



Residential Conveyancing Process

This guide to the conveyancing process will give you an outline of what happens when you buy and sell a property, and what yours and your solicitors responsibilities are. But please note that other complications can arise from time to time but your solicitors will make you aware.

Please also note that if you are involved in a chain with other properties, each transaction will need to follow these processes before the entire chain can become complete.

Our dedicated sales progression team will deal with all of these processes and keep you up to date on a weekly basis. They will call you to introduce themselves and let you know the process.

If you have any questions, please contact them:

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FOR BUYERS

Initial contact – Contact your chosen solicitor and discuss fees and what they will do for you. They will normally send you a letter confirming your instruction and give you details of the process.



Instructions – As the acting agent, we will send a Memorandum of Sale to both sets of solicitors giving details of the property, purchase price, any conditions and contact details for all parties. The solicitors will contact each other to confirm the instruction.



Contract Package – The seller's solicitor will provide a draft contract and proof of the seller's ownership of the property. The seller's will have completed standard forms giving general information about the property.

If the property is a leasehold property, further information will be supplied by the seller's solicitor regarding items such as service charges etc. If the property is run by a management company, management information will also be supplied setting out details of how the property is maintained.



Enquiries and Searches – If necessary, enquiries will be raised on the information provided by the seller's solicitors. The results of the searches submitted will reveal important information about the property such as whether appropriate local authority consents were obtained for alterations etc.

During this period, the buyer may instruct a surveyor to inspect the property. If you are buying with a mortgage, your lender will be finalising the offer if they have not done so already.



Report on title – Provided that the replies to the enquiries have raised no concern, your solicitor will then proceed to Report on Title. This will be a comprehensive report of the property and the final stages of your purchase.

If you are purchasing a leasehold property, your solicitor will advise you on all aspects of your lease including your obligations and the freeholder's obligations. The report will outline the service charge and ground rent costs.



Exchange of Contracts – When all the information has been received and any issues of concern have been satisfactorily resolved and you and the seller are ready to proceed, contracts can be exchanged. This is when the agreement becomes legally binding and a deposit of between 5% and 10% of the purchase price is paid by the buyer and a completion date is set.



Priority Search – Upon exchange of contracts, your solicitor will register your interest in the property with the Land Registry. This will give you priority ahead of any others who may wish to register an interest in the property.



Preparation for completion – The completion date is the date that you can move into the property. Following exchange of contracts, you will have been supplied with a Completion Statement, setting out the accounts of all of the costs in your purchase and the total amount of monies required to complete, so this will include the balance of the purchase price, stamp duty land tax, land registry fees and any service charge apportionments. If you are buying with a mortgage, your solicitor will ensure that all of your mortgage monies are placed prior to completion. This is the time that you can make your removals arrangements if required.



Completion – The funds will be transferred from your solicitor's client account to the seller's solicitor's client account. The seller's solicitor will undertake to provide a transfer of deed transferring legal title on the receipt of the completion monies. You will then receive a call from us as the agents when the keys are ready to be picked up that day. The time will depend on when the monies have been transferred and the previous owners have moved out.



After Completion – Your solicitor will pay your stamp duty land tax from the funds you have sent them or received from a related sale and complete your registration of legal title, including the removal of existing mortgages and the registration of your mortgage with the land registry.

If you are purchasing a leasehold property, your solicitor will ensure that any required License of Assignment is in place and any required share certificates are provided.

FOR SELLERS

Initial contact – Contact your chosen solicitor and discuss fees and what they will do for you. They will normally send you a letter confirming your instruction and give you details of the process.



Instructions – As the acting agent, we will send a Memorandum of Sale to both sets of solicitors giving details of the property, purchase price, any conditions and contact details for all parties. The solicitors will contact each other to confirm the instruction.



Contract Package – Your solicitor will send out a draft contract and evidence of title immediately upon your instruction. There will be standard forms which give information about the property for you as seller to complete.



