



Guide to the Conveyancing Process

BY JACQUELINE EICHLER

This booklet is designed to answer all those questions that come up when you buy and sell properties.

The booklet is split into buying and selling but some parts will apply to both. I have tried to be as chronological as possible to assist you.

Please note that this booklet should only be used as a guide and any specific questions relating to your conveyancing transaction should be raised with your solicitor.

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THE PROCESS OF SELLING

Help! I can't find my deeds!

If the property is registered, the Land Registry has all the required documentation to enable you to sell the property even if the original deeds have been lost. If the property is unregistered it is possible to 'reconstitute' the deeds but this is quite a lengthy process and you should discuss this with your solicitor.

My granddad has died and left me his house. Can I sell it?

In theory yes, in practice not so fast! You will need to make sure you have the correct paperwork. If you are the Executor then you have the right to sell the property once you have obtained the Grant of Probate. If you are not the Executor but have simply inherited the house, there are two ways to sell the property. The first is to ask the Executor to sell the property and arrange for you to be paid the proceeds. The second option is for the property to be transferred into your name and then you can sell the property as if it belonged to you. There are, however, capital gains tax implications which you should discuss with an accountant.

I want to sell my flat but it has tenants in, how do I get rid of them in a nice way?

You have two choices, one is to sell the property with tenants in situ and pass them on to the next buyer. This may be appealing to someone interested in the buy-to-let market and is more common with flats than with houses.

If you are selling the property with vacant possession then make sure you have advised the estate agents and also be prepared to give a minimum of two months' notice to your tenants. A lot of sellers would prefer the guarantee of an exchange of contracts before giving notice to tenants, however, conveyancing transactions can proceed to exchange and completion within a few weeks and therefore asking a chain to wait for two months before they can move in could be a deal breaker! Discuss the particulars of your chain with your solicitor, although they cannot give definitive advice, with their experience they may be able to give you an indication of the chances of the chain collapsing leaving you with no tenants and no buyer!

My property is unregistered.

Although compulsory registration was introduced nearly 40 years ago, many houses have not changed hands in this time and therefore remain unregistered. If this is the

case, you should still have your deeds. Your solicitor will either present your house to the buyer's solicitors as an unregistered property or arrange for an application to the Land Registry for first registration by sending the deeds in advance of the sale. If you are contemplating selling your property and discover it is unregistered it may be worth contacting a solicitor in advance and asking them to register it as it could save time once you have a buyer on board.

How much money do I have to hand over to my solicitor?

Usually you will be asked to pay a certain amount of money on account to your solicitor. This will be approximately £100. This covers initial costs such as ordering copies of your title documents and additional documents relating to the property from the Land Registry or the Local Authority. If you are selling a flat there could be an additional cost of obtaining information relating to the freehold.

If you have managing agents who run the freehold either on your behalf or for the freeholder they are likely to charge a fee of between £100 and £400 for providing a freehold pack. Every managing agent has a different fee they charge and they can vary wildly. Your solicitor will need this money before they can request the information.

Property Information Form

I don't know which boundary is mine

Many people don't know whose boundary is whose. The first place to look is in your deeds. There may be reference to a transfer document or a conveyance which details the boundaries, especially if the property is part of an original development where houses were sold off as individual plots by a builder. If you have an ex-Council property, again, this information should be contained in the deed where you or the previous owner purchased it from the council. If these both prove fruitless searches, think as to whether you have ever maintained any of the boundaries yourself. If you have you may be deemed to have taken responsibility for that boundary. If you haven't maintained a boundary yourself the general assumption is that you are responsible for the boundary on the left if you look at your property from the road. This is not legally binding and can be disproved with evidence to the contrary. If you are still not sure there is a 'don't know' option on the form!

Fixtures and Fittings Form

I don't have carpets in my rooms

If you don't have carpets but rather laminate flooring or have wooden floorboards then you should note this on the form.

I like my light fitting I want to take it with me

If you want to take your light fitting with you, you should make this clear on the fixtures and fittings form. The form is part of the contract and thus if you take something away with you that is a fitting, it should be confirmed on the form. You

need to put a new basic light fitting on to replace the one you are taking. Don't just leave the electrical cables with terminal blocks on them.

How do I let the buyer know I want to sell some of my furniture?

There is space on the form to state whether you wish to sell items such as white goods and garden items such as benches. If you want to sell other items such as beds or sofas you should prepare a separate list. The buyer's solicitor will then notify the buyer.

