

A GUIDE TO THE PROCESS OF MOVING HOUSE

It goes without saying that moving home can be stressful. The process does not always run smoothly. In this guide we will give you a brief outline of the conveyancing process together with information about The Law House and our approach to property transactions to help reduce the stress, ensure that you understand what is happening at each point of the transaction and get you to completion in the most efficient way.

THE PROCESS OF CONVEYANCING (The Business of Buying and Selling)

Conveyancing is littered with terms such as "exchange", "searches" and "completion". What do these terms really mean and how does the process work? If not then the following guide may give you a good understanding of the terminology and the business of buying and selling. Buying and selling is the same procedure throughout England and Wales and if you are buying and selling at the same time it is often necessary to co-ordinate the two transactions.

1. DRAWING UP THE CONTRACT

The draft contract is always prepared by the seller's solicitor. If you are holding any of the original deeds or documents relating to your property you may need to give them to your solicitor at this point. If you don't have them and you have had a mortgage in the past then your mortgage provider might be holding them so it is worth asking.

2. SUBMITTING THE CONTRACT

The seller's solicitor sends the draft contract along with relevant title documentation to the buyer's solicitor. The seller's solicitor will ask his client to complete some forms at the outset of the transaction including a property information form and a fittings and contents form. Some of the questions contained in these forms you may not be able to answer so if you are unsure then ask your solicitor for help. Once completed the forms are sent to the buyer's solicitor along with the draft contract and provide the buyer with information you have provided about the property such as who is responsible for the maintenance of boundaries and fences, whether the property has been altered by the seller in any way and whether there have been any disputes with neighbours. The fittings and contents form is a breakdown of exactly what items are being left at the property once the sale is complete. If you are selling a flat there is an additional form called the leasehold information form which has to be completed. This form deals with such matters as maintenance and insurance of the building. The landlord will also be asked to provide information relating to ground rent, service charges and major works. It is common for landlords to provide a pack, which details all of this information.

3. APPROVAL OF THE DRAFT CONTRACT

The buyer's solicitor deals with this part of the transaction. He checks the draft and makes any changes which he considers to be necessary and then returns this to the

seller's solicitors to agree the amendments and forward a clean copy for signature. If the buyer's solicitor has any questions at this stage this is the time for him to raise any additional enquiries that he or his client may have about the property. The seller's solicitor may have to take further instructions from his client.

4. LOCAL SEARCHES

This is carried out by the buyer's solicitor upon receipt of contract papers. It is a search carried out with the local authority for the area in which the property is situated. It reveals details of such matters as planning permissions on the property, Any improvement grants which may have to be repaid, road schemes in the immediate vicinity and such matters as compulsory purchase orders and notices under the Public Health Act. Previously this part of the process used to be the cause of serious delays due to the amount of time it took for local authorities to process searches but thanks to technology this part is now much quicker and usually takes about two weeks. The faster turnaround comes with a price with an average search costing around £200. Each Borough will set its own fee.

The search lasts for a period of six months from the date of issue and often these are not done until the buyer is sure that they will be going ahead with their purchase.

5. MISCELLANEOUS SEARCHES

In most cases, the buyer's solicitor may need to carry out some additional searches prior to exchange of contracts. Routine searches that are carried out are drainage, environmental and chancel tax liability searches. Flood risk or coal mining searches are obtained if required if you are in an area known for flooding or mining.

6. THE MORTGAGE OFFER - will it ever arrive?

Getting a mortgage offer is not always a smooth process as banks are more cautious than in previous times.. The buyer's solicitor will wish to ensure that the buyer has a mortgage offer prior to exchange of contracts unless the purchaser is a cash buyer.

The buyer's mortgage broker will be able to advise him as to which mortgage to choose and how the scheme he chooses operates. There are many different mortgage products currently on the market and the buyer will need to choose a mortgage that suits his needs and means.

Before issuing a mortgage offer the lender will consider the buyer's application in detail and will carry out a valuation survey on the property he intends to buy. Most high street lenders will instruct the buyer's solicitors to act for them as well as for the buyer. If so the buyer's solicitor will also receive a copy of the offer and some instructions. Some smaller lenders still instruct their own solicitors to act for them which means that the buyer's solicitor will have to liaise with them and the buyer will also have to pay their fees. This process is known as dual representation.

