



buying and selling your home

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Introduction

Having a baby, getting a divorce and changing your job are all stressful situations. We are told that moving house ranks alongside these.

As members of LawNet, the Federation of Independent Law Firms, we are geared up to minimise the problems which may occur and to keep you better informed during the process of buying and selling a house. Every LawNet Solicitor knows the best and quickest way to deal with your house move. All adhere to strict agreed standards of client care and service.

We will take you through an explanation of the conveyancing process before covering various points of interest which you are likely to come across.

As soon as you decide that you wish to move or buy a new house, contact us and we will:

- . Help you choose an estate agent
- . Help you estimate the costs involved
- . Give you guidance on the timescales involved
- . Obtain your deeds and title documents to prevent future delays
- . Obtain detailed information from you about the property
- . Where needed, make appropriate searches

The process of moving house can be divided into three main stages:

First Steps

Finding the right house to buy and/or finding a buyer for your own.

Signing and Exchanging Contracts

The time at which you will agree to be bound by the contract.

Completion

When you finally move into your new house or out of your old one.

First Steps

Selling Your Home

You do not have to have an estate agent, but it often makes things easier if you do. Choose your agent carefully; we will be happy to assist you. Remember that not all agents offer the same service and that the cheapest is not always the best. Never sign anything about which you are unsure.

Buying and Selling

Before you visit the estate agents, work out what kind of home you want, its size, position, type, and most importantly, its price. Having visited the local agents, if you do not immediately find the house you are looking for, ask to be put on their mailing list.

If you are buying a country home, or one situated on the outskirts of a town, you may need to visit agents in several areas. If you want a new property, remember to ask about proposed developments – your ideal house may be the one they build the week after you move!



Making and Accepting an Offer

Eventually you will find a buyer or a house to buy. This means that the house will be sold "subject to contract", meaning that the house is reserved pending the signing and formal "exchanging" of contracts. However, up to the point at which contracts are exchanged, both the buyer and the seller may for any reason at all decide not to proceed with the transaction and to buy or sell elsewhere.

Remember also that things do not always happen in the right order. If you find a house to buy before you have sold or vice versa, find out how long the other person is prepared to wait or how quickly he or she can move.

Once an offer has been made for a property, the estate agent may ask the buyer to pay a goodwill deposit – usually of a few hundred pounds. The buyer should always ask the agent for a receipt marked "subject to contract". The deposit will then count towards the total paid for the property and, if the sale does not proceed, is refundable in full. If you are selling, the agent will usually set the deposit against your bill at completion.

Make sure that you tell us if you have paid or your agent has received a deposit.

Surveys

We strongly recommend that at this point you think carefully about having your own survey of the property you intend to purchase. Remember that a property is bought in its existing state and condition and that it is not possible to require the seller to compensate you at a later stage for things of which you should have been aware prior to exchange of contracts.

Even where you are buying with a mortgage and the property is being looked at by the building society or bank surveyor, you should still consider having your own survey independent of the building society's survey. At the very least you should give serious thought to asking the building society to arrange for a more detailed survey than the simple valuation which they usually have carried out.

If you would like your own survey carried out, please let us know and it can be quickly arranged for you with an independent firm of chartered surveyors.

Exchanging Contracts

Having decided on your sale or purchase, made a mortgage application and arranged for a survey, it will be time for us to start the legal work involved in your move.

If You Are Selling

1. When a Buyer has been found, we will already have obtained details of your existing mortgage and will have the Title Deeds to your property or will have obtained the property details direct from the Land Registry on-line.
2. We will issue a Contract to the Buyers Solicitors together with any related title information you have supplied us with i.e. Fixtures and Fittings form, Property Information form, copy Planning Permissions and Guarantees to the property.
3. The Buyers Solicitor will then study the Contract and raise any enquiries they may have. The Buyers Solicitors will carry out their own Searches on your property with the Local, Drainage and Environmental authorities. Further questions may be asked when the results of these become available.
4. Once the Buyers Solicitors are satisfied with the legal paperwork and their Clients have their deposit ready, when a moving date has been agreed with all parties, then Contracts can be exchanged. Following formal exchange of Contracts, the transaction becomes legally binding.