Does the buyer have to buy my furniture?

No, the buyer is buying your house not your furniture so if they advise their solicitor they do not wish to buy the items listed it is your responsibility to remove them. If you have a first time buyer there is more chance that they may purchase your white goods but be realistic, a washing machine that has seen better days may be useful to a family buying their first home but don't demand the price of a new one.

I don't want my fridge – can I leave it and not tell the buyer ?

With the new regulations with regard to the disposal of fridges, you should make sure the buyer is aware you are leaving it otherwise they have the right to demand that it be removed at your expense after completion.

I've built an extension and wasn't supposed to.

A lot of properties have restrictions listed in their deeds preventing them from building additional properties or extensions on their land. These often come up when the property is part of a larger development. The reason for this restriction was to ensure the uniformity of the houses at the time the properties were sold.

A lot of people choose to ignore this restriction and build extensions and use them without any issues until a solicitor mentions it when they are selling. The solicitor will usually recommend that you purchase an indemnity insurance policy to protect the buyer. This is a one off premium for an insurance policy which will cover for financial loss if anyone lodges an objection to the extension in the future. In order to qualify for the insurance an objection must not have been raised prior to paying for the policy. The cost of the policy is dependent on the value of your property and can range from £100 to £500. Although an additional cost that is unexpected it will save a lot of time and hassle and your solicitor will usually recommend this course of action.

When do I need building regulation consent for a conservatory?

Conservatories may or may not need building regulation consent. If it is built at ground level, less than 30 square metres and predominantly glazed, the chances are it won't have needed the consent. If you have a conservatory over this size and don't have building regulation consent do not contact the council until you have spoken to your solicitor. An indemnity policy will only be available if the Council are not aware of the breach.

I share my driveway but don't have any paperwork.

If you share a driveway and it has been looked after by both/all of you in a content way for numerous years/decades then it is a prescriptive right which you can pass on to your new buyer. If it is acrimonious this is something you should really formalise before you go ahead and sell as it will be revealed by the paperwork you have to send to the buyer's solicitor.

I have a flying freehold!

A lot of older properties overhang their neighbour's properties especially in villages and twittens where houses were literally on top of each other. If you have a landing or a room that overhangs your neighbour's property then that room is a flying freehold.

You have two options, one is to ask your neighbour to sign a document called a deed of grant which is signed by both parties giving you the necessary rights of support for the offending room. If you discover this problem in advance and have nice neighbours and plenty of time this would be the best route to go down. If it is discovered a week before everyone wants to exchange then yet again an indemnity insurance could come to the rescue!

Why is my solicitor so interested in passageways?

Many properties have redundant pathways at the rear of the property. These may have been used in the past for rubbish collection and are now simply used as a short cut to access people's back gardens. Quite often they haven't been used for such a long time that people have fenced them off.

The buyer's solicitor will want to be sure that this 'right of way' which may or may not exist depending on the individual property is either confirmed as redundant or establish who has the right to use it and how often and more importantly whether their client will be expected to contribute towards the repair of it.

When do I have to pay the agent?

You pay the agents on the completion of your sale. They will send an invoice to your solicitor who will arrange for the payment from the proceeds of your sale.

Who pays off my mortgage?

Your solicitor will arrange for the mortgage on the property you are selling to be paid off.

What happens on completion day?

If you are selling a property, your solicitor will have contacted your estate agent and your mortgage company (if you have a mortgage) to obtain their commission account and a redemption figure. These will be added to the solicitor fees and taken off the purchase price before the balance is sent out to you. The solicitor will only be able to release this money to you if you have arranged for 'vacant possession' of your property i.e. it is empty (that includes the loft, garage and shed!) and you have

provided your solicitor with a signed transfer deed. Once you have cleared the property, you need to let the estate agents have the keys. Spare sets of keys should be left in the property or given to the estate agents. The estate agent MUST wait for the solicitor to confirm they have received the money for your property before they give the keys to the buyer so you can let the estate agent have the key in advance. You have a choice of whether to have the money transferred directly into a bank account or a cheque.

What happens on completion day if I am buying and selling?