Reply to Enquiries – Your solicitor will reply to enquiries raised by the purchaser. These may arise from the information supplied in the pre-contract package, the results of the buyer's local searches or survey.



Exchange of Contracts – When you and the buyer are ready to proceed, contracts can be exchanged and a completion date set. This is when the agreement becomes legally binding, a deposit of between 5% and 10% of the purchase price will be paid by the buyer.



Preparation for completion – The completion date is the date that you move out of the property. You will need to ensure your removal arrangements have been made by the completion date and any alternative accommodation found. A completion statement will be sent for your approval showing the movement of funds.



Completion – The day of completion is the day by which you must move out of your property and the funds from the sale are received. The remaining purchase monies will be transferred to your solicitor's client account and any existing mortgage will be redeemed. Proceeds of sale, less costs and disbursements, will be remitted to your account. Your solicitor will forward to the buyer's solicitor the deed transferring ownership of the property and settle the estate agents' account from the sale proceeds.

FAQ

How long does it take?

It can vary a great deal. On average probably 6 to 8 weeks. The factors that play a part in how long the transaction will take most commonly are the time it takes buyer to find a mortgage and the mortgage lender to issue the mortgage offer. For leasehold flats the time it takes the management company to provide management information and finally how quickly the seller is ready to move. Many transactions are dependent on related sales or purchases.

At what point do I have to pay the solicitors?

Generally solicitors do not ask for any funds from you until they are ready to complete which means there is no inconvenience for you in terms of your own personal cash flow. When they are ready to complete they will send you a completion statement which will show how much is coming from the buyer or going to the seller, how much is coming from the mortgage lender (buyer only), or going to the mortgage lender where you are redeeming a mortgage (seller only), solicitors fees and disbursements, the stamp duty (buyer only) and the estate agent's fee (seller only).

Do solicitors still charge if it falls through?

Solicitors recognise this can be very disappointing however if a lot of time has been spent on the matter they will charge for the work done up to the point the sale or purchase is aborted and any disbursements incurred will also have to be charged. If you are concerned, we would recommend purchasing a home buyers insurance policy which will cover most of your fees incurred if things go wrong. These policies are around £80 - £100.

At what stage can the buyer or seller pull out?

Either buyer or seller can decide not to proceed with the sale or purchase at any stage up to exchange of contracts.

How can I stop the buyer/seller pulling out before exchange?

During the property boom a few years ago it became quite popular for buyers and sellers to want the other party to sign an exclusivity agreement as soon as the offer had been accepted so that they could not pull out. This option is still available but will probably cost you around £1000 for your solicitors to put this in place. If you are concerned, we would recommend purchasing a home buyers insurance policy which will cover most of your fees incurred if things go wrong. These policies are around £80 - £100.

What happens if I can't find the title deeds to the property?

Don't worry too much. Firstly the deeds may be with the lender or they may still be with the solicitor who acted in your purchase. Secondly in most cases the land will be registered at the land registry and you will be able to prove you own the property by our obtaining up to date copy of the land registers which your solicitor has to do anyway. If your property is unregistered it is more of a problem but your solicitor would look for evidence that you have lived at the property going back as long as possible and you would sign a declaration stating for how long you had owned the property. There are also defective title indemnity policies that are not expensive to purchase and are usually acceptable for a prospective purchaser.

What exactly are searches?

Searches are enquiries or inspections of registers that hold information relating to the property. Aside from inspecting the land registers to check the legal title, the most important search is the local authority search which is essential because it provides the planning and building regulation history of the property and will tell you if any notices have been served which might require the owner to carry out work to the property.

The water and drainage search is very important to confirm that mains water and sewage are connected to the property and that the property has not been built or extended over drains or waterways to which the water service provider may have a right to access.

The environmental search is made to provide confirmation that the property is not built on 'contaminated land'. Contaminated land can cause structural problems which may affect houses built on or nearby land that has or has a history of industrial or commercial use.

Do I need a survey?