The mortgage offer will contain some special conditions and the buyer and his solicitor must ensure prior to exchange of contracts that these can all be complied with.

7. GETTING A SURVEY - cheaper is not always the best option.

Getting a valuation survey done is for valuation purposes only and to guarantee the security of the loan. The cost will depend on the type of survey being carried out and we take the view that, where possible the buyer arranges a more comprehensive survey, either a house or flat buyer's report or a full structural survey.

If the lender's surveyor is already carrying out a valuation survey it may be possible to arrange for the valuer to carry out a more comprehensive survey on the property at the same time as the mortgage valuation.

A house or flat buyer's report and valuation is a concise and economical report on the condition of a house or flat, and includes a valuation. The surveyor will inspect the main structure including the roof space and if it is accessible the drainage. The flat buyer's report will also cover the condition of common parts and services such as central heating.

Whichever type of survey you choose it should be carried out by a member of the Royal Institution of Chartered Surveyors or the Architects and Surveyors Institute. If the survey report reveals anything unsatisfactory, you or your solicitor may wish to negotiate with your seller to reduce the asking price. Nothing can be done about any defect discovered after exchange of contracts, which is why surveys are so important.

8. EXCHANGE OF CONTRACTS - almost there.

When all the terms have been agreed, additional enquiries answered satisfactorily, a mortgage offer received and a satisfactory local authority search obtained, you will at last be ready to exchange contracts!

Your solicitor will send you the contract for signature together with the legal report about the property you are buying. The legal report will contain a summary of the investigative work your solicitor has conducted. At this stage you should raise any final queries you may have about the property before returning the signed contract and deposit to your solicitor in readiness for exchange. The deposit is usually 10% of the purchase price.

At this stage the seller's solicitor will also send the seller's part of the agreed contract to his client for signature.

Exchange of contracts usually takes place over the telephone. The solicitors for the buyer and the seller complete the necessary details in their respective parts of the contract including the completion date and once complete they are "exchanged". The buyer's solicitor then sends the buyer's signed contract and deposit to the seller's solicitor and the seller's solicitor sends his part of the contract to the buyer's solicitor. At this point the deal for the sale or purchase becomes binding on the parties. If either one of them backs out he or she will incur penalties and the seller could lose their deposit.

If the buyer is purchasing a house then his buildings insurance must be placed on risk on exchange of contracts when the risk formally passes to him. As most flats are insured by the freeholder of the building insurance arrangements will usually be in place already. If the buyer is purchasing with a mortgage it is a usual requirement for the lender to be noted as a joint owner or interested party on the insurance policy.

The completion date is usually agreed between the seller and buyer. It can be within a few days of exchange or much longer if required. Exchange and completion can happen on the same day but this is not the norm. It is the buyer's responsibility to ensure that all funds are available prior to the completion date as late completion will attract financial penalties.

9. FINAL FORMALITIES

After exchange of contracts the buyer's solicitor carries out a search at the Land Registry to check that no additional mortgages or other onerous matters have been entered on the title to the property since the "office copy entries" were issued.

If the land was unregistered land a similar type of search is carried out with the Land Charges Registry in Plymouth.

The solicitors for both buyer and seller will send their clients the remaining documentation for signing such as the transfer, which transfers legal ownership of the property on completion and the mortgage deed and stamp duty form. The buyer and seller will also be sent financial statements showing how much they will need to pay or will be receiving on completion.

This stage of the process is a busy one for the buyer and the seller and can be stressful for both parties. The parties should contact the utility providers to arrange for the transfer of services. It is a good idea to take meter readings to avoid any surprise bills after you have left the property! The local authority should also be notified of the move for Council Tax purposes. Removal men need to be booked for the completion day, change of address cards ordered, and arrangements made for the redirection of mail.

10. COMPLETION - the property is finally yours...

At this stage the contract which has been exchanged is formally "completed". The buyer's solicitor sends the balance required to complete to the seller's solicitor by electronic bank transfer or CHAPS payment. Once this is received by the seller's solicitors the keys are released to the buyer. All the buyer has to do now is move in.

11. REGISTRATION

After completion, the buyer's solicitor will deal with registering the property into the buyer's name at the Land Registry. The buyer will be sent an up to date copy of the register showing them as the new owner once registration has been completed.