On the day before completion your solicitor will have ordered your mortgage money ready to send off to your seller's solicitor. Your solicitor will have ordered a redemption figure for your current mortgage, requested a commission account from your estate agent and asked you to provide any extra money you require to purchase your new property if the sale proceeds won't be enough. Your solicitor will wait for the money to arrive from your buyer's solicitor. Once it arrives, they will pay off your mortgage and send the money to your seller's solicitor. They will also contact the estate agent to confirm that you have officially sold your house and that the keys can be released. If you are not quite finished packing when this happens don't panic, the official time for completion is usually 1pm but try and get the keys to the estate agents as soon as you can. Once the money arrives at the seller's solicitors they will contact your solicitors to confirm they have received it and have 'released' the keys on your purchase. You can then go and collect the keys and start unpacking! The speed will depend on where you are in the chain of transactions. If you are the second and there is only one person buying your property without anything to sell, then completion can take place quite quickly. If however you are near the end of a chain of transactions it can be mid afternoon before you will be able to collect your keys. It is worth checking with the estate agent how long the chain is so that you are forewarned.

Who do I need to tell that I've moved?

You should set up a redirect of your post and also notify the DVLA and the electricity, gas and water suppliers that you are moving. Also remember things like your sky subscription, broadband connections and telephone companies. You should notify the bank and the Inland Revenue and the Pension Service if you are in receipt of a pension and if you are in receipt of any benefits the relevant agency.

LEASEHOLD SPECIFIC ISSUES.

I own a flat and have no idea where my freeholder is.

First top tip, don't panic! Make sure your property is insured, if it isn't insure it straight away regardless of what the lease says. The lease usually specifies that the freeholder should insure. If you are on good terms with the other owners of the flat then try and arrange between you a building insurance for a freehold property. If one or more of the flats in the building are owned by the absentee freeholder then you are advised to at the very least insure your flat – especially if you have a mortgage as you may be in breach of your mortgage conditions if it remains uninsured.

In situations where you have an absentee landlord most times repairs and maintenance are carried out unofficially by the remaining leaseholders. If you wish to sell your flat, you can do so on the basis that you explain to the estate agent the situation and offer to pay an 'absence of landlord' indemnity insurance. The time you may come into a stale-mate situation with the buyer is if the property is in a severe state of disrepair and the repairs fall under the freeholder's obligations. If none of the other leaseholders are prepared to come together to do the works and split the cost then you may have to pursue the freeholder through the Leasehold Valuation Tribunal.

What is a 999 year leasehold?

Some flats come with a 999 year lease, this as good as it gets as far as leaseholds are concerned as it is highly unlikely you will outlive your lease! Many flats have 99 year leases which are then subject to a lease extension which extend them to 999 years. If the flat you are buying comes with a share of the freehold the freeholders may have already decided to extend the leases to 999 years. If the freeholder is a separate entity, they are entitled to charge a premium for the lease extension which can be anything from a couple of thousand up to £40k or even more. As a leaseholder you are entitled to a lease extension up to 99 years (not 999) if you have owned the property for two years. The freeholder has to calculate the premium on the basis of a rather complex calculation a version of which can be located on the LEASE website.

Why do I need to pay the managing agents so much for the information for selling the flat?

Unfortunately the managing agents have you over a barrel as far as providing this information is concerned. Most purchaser's solicitors insist on this information and the managing agents are the ones who have it. If they prove not to supply the information in a timely manner then you should lodge a complaint directly with the management company.

Why is my house a leasehold? I thought it was only flats?

Some houses which have a shared accessway which is privately maintained may find that they are leaseholds rather than freeholds. Usually they are 999 year leases and unlike flats the leases will state that the individual homeowner is responsible for the insurance of the property and the only communal link will be the use and maintenance of the access route or parking area.

Why does everyone keep talking about lease extensions?

Many leases which were set up in the 1970s and 1980s only ran for 99 years. Therefore we are now in a position where a lot of leases have 50 or 60 years to run. Although most people do not intend to live in their flats for the next 50 years, a lot of mortgage companies are requiring leases of over 75 years before they will authorise a mortgage. Quite often it will be a condition of the mortgage. As a cash buyer you may not think it is necessary to extend your lease but you ought to consider what will happen when you sell the property. If you are the owner of a property with a short lease it is worth investigating the cost of a lease extension with your freeholder. You can then either sell the property for a slightly lower cost on the basis that the new buyer can then extend the lease in their own time after completion or arrange for the lease extension before you market the property thereby ensuring that you can market at a higher price.



SELLING

TERMINOLOGY

Who are the 'other side'?

