for any net transaction proceeds; check file balances • Close file b) Post-completion process – purchase/assignment/grant • Understand significance of the "registration gap" in a commercial transaction • Satisfy any SDLT (in England) or LTT (in Wales) requirements • Register any new charge at Companies House before registration at HMLR • Apply to HMLR for substantive registration (use of Form AP1 and HMLR Portal) • Apply to HMLR for registration of easements and restrictive covenants in unregistrable leases and/or for noting of an unregistrable lease in landlord's registered title • Make Exempt Information Document application to HMLR, where necessary • Serve any necessary notices in relation to a leasehold commercial transaction: notice of assignment; notice of grant of an underlease; notice of mortgage • Deal with any management company issues (e.g. transfer of a share to tenant/buyer) • Check file balances • Close file

25. Looking ahead – proposed reform	Conveyancing is regularly the subject of potential reform and an effective commercial conveyancer should therefore have an awareness of current proposals for reform. Therefore, you will need to know the following: a) Awareness of key areas for potential reform: • Law Commission report "Leasehold home ownership: buying your freehold or extending your lease" (Law Com No. 392) • Leasehold and Freehold Reform Act 2024 • Law Commission report "Reinvigoration of commonhold: the alternative to leasehold ownership" (Law Com No. 394) • Reservation agreements • Electronic signatures of mortgage deeds and awareness of further technological developments • Law Commission report on Electronic Execution of Documents (Law Com No 386) • Law Commission report "Making Land Work: Easements, Covenants and Profits à Prendre" (Law Com No. 327) • Law Commission report "Updating the Land Registration Act 2002" (Law Com No. 380)