

Buying or Selling your home? Don't take risks!

About This Guide

In this guide we will explain the process involved in buying and selling your home. We realise that this will probably be one of the biggest financial steps you take in your life and we will explain what happens and how we can help to make this as painless as possible. The legal process of moving home is known as conveyancing and it effectively means the procedure of transferring ownership or certain rights in property from one person to another.

Using A Solicitor

Given the value and importance of the property transaction you will want peace of mind in knowing that all of the legal formalities are properly dealt with. Our job is to ensure that you get what you are paying for and that there will be no problems with the property when you come to sell it in the future.

Buying Your New House Or Property

There are three stages to this process:

1. Initial step

To make sure that the property you are buying is free from legal problems concerning such things as rights of way restrictions on its use and boundary and other disputes and also that the funding you are using is in place we have to take the following steps:-

Contract papers

We will receive these from the seller's solicitor and we will check these to make sure that the seller is the true owner of the property and also that the deeds do not include any matters that may affect your decision to proceed or that we think could result in problems for you in the future. We would expect these to include a plan of the property that we must have to carry out our searches.

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Local and other searches

The local search is a written enquiry to the local authority to find out if they have a record of anything which exists or which is proposed that may adversely affect the value of the property you are intending to buy. This search would reveal if a new road is proposed in the vicinity of the property or whether any notices have been issued against the property for failing to comply with certain requirements such as building regulations. It will also confirm if any alterations at the property have been given planning permission. Please note that this does not provide information on planning applications for surrounding properties but if this is a concern a separate search can be made if you request this.

We also carry out a drainage search with the local water company to check that their property is connected to the main drainage system. If we think that it is necessary we will also carry out an environmental search to see if any hazardous substances may affect the area and where appropriate mining searches and floodline enquiries. These searches can take two to three weeks to be returned so the sooner we have a plan from the solicitors the better. You will be asked for a payment on account at the earliest stage possible so we can get these searches underway.

Enquiries of the seller and their solicitor

These are the questions that we send to the solicitor who will send them on to the seller and will include questions asking whether the seller is aware of any problems with neighbours and whether any alterations have been carried out at the property.

We know what questions to ask based on our experience in representing many people in the past. If you would like us to raise any specific enquiries you will need to let us know.

Mortgage offer

When you receive the offer we will receive a duplicate at the same time. You may opt for the basic survey that the mortgage lender's surveyor will carry out or alternatively you can request that they carry out a more detailed inspection. The basic survey is not certain to reveal defects in the property and you may feel that a more thorough structural survey is appropriate. We are able to recommend the name of an independent surveyor if you wish.

We have to check the conditions on the mortgage offer to ensure that the details are correct such as the price and whether any retentions are being made from the loan in case any works have to be carried out on the property.

As we represent the mortgage lender's interests in the matter as well as yours we are obliged to inform them of anything that may affect the security for their loan to you. This means that if anything adverse is revealed we will of course advise you but we will also have to tell the mortgage lender - but only after you have given your consent for us to do so. If you do not give that consent we are not allowed to continue to act for you in this particular purchase.

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2. Exchange of contracts

Once the contract papers searches and enquiries together with your mortgage offer are received and are satisfactory we will ask you to sign the contract. There is no legal obligation to proceed as soon as you sign but once you and the seller have signed your respective parts of the contract and an agreed date for moving or "completion" has been set the contracts are literally exchanged between the solicitors and a legal commitment to proceed is created.

At the same time a deposit is payable by the buyer which is usually 10% of the purchase price. Less can be offered if acceptable to the seller and if for example the amount of the mortgage loan forms a large part of the purchase price. If you are selling and buying a house simultaneously we will usually use the deposit on your sale and pass onto the solicitors on your purchase. When contracts are exchanged you are legally committed to buy the house. If you change your mind after this and back out of the transaction you will forfeit the deposit and be liable for the seller's costs and other losses. If you are selling as well you will also be similarly liable to your buyer.

3. Completion

After contracts are exchanged we will carry out some Land Registry searches to ensure that nothing has changed since we received the contract pack and also request the mortgage funds from the lender. We will also provide you with a completion statement showing the financial aspects of the transaction and how much we need from you to complete the matter. As the period between exchange of contracts is usually quite short we will require your funds by way of banker's draft or to be electronically transferred from your bank account.

On the day of completion we will send the purchase money to the seller's solicitors and you will be able to collect the keys from the estate agents later in the day. At this stage legal ownership of the property passes to you.

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Selling Your New House Or Property

Having seen the steps that are taken when buying a property there are certain aspects that are mirrored when we act on your sale. We will have to check that the title is correct but we do not have to undertake the same level of investigation as on a purchase.

The steps involved are:

To obtain a copy of your title information from the Land Registry or in the unlikely event that your property is not registered at the Land Registry we will need to obtain your title deeds either from you if you do not have a mortgage or from the lender once in receipt of the title information we will prepare a contract. This is the document that will bind you and the purchaser to proceed with the transaction when contracts are exchanged

We will submit standard questions or enquiries about your property to you and assist with any matters you do not understand. You must note that the buyer could sue you if they suffer loss as a result of any false or misleading information you provide in these.

When the buyer's solicitors are satisfied with everything we will ask you to sign the contract and agree completion dates with you

When dates are agreed on all sides (please note that this means all parties in the chain) we will exchange contracts. As with buying a property this commits you to proceed. If you change your mind after this you can be sued for the buyer's losses before completion we will provide a statement showing the amount that will be due to you after the deduction of any mortgage legal and estate agents fees (the latter we will generally pay directly from the sale proceeds)

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Very Important Information

1. Completion dates

Very often dates for moving are agreed between parties or are mentioned by third parties such as estate agents. Please ensure that you always check with us as to these dates and/or for exchange of contracts. It is the solicitors in the transaction who will know when all legal formalities are in place and therefore manage these dates. They are the only people able to properly advise you when these dates can realistically be achieved

2. Completion

If you are buying and selling simultaneously so that you are moving out of one property into another on the same day PLEASE NOTE that we cannot send money to the solicitors acting on your purchase until we receive the money on your sale. Whilst the money is transferred electronically between solicitors this can take a few hours particularly if you are in a long chain. This could mean that you do not get the keys to the new property until late afternoon. You should not hand any keys directly to your buyer when selling until you have checked with us that the money has arrived. You are obliged to advise the utility companies that you are taking over the services to ensure that they are not disconnected before you take occupation.

3. Buildings insurance

The new property is at your risk from exchange of contracts so if you are not insuring through your mortgage lender please let us know so that we have details to put the property on cover

4. Timescales

As we are reliant on third parties during the transaction such as for local searches and information from the other party's solicitors the time limits you have in mind for moving may not always be achievable. We realise that this is so important and we will always keep you informed of progress so that timescales are met wherever possible. You should note that in certain areas local searches can take two to three weeks to be returned

5. Completion money

The money you may be putting down towards the purchase price should be provided from your own account. We have to have evidence of those funds being in your account as part of government regulations. If the money will not be provided from your own funds we must be advised as early as possible in the transaction to avoid delays later. We will have to make further enquiries if this is the case.

6. If the property is being bought in two names

It can be held in two ways; as joint tenants so that if one party dies it passes to the other automatically; as tenants in common so that each party can leave their share to another party by Will. We can advise on the full implications of the above if this is important issues for you.