Sometimes your solicitor will refer rather ominously to the 'other side'. This is short hand for your buyer or seller's solicitors.

What is a right of way?

A right of way is the right to use a private path or road. It can be set out in the deeds, for example, access to a garage block or parking area. If you live on an unadopted road you may have a right of way over the road this listed in your deeds.

If there is no legal right of way you may have a prescriptive right meaning you have used it without objection or hindrance for a certain number of years and therefore the right is presumed to exist. If you have a right to use a pathway or roadway then you may also have an obligation to contribute towards its maintenance and repair.

What is an indemnity insurance and why is my solicitor spending my money on them?

Indemnity Insurance policies are one off premiums that cover a multitude of conveyancing sins. Prices range from £50 to approximately £400 depending on the problem that has cropped up and are paid by the seller. The most popular cover is for building works where planning consent wasn't obtained and for rights of way that have been used for years but for which there is no paperwork to back it up. They are used as a quick fix. For example formalising a right of way can take months, you will inevitably be asked to pay the costs of the person who has the benefit of the right of way and possibly a premium to someone whose eyes have just lit up with pound signs. An indemnity policy will protect the new owner from any financial loss caused by someone asserting their right or their ownership of a piece of land or the local authority enforcing planning issues.

What is FENSA?

FENSA certificates are provided for new windows and doors (containing glazing) installed after April 2002. It is mentioned in the Seller's Property Information Form

and if you have had doors and windows installed since that date you will be expected to produce the FENSA certificate which your installer should have supplied. If you have lost this or chucked it out by mistake, FENSA will provide you with a new certificate at the cost of £12. If you got a mate to install your windows and don't have a FENSA document, then you can obtain an indemnity insurance at a cost of approximately £15-£100 depending on the value of the property.

What is NICEIC?

This is reference to an industry standard similar to CORGI relating to electrical installations. For more information, they have a website www.niceic.com. Your solicitor may ask to see documentation relating to electrical installations and if you have the NICEIC documentation this should be supplied to avoid delays.

What is a CORGI certificate?

A CORGI certificate is a gas certificate which your plumber should have supplied when he put in your new boiler, cooker or other gas installation. Most plumbers are CORGI registered. If you don't have one you should contact the plumber who installed the item and if they are no longer around an indemnity insurance can usually be obtained for this issue.

What is exchange of contracts?

Exchange of contracts is when both parties are legally bound to sell and purchase a property and when a completion date is set.

What is a Transfer Deed?

This is the document that legally transfers the property from one party to the other. The seller will usually be asked to sign this in advance and occasionally the buyer will also be asked to counter-sign it (especially if it contains new covenants or easements such as rights of way or restrictions relating to the use of the land). The document only becomes valid on the day it is dated which is the completion day and the seller's solicitor will only release the document to the buyer's solicitor once they have received the funds. Your solicitor will be unlikely to release the proceeds to you until he has the transfer document.

When there is also the transfer of the freehold of a block of flats, there will be two transfer documents to sign, the first relates to the leasehold part and the second will be the freehold transfer document which will need to be signed by all the owners of the freehold if they are individually named on the title deeds. You should advise your solicitor early on if this is the case so that he can start sending the transfer document to each freeholder so it doesn't hold up completion. If the freehold is in the name of a company you will simply sign a stock transfer form and hand over your share certificate

What is completion?

This is when the money changes hands for a property, completion day is when you legally must vacate your property/will be able to collect the keys for your new property.

What is vacant possession?

Vacant possession means an empty property. This means EMPTY! The shed, the attic, the cupboards, the garage should all be cleared unless it has been agreed otherwise between you.

What is a fire risk assessment report?

This is now a legal requirement for any building containing flats with communal areas and should be arranged by your freeholder. If you have a share of the freehold and intend to sell the property, this could be a sticking point to get to exchange as it is something your buyer's solicitor will want to see. Your estate agent can usually recommend someone to do the fire risk assessment for you.

What is an asbestos report?

Similar to the fire risk assessment report this is a legal requirement for buildings containing flats with a communal area. Your estate agent can usually recommend someone to do the fire and asbestos report at the same time.

What does 'release of keys' mean?

Release of keys is the moment that the solicitor telephones the estate agent to let them know that they have received the money for the sale of a property and authorises the estate agent to release the keys to the buyer.

What is door furniture?

Door furniture is door handles, letter boxes, bell pulls and the like. Most of the time they are left but sometimes they may be personal to the seller and be taken with them.

