

YOUR GUIDE TO THE LEGAL PROCESS FOR SELLING A PROPERTY

Selling a house or flat is almost certainly one of the most important transactions you'll ever make. Obviously you want to get it right, and it's our job to help you achieve this.

You may have instructed us to prepare a Home Information Pack (ask for our "Home Information Pack Fact Sheet") or you may be instructing us at a later stage, for instance when you have accepted an offer on your house. Either way, it is vital that you let us know as soon as you have found a buyer and also that you tell the estate agents that we are acting on your behalf.

Once you've found a buyer, we'll do all we can to make the legalities run smoothly.

This brochure will help you understand the house selling process, but please remember that it is for general guidance only and cannot cover every point which could arise. If at any stage you have any queries, don't hesitate to ask.

There are five main stages in the legal process:

1. Preliminary matters – acceptance of your instruction;
2. Before exchange of contracts – providing your buyer with more information;
3. Exchange of contracts – the day you enter into a binding contract to sell;
4. Preparing for completion – preparing for the big day; and
5. Completion day – the day you must move out and hand the keys to your buyers!

PRELIMINARIES

As soon as you have instructed us then Law Society Rules mean that there are certain formalities that we must go through in order for us to accept your instructions. At first instance we will, therefore, send you *our terms of business letter* which will give you information on matters such as the scope of our work, who will carry out the work, our fees (including any cost estimate given) and other useful information. It is important that you read this carefully and return the duplicate copy duly signed indicating your acceptance.

We will also need to *verify your identity* and the documents that we need you to produce will be specified in our terms of business letter. Normally these should be produced at a face to face meeting with a member of staff and you should telephone to arrange an appointment for this purpose. If you are unable to attend the office, for instance, if you live a long way away we will inform you of alternative arrangements that will need to be made.

Please note that we will not be able to carry out further work on your file until the above matters have been dealt with and it is vital that you attend to these quickly to avoid delay.

BEFORE EXCHANGE OF CONTRACTS

Contracts

Once we have accepted your instructions then we will make contact with your buyer's solicitors (the estate agents will provide us with their details). We will also need to prepare the contract documentation, which includes a draft contract of sale. The exact documentation that needs to accompany the contract will depend on, firstly, whether you have provided your buyer with a Home Information Pack ("HIP") and, secondly, the documentation that was included in the HIP. Crucially they will require the following:

- Official Copies of the Land Registry Title to the property, or if the property is unregistered, copies of the Deeds;
- Completed Property Information Form, which gives them more information about the property e.g., any work done, guarantees held, boundaries, any disputes etc;
- Completed Fittings and Contents Form, which details what items are to be included or excluded from the sale;
- If the property is leasehold then we will need to provide a copy of the Lease, a Completed Leasehold Property Information Form and details of matters such as the ground rent, service charges and insurance. It may be necessary for us to apply to the Management Company for this information and they will usually have standard charges for this.
- Copies of other miscellaneous documents, e.g., copies of any old deeds referred to in the title to the property, copies of any guarantees held, copies of relevant planning consents, building regulation approvals and completion certificates.

As we do not have a personal knowledge of your property we will require your assistance to provide the above information. We, therefore, will require the following from you:

- Details of your existing mortgage including your mortgage account number. You must also provide us details of any other lender who has secured your borrowing against the property. Once we have these details we will then request any deeds held by them and also obtain redemption statements as all the money outstanding will need to be paid off on completion;
- Please provide us with any deeds or documents that you may hold in relation to the property. If you are not sure what we need please ask;
- If these have not already been provided, we will, with our terms of business letter, send you a Property Information Form (and if applicable a Leasehold Property Information Form) together with a Fittings and Contents form. You should complete and return these forms, together with any relevant documents, as quickly as possible and in accordance with any guidance notes provided.

Additional Enquiries

Once the buyer's solicitor has received the initial documentation, it is quite normal for them to raise more detailed enquiries. You should not be alarmed by this. Some of these enquiries we should be able to answer, however, many will again require your personal knowledge. These enquiries will normally be sent to you for you to complete to the best of your knowledge and belief.

Survey

A survey (or Home Condition Report) may have been included in a HIP. If there is no Home Condition Report or the buyer is not happy to rely on it, he will almost certainly want the property surveyed and if the survey reveals a problem, he may well expect a lower price. The estate agents normally inform you if any problems are encountered. If the price is re-negotiated you must advise us so that the contract can be amended.

Other Considerations for your Buyer and their Solicitor

As well as considering the information relating to the property that they have been provided with, any additional enquiries and the results of the survey, it is likely that the buyer's solicitor will be carrying out a number searches. The exact nature of these searches will be dependant on what searches were included in any HIP provided and whether these were deemed acceptable by your buyer's Solicitor. Normally a buyer cannot proceed until satisfactory results of a Local Search, Water and Drainage Search, Environmental Search and Chancel Search have been received.