We would say it is always a good idea to have a 'homebuyer's report'. It is surprising how many purchasers go ahead without this. It may cost around £500 but if you consider the value of the asset you are purchasing this is well worth the expense!

There are actually three types of survey. The most basic is the 'valuation report' which the mortgage lender carries out. This is a very basic check of the property's approximate value, often made without even entering the property. It is made on behalf of the lender to ensure the amount they are lending will be covered by the value of the property.

The second type of survey is the above mentioned 'homebuyer's report'. This is advisable because it can bring to attention defects with the property that may not have been noticed following a single viewing of the property by a typical buyer. For example evidence of damp, broken tiles or alterations that might highlight the need to check the relevant building regulation or planning consents have been obtained. The surveyor will also advise on what he considers to be adequate buildings insurance cover and what he or she considers the value of the property is.

The third type is a 'full structural survey' which is advisable usually only for very old or run down buildings. It can be expensive and will need the seller's permission to cause some cosmetic damage to the property in carrying out the survey.

So what happens if a problem is found with the property?

Where there is a problem there is usually some solution that can be found. If for example it is found that some work is needed to the property, or that the lease needs extending, it may take some re-negotiation with the seller, which you can do through the estate agent. If some legal documentation is incomplete it may be that it can be rectified either by obtaining the correct documents or having the matter dealt with by purchasing insurance. If no satisfactory solution could be found your solicitor would of course have to advise you not to proceed.

I'm about to sell my flat but I have just had a quarterly service charge demand – what should I do?

You should pay it as normal because all ground rent and service charges will be apportioned between the buyer and seller on completion, so you will be reimbursed by the buyer for the period running from after the completion date to the next quarter date. In fact some managing agents will not acknowledge the buyer until the service charges have been paid and are up to date so it is important for both buyer and seller for the seller to show that they are up to date.

What happens on exchange?

Exchange of contracts occurs when all checks have been satisfactorily carried out and any issues relating to the property have been resolved. The solicitors concerned will both be holding their respective client's signed contracts in identical form and they will have a telephone conversation in which each solicitor undertakes to send each other their respective client's signed contract and the buyer's solicitor undertakes to send the seller's solicitor the deposit which will usually be 10% of the purchase price which must be held in the buyer's solicitor's client account on the date of exchange. It is on exchange when the completion date is set and the sale becomes legally binding on both buyer and seller.

When can I move in or by when must I move out?

Not until the completion date.

What happens on the completion date?

Completion or the completion date is the date when the balance of the purchase price is paid to the seller's solicitors who in return send to the buyer's solicitors a transfer deed signed by the seller transferring legal title of the property to the buyer. This is also the date when the buyer can move in to the property and the seller must move out.

Ordinarily completion should occur around 1 pm but if there is a long chain of transactions it can be delayed until later in the afternoon.

Who has to pay stamp duty?

Stamp duty (now called stamp duty land tax (SDLT)) is payable by the buyer. If you are buying your solicitor will complete the SDLT return for you, advise you of the amount of SDLT payable and collect this from you shortly before completion. SDLT must be paid within 28 days of the completion date otherwise penalties will be incurred.

The seller does not pay SDLT. You should be aware of the possible capital gains tax consequences and may need to take further tax advice if you are selling a property which you do not use as your only or main residence.

What about paying the estate agent?

It is only the seller who pays the estate agent and as with stamp duty, once you have seen the completion statement which your solicitor will prepare, they will settle the estate agent's fee from their client account on receipt of the sale proceeds.

Once I have completed, is that it?

Well yes it is in terms of what you have to do but your solicitor will apply to have your legal title to the property registered at the land registry and send you confirmation of this, which they are usually able to do within a few weeks of the completion date. They can then send you the deeds.

CHECKLIST

- Mortgage approved?
- Deposit in place?
- Instruct solicitor
- Contract signed?
- Exchange
- Organise removals
- Transfer or set up home insurance
- Redirect post
- Completion and move in
- Transfer or set up utility providers and notify council
- Feet up and enjoy your new home!