What is an Energy Performance Certificate and why do I need one?

An Energy Performance Certificate is a document which indicates the energy efficiency of your home. It is a legal requirement and the only item to have survived the Home Information Pack saga. Your estate agent should be able to give you a name of a provider as you should have one when you are marketing the property. If you are selling privately you will still need one and a quick internet search should locate a provider.

What is a deed of variation?

A deed of variation is used to adjust a lease. For example lease extensions are actually deeds of variation. They can also be used to modernise old leases, to remove archaic terms and ensure leases comply with new mortgage requirements.



THE PROCESS OF PURCHASING

How quickly can I move in?

The quickest the writer has ever gone from receipt of papers to exchange of contracts has been 24 hours, however, this was an extreme case.

If you are in a chain your solicitor can only move as quickly as the slowest member of the chain. If however you are chain free and buying a vacant property the transaction can move quite quickly. Once papers have been received by your solicitor, they need to check through them and make sure there is nothing untoward in the deeds that would cause you problems later on. Enquiries are raised and answered and then you will receive a 'report on title' from your solicitor. This will contain the contract and the deeds and supporting documents to enable you to make an informed decision as to whether you are happy to proceed. If you have requested or require searches these will be contained in the report on title having been ordered by your solicitor.

Things that hold sales up are the issuing of mortgage offers (which the solicitor will need to check as they are usually acting on behalf of the mortgage company), delays in receiving replies to enquiries or the discovery of discrepancies in title deeds.

If there is a hold up your solicitor will be doing everything they can to push it forward. Ask your solicitor what a realistic timescale is. If there is a major problem with a right of access for example, this could involve three or four different parties and could take a few weeks to resolve.

How much money do I need to give to my solicitor?

When you purchase a property, your solicitor will need the search fees upfront. These are usually between £250 and £350 depending on the local authority that provides the search. This money will be non-refundable once the solicitor has initiated the searches. If you would prefer your solicitor to wait until either you have had your survey or you have your mortgage offer in place you should make this clear when you give in the money, most solicitors unless told otherwise will put the searches in place as soon as they receive the papers from the seller's solicitor.

Why is a different solicitor acting for my lender and charging me separately.

Most mortgage companies will be happy to use your solicitor to act on their behalf. However, some mortgage companies have chosen to select only from a panel of solicitors and your solicitor may not be on the panel. A recent example is HSBC who for years were happy to use individual solicitors and has in 2012 changed its policy and will only use a specific set of solicitors. If you are using a less well known mortgage company, it is worth speaking to your solicitor as most of the time your solicitor can apply to become a panel member and it won't delay the transaction.

Why does my solicitor not want to help me get my mortgage?

The Financial Services Authority have very strict guidelines which set out that solicitors cannot give financial advice. They are not being mean-spirited, they simply cannot help.

My elderly mother is moving in with me and putting up half the money!

This again is an example of a time when a Declaration of Trust and Wills are very important. If your solicitor is acting on your behalf, your mother should obtain a separate solicitor to advise her if she has concerns and look over any documents designed to protect her interests. Although a lot of weight can be put on trust and family promises, most solicitors have seen the disasters that can ensue if relationships break down and it is always better to have something in writing.

Who does my survey?

Your mortgage provider will do a valuation survey, this is the minimum requirement for your mortgage company to be assured that it is a worthy risk, however, a more in depth survey would be a 'Home Buyer's Report' and if you have real concerns you should obtain a full structural survey. Your estate agent should be able to give you a list of local surveyors.

What are 'searches' and why do I need them?

The standard three searches are the environmental report, the water and drainage search and the local authority search. These are requirements if you are taking out a mortgage, if you are a cash buyer it is your decision as to whether you ask your solicitor to do the searches for you. For example if you are buying the property next door to you and have known the elderly couple who lived there for 30 years then there is less risk in you not doing the searches than if you are buying in a different town with no local knowledge. Your solicitor may ask you to sign a disclaimer stating you do not want the searches if you decide not to proceed with them.

When does my solicitor want the deposit?

It depends on the size of the chain. If the chain is small and the solicitor is confident that once he has reported to you exchange is imminent they may request the deposit funds then (or even the total amount required to finalise the purchase). If the chain is

looking long and complex, you may have signed your contract a few weeks prior to being asked for the deposit as a solicitor would prefer that you are earning interest on the deposit moneys (between 5 and 10% of the purchase price) than for it to be sitting in their client account.