If your buyer is funding the purchase through a mortgage then they will be waiting for their formal mortgage offer. They would not be able to proceed to exchange of contracts until this is received.

Only once the buyer and their solicitor (who will also act for the lender) is satisfied with all the documents / information provided, the survey, search results, and any mortgage offer will they be ready to proceed to exchange of contracts.

Chains

Unless you are lucky enough to sell your house to a first time buyer, you may well become involved in a chain of transactions, where the buyer is not able to pay for your house until he has sold his own. The person he is selling to may have a similar problem ... and so on.

Everyone in the chain must, therefore, exchange contracts at the same time and complete on the same date.

Only once everyone in the chain is happy with everything will the chain be ready to exchange. The whole chain must also agree a completion date. As the estate agents have direct contact with your buyer, and often, other estate agents involved in the chain they are often your best port of call to help you arrange your completion date.

Where there is a chain we do our best to hurry things along, but often the delays are outside both your and our control. Sometimes patience is the only answer.

EXCHANGE OF CONTRACTS

Signing the Contract

As soon as your buyer's solicitor has approved our draft contract we will usually ask you to sign it in readiness for exchange.

Just because you've signed the contract does not mean your house is sold.

Only when your signed contract is exchanged for the buyer's identical document is the sale binding on you both. The sale contract comes into force immediately the exchange is made and you are bound to sell and your buyer is bound to buy.

Deposit

When exchanging contracts, we ask the buyer's solicitor for a deposit. The amount is negotiable but normally amounts to 10% of the purchase price. Sometimes, for instance, if your buyer is selling for less than they are purchasing, the deposit is less than 10%. Please note that the contract will often require the deposit to be held by the solicitors until completion.

Setting the Completion Date

When we arrange the exchange of contracts, we also finalise the completion date, the day when you must move out of the house. It is also the day when the buyer pays the balance of the purchase money.

It is usual to allow at least a week between exchange of contracts and completion. The time between the two dates can be more or less than this so long as sufficient time is allowed for the necessary legal work.

Please note that in certain circumstances a simultaneous exchange and completion date may be agreed, for instance if your buyer is getting a 100% mortgage and has no deposit.

PREPARING FOR COMPLETION

Removals

You must move out of the house on or before the completion date. So be sure to confirm your removal arrangements as soon as you hear that contracts have been exchanged.

Utilities

Remember also to inform the gas, electricity, water, phone and any other utility provider of the completion date. You will need to provide them with meter readings taken on the day of completion to ensure that

bills cover only those charges up to moving day. You must also tell the council tax department at your local council.

Mortgage Payment

As soon as contracts have been exchanged, we tell your mortgage company the agreed completion date and hence the day that we will pay off the mortgage from the sale money. They in turn come back to us with a settlement figure.

Estate Agents Account

There is no need, however, to worry about estate agent's fees. Unless you request otherwise, we will pay them out of the proceeds of the sale. Please, however, ensure that you let us know what fee you agreed with the estate agents.

Documentation you MUST sign

The document which actually transfers legal ownership of the property is called the Transfer Deed and it is prepared by the buyer's solicitor once contracts are exchanged. It will be sent to you for signature, undated, and will only come into effect when we add the date. To avoid holding up completion of the sale, it is important that you sign the deed and return it to us promptly BEFORE the completion date.

Money due to you

Once we have received your estate agents account, and a settlement figure from your mortgage lender, we will then prepare a completion statement showing the amount due to you on completion. We will deduct from the sale money the money due to your lender, estate agents and our fees and expenses.

We will ask for your instructions as to how you would like to be sent the funds on completion (e.g., by same day bank transfer for which there is a charge or by cheque). If there is more than one of you selling, we will need instructions from all of you.

COMPLETION

The completion day is the day you must vacate the property and your buyer will get the keys.

Timing of Completion

Completion takes place when we receive the sale money from your buyer's solicitors. The money will be sent direct to our bank account and the time that we receive this will very much depend on the banking systems and whether your buyer's solicitor is waiting for the sale money from their buyer's solicitor or their lender etc.

The contract will normally specify that completion must take place by either 1pm or 2pm and you **MUST** vacate before this time (or earlier).

Please ensure that you clear the property of all items (including rubbish) apart from those things which you have agreed to include in the sale.

Keys

You must leave all the keys with the estate agents unless you have made other arrangements direct with the buyer.

Your money

The balance due to you will be sent to you in accordance with your instructions. If this is to be sent to you by same day bank transfer (CHAPS) then it will normally be sent to you on the day of completion. Please bear in mind if the transaction completes very late in the day, and the banking systems have closed, your money will be sent the next working day.

ANY QUESTIONS?

We pride ourselves on keeping our clients in the picture.

If you phone and the person you want is not available when you telephone, please leave a message and phone number.

If you prefer to call in, please first ring for an appointment, otherwise the person you want may be out or tied up.

If you write, please address your letter to the person dealing with your transaction and quote the address of the property plus the reference from our most recent letter to you.

If you e-mail, please quote the property address in the subject line.