I am selling and buying and don't have a cash deposit.

If you are in this position, you may not have the cash sum of 5-10% of the purchase price. Your solicitor will use the deposit from your sale as the deposit for your purchase, this is done on exchange of contracts. If your sale is for less than the purchase most solicitors will accept a value up to 10% especially if exchange and completion are fairly close together.

What are the ways I can transfer my money to my solicitor?

You can provide them with a personal cheque which takes between 5 and 7 days to clear, a bank transfer directly into the solicitor's account or by a Banker's Draft (a cheque which is obtained over the counter at your bank or building society) which is treated as cleared funds.

Why does my solicitor insist on waiting for my money to clear?

If they exchange contracts and your deposit cheque bounces, it is the solicitor's responsibility to pay the deposit over, hence paranoia on the solicitor's part.

When am I legally bound to buy the property?

You are legally bound when you exchange contracts. Although you may have signed the contract and returned it to the solicitor and paid your deposit to him or her, the legal exchange of contracts will be done on the phone between your solicitor and the seller's solicitor. Your solicitor will contact you before he commits you to an exchange of contracts and ask for your authority to exchange. Exchange of contracts is also the time when you commit to a moving date so before you authorise exchange you should make sure you are in a position to move out on the day that you agree.

Why do I need to give my mortgage number to my solicitor if I'm porting my mortgage?

Even if you are moving your mortgage, the mortgage itself is registered against your current property. One of the conditions the solicitor agrees to is giving 'clear title' to the buyer's solicitor which means removing the entry on your title deeds that refers to your mortgage. He therefore needs to pay off your old mortgage using the proceeds of sale and then request the funds for your new mortgage to be registered against the new property. If it sounds like a faff then you'd be absolutely right but unfortunately it is the only way to obtain the necessary clear title to enable completion to take place.

When should I give notice on my flat/tell my parents I am moving out?

The only time you can be sure that you will be moving is the day that your solicitor exchanges contracts. Prior to this it is entirely at your own risk that you give notice as there is a possibility your solicitor may not be in a position to meet your deadline and you should make alternative provisions if you have already given notice.

When should I book the removal truck?

All solicitors understand the desperate want to book the removal truck but please only book it provisionally until you have exchanged contracts and don't hand over any non-refundable deposit until that time. Completion dates can change at a moment's notice and chains have been known to collapse on the day of a suggested exchange of contracts.

Can I get access to the property before we complete?

You are not legally entitled to access the property before you complete and if you wish to do so this must be negotiated with your solicitor. Usually it can be agreed, if the property is vacant, that you can access the property after exchange of contracts. The conditions of access are set out in a separate document which you will be asked to sign called a 'form of undertaking'. The conditions usually include agreeing not to reside in the property prior to completion and confirming that you enter the property at your own risk. It also will usually set out that you are not permitted to make any structural alterations – the wall between the living room and the dining room that you desperately want to knock down will have to wait until you have purchased the property. Measuring up, remedial work such as resolving a damp problem or access to store items can usually be agreed to on the basis that if you do not complete the transaction you make good any damage you have caused to the property.

Who pays stamp duty?

The buyer pays stamp duty. Up to £125,000 properties are stamp duty exempt, between £125,000 and £250,000 it is 1%, £250,000 to £500,000 is 3%, £500,000 - £1,000,000 is 4% and over £1,000,000 is 5%. If your property is deemed to be in a disadvantaged area (you can check this on the stamp duty website) you will not have to pay stamp duty unless the property is worth over £150,000.

How do I pay my solicitor?

Your solicitor will send you out a 'completion statement' showing the total sum required to complete the sale and/or purchase. This will include his fees which are payable on completion.

What happens on completion day?

Your solicitor will have ordered your mortgage money to arrive on the morning of completion day. A few days previously your solicitor will have arranged for you to provide the balance of the money required to buy the property and this will include all the legal fees (stamp duty, land registry fees, search fees and solicitor fees). On the

day itself, your solicitor will send the money to the solicitor acting on behalf of the seller. If you are buying only, you could be at the start of a chain and this could mean that although your solicitor may confirm you have officially 'completed' the transaction and had confirmation of the 'release of keys' from the seller's solicitor, you may not be able to collect the keys from the estate agent as soon as this happens. The contract usually states that vacant possession must be given by 1pm. Obviously there is an element of leeway and common sense to be applied to this. If you arrive to your new house and the seller is sitting on a lounge on the front lawn and the house is still full of furniture, contact your solicitor, if however, there is a slightly frazzled couple frantically trying to Hoover while stuffing the goldfish into the removal van give them a chance to finish before threatening to sue!

What if the money doesn't turn up on time?

It is extremely rare that money does not arrive at the solicitors on time. This can very occasionally happen in long chains where there has been a delay further up the chain where a mortgage company hasn't released the money until late in the morning. If this happens solicitors will usually cooperate with each other and agree to skip a section of the chain and arrange for the money to be sent directly to the last solicitor in the chain. This is quite a complex procedure and should only be done as a last resort. Very rarely there are situations where the money may have left the previous solicitor but the money is floating somewhere in cyberspace and hasn't arrived at the seller's solicitors bank account. Usually it can be arranged that the solicitor provides an undertaking (a legal promise) that the money has been sent and the seller's solicitors will arrange for the release of keys. The seller's solicitor is not legally obliged to accept this undertaking but most do. IF none of these solutions work and you are in a situation where you have to arrange for storage overnight then the contract will allow for you to claim this money back from whomever has caused the delay.

When do I start paying my mortgage

From completion day. If you complete before the day you have allocated for your first payment your mortgage company will contact you and request the additional interest accrued for the days that you have had the mortgage.

Can I pay an indemnity insurance for breaching the rules and then breach them!

In a word – no! Indemnity insurance is only designed to protect mistakes that have already occurred. Most indemnity policies have a condition that the breach is over 12 months old.

My dad/mum/Auntie Flo helped me buy my house? They would now like some protection?

They can be protected with the use of a second charge on the property. This has the same effect as a mortgage and will mean that if the house is ever sold they will have

to be advised and will receive their money back. Within this document can be set out repayment terms if necessary.

My significant other is moving in with me but the house is in my name only.

You are advised to obtain a declaration of trust and also contemplate doing a Will. Your partner will have certain rights in the property which you will either want to document or remove depending on your relationship.

I love Fred very much but I'm putting in a lot more money than he is and am a smidge concerned what might happen if we have a row and split up!

It is important to protect your interest in the property. A Declaration of Trust would be the route in these circumstances. It is worth dealing with this at this stage when you are running to and from solicitors to sign documentation rather than wait until you are mid-row!

I'm only 25 why does my solicitor want me to write a Will?

A lot of solicitors will suggest that you draft a Will after you buy a property. This is, we admit, partly to get you to use us to draft your Will but actually more importantly to make sure that your newly acquired asset – your house - is left to the right people. This is especially important if you are co-habiting with a long term partner and are not married or in a civil partnership. You have no rights to the other's property if one of you were to die.

LEASEHOLD SPECIFIC ISSUES

What are communal areas?

Communal areas are parts of a block of flats that are used by all the leaseholders. This could be a parking area, the hallway, the stairs or a storage facility.

What are mutual covenants and mutual easements?

Virtually every lease will have a mutual covenants and easements clause. These give you the right to use the communal areas and use the services that run through the walls of the building and technically through your neighbours walls such as telephone cables and electrical wiring. The lease also gives your neighbour permission to use the sections of cables and wires that may run through your section of the building.

What is service charge?

Service charge is your contribution to the freehold of a block of flats. It will usually include the insurance of the property, maintenance and repair and possibly a contribution to a sinking fund if one is set up. It is usually a percentage share of the total cost, however, some are calculated on floor space or rateable values.

What is ground rent?

Ground rent is the 'rent' that is paid by a leasehold flat to the freeholder for the lease. It is usually a minimal sum of approximately £100 a year but can be more or quite often reduced to nothing and referred to as a 'peppercorn rent'.

What is a deed of covenant?

This is a document that a new owner of a flat may be asked to sign. It is a document between him and the owner of the freehold in which he confirms he will comply with the regulations of the lease.

What is a share of the freehold?

It is becoming more and more common for leaseholders to purchase their freehold between them. If a freeholder wishes to sell the freehold he must first offer it to the leaseholders of the property before selling it to a third party. It is rare for one leaseholder to purchase the freehold without the others, therefore usually the leaseholders will form a company to purchase the freehold and then each leaseholder will own a share in that company. Another option is for each leaseholder to own a share of the freehold in their own names. This can only work if there are no more than four co-freeholders as this is the maximum number of individuals that the Land Registry will allow to co-own property.



PURCHASING

TERMINOLOGY

What is a freehold?

A freehold is a property which is owned wholly by one party. Most houses are freeholds. Most flats are leaseholds.

What is a leasehold?

A leasehold is usually a flat, however, houses with communal access ways can be leasehold. Leaseholds are usually between 99 and 999 years, this means that after the 99 or 999 years the flat goes back to the freehold which is usually owned by the collective leaseholders or by a separate person or company. Owning a share of a freehold is a major advantage if you are buying a flat as it means you will have a right to make decisions regarding repair and maintenance rather than having them decided by a third party and simply being asked to contribute towards the costs.

What is an office copy entry?

An office copy entry is an official copy of a title deed. Since 'dematerialisation' in 2002 the Land Registry stores all deeds electronically rather than originals. This means that old deeds are often destroyed once they have been scanned at the Land Registry. You will not receive a Land Certificate when you are the new registered owner of your new house, you will receive an office copy of your title deeds and although it looks a lot less grand than a bundle of old deeds, it is the official record that you own the property.

What is an environmental report?

An environmental report gives an indication of any environmental concerns that may be within the area that your new house is situated. For example, it may show that there is a flood risk or that there is potentially contaminated land nearby. An environmental report will either

1. 'Pass' in which case there are no concerns, or be

2. 'Referred' which means that an initial concern has been identified and needs further investigation, or state that it has
3. 'Failed due to x, y z'.

Often a 'referred' environmental report will have revealed a concern for potential contaminated land which is then identified as either very low risk or not deemed to be a concern. For example, a petrol station nearby could trigger a contaminated land concern initially but upon further investigation be shown not to have an environmental impact on the property.

What is a local authority search?

This is the most useful of the three searches as far as practical information is concerned. There are a standard set of questions sent to the local authority concerning road adoption, planning consents, building regulation consents, compulsory purchase orders and road widening amongst others. The most important information is to be found in the schedule which lists the planning and building regulation consents. Your solicitor will be able to check the property has the correct paperwork for any alterations and if the property was built within the last 50-60 years whether the initial build had the correct consents. Planning consent is often a concern if you are buying a flat in a converted property and this search enables your solicitor to see at a glance whether the necessary planning applications were made and whether they were complied with.

What is a water and drainage search?

A water and drainage search will confirm firstly whether the property is connected to the mains drains and the water supply and also where the pipes and drains are in relation to your property. As it is the local water authority who provide the results of the drainage search it will only show drains and pipes that they maintain. Private drains may run through your garden. You should ask your surveyor about these. If the house has been extended you should check that no access route to the drains has been covered by the new extension.

What is a chancel search?

If the property is near to a church, the buyer's solicitor may order a 'chancel search'. This checks whether your property has any responsibility to contribute towards the maintenance of the church itself. Many churches have theoretically got the right to charge the properties within the parish for repairs. It makes no difference as to whether you are a member of the congregation, it is the property and you as the owner of that property who has the responsibility. If there are chancel rights connected to the property, you can obtain an indemnity insurance ranging from between £100 - £400 depending on the value of the property to protect the buyer.

What is a conservation area?

This is an area that is deemed to be worthy of preserving due to special architectural and/or historic relevance. If you are buying in an area which is a conservation area

you should bear this in mind with any alterations you make to the outside of the property. Although not as stringent as having a listed building, any alterations will need to be in keeping with the other properties in the area and therefore if in doubt check with the council.

What is a listed building?

A listed building is a building deemed to be of significant historical or architectural relevance and therefore protected against alterations. Be aware that if you buy a listed building that it is not only the outside of the building that could be listed. National Heritage has a list of such buildings and you should contact them or the local council to discuss any alterations you may wish to make as there could be severe restrictions.

What is the 'contract' rate on the contract?

The 'contract rate' usually 4% above base rate is the interest on the purchase price that the seller is allowed to charge the buyer if completion isn't finalised on the allocated completion date. The seller has the right to issue a 'notice to complete' which gives the buyer 10 days to come up with the funds to complete, after this date the seller is entitled to keep the deposit and the contract is cancelled or rescinded. This is why solicitors are so careful about making sure money is where it needs to be in time for completion

What is a declaration of trust?

This is a document signed by co-owners of a property stating the shares they put into the property and what proportions each should get if the property was sold.