If You Are Buying

1. We will ask the Sellers Solicitors to supply us with a plan of the property in the first instance and once this has been received, we will apply for the Local, Drainage and Environmental Searches.
2. Once we have received the Contract from the Sellers Solicitors together with any related title information i.e. Fixtures and Fittings form, Sellers replies to Property Information form, copy Planning Permissions and Guarantees to the property, we will check all this information and raise any questions if necessary. We will also forward copies of certain documents to you for your information.
3. Once we receive the results of the Searches (usually between 2-3 weeks), we will report to you with the results.
4. If you require a mortgage, when we receive the Mortgage Offer, we will report to you on the mortgage and work the finances out i.e. prepare a Completion Statement. We may require further funds from you prior to completion or there may be money due back to you.
5. When all the above has been checked and approved, we will ask you to come in to sign the Contract and Mortgage and any related legal document that may be ready i.e. Transfer and Land Transaction Return. At this stage we will most likely ask you to bring in the deposit as we need cleared funds before we can exchange Contracts.
6. When we are in receipt of cleared funds for the deposit, the Contract has been signed and all the parties in the chain have agreed a completion date, then Contracts can be exchanged and the transaction becomes legally binding.

Delays

You will by now have observed that the legal work involves a large number of events which are interrelated. Accordingly some transactions proceed more quickly than others. Often, little can be done to speed up the process, although obviously we will do all that we can to act as quickly as possible. If you are involved in a chain of transactions, you can only move as quickly as the slowest link in that chain, and that person may still be awaiting, for example, a satisfactory mortgage offer.

Problems

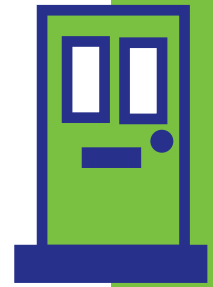
We can only advise you as to those points of which we are aware. If our enquiries produce inaccurate replies, or information is not given to us, we cannot advise you properly. So, if you are concerned about something, or you feel something is not right, please tell us so that the matter can be looked into further.

Explanation of Key Phrases

Local Searches

It is important to note that the local authority search does not reveal all relevant information about neighbouring properties. If therefore you have any specific concerns then please draw these to our attention so that enquiries can be made about them.

Local Searches can take varying lengths of time to be returned, ranging from a few days to several weeks. It is usually inadvisable to exchange contracts without the search results. In any event it is a requirement of most mortgage offers that a search be obtained. Many local authorities will not carry out these searches any more quickly than they wish to and cannot be forced to do so. You may therefore need to consider asking for a personal search of the register to be arranged. However, not all mortgage lenders accept personal searches so we would need to check this if you were considering this course of action.



Drainage Search

The local Water Authority will supply us with details of drains and sewers in respect of your property.

Environmental Search

This Search indicates whether the property has been built within 250-500 metres of any potential environmental risk to the property. This includes issues such as landfill sites, past industrial land use and flood risk areas.

Deposit

An amount paid by the Buyer on exchange of Contracts, which is normally 10% of the purchase price (or a lesser sum agreed with the Seller).

If you are selling and buying, then sometimes you can use the deposit you get on your sale towards the deposit on your purchase. This has to be agreed with your buyer first, however.

If no deposit is available, then the Solicitors will suggest a simultaneous exchange and completion i.e. where we exchange Contracts and complete the matter on the same day. This is not advisable however, because the transaction does not become legally binding until exchange has taken place and therefore there is more risk of either party pulling out at the last minute causing the other party considerable inconvenience.

All deposit cheques must be made payable to us (not to the Seller) since only our cheque will be acceptable at exchange of contracts. Also the cheque will need to be cleared before exchange (5 working days required).

Exchange of Contracts

This takes place by the Solicitors for the Buyer and Seller over the telephone when they are satisfied that they have a signed Contract, all the legal documentation is in place and they have a deposit and agreed moving day. The Solicitors exchange Contracts by telephone. Immediately when the Contracts have been exchanged, the transaction becomes legally binding on both parties.

Completion Date

The completion date is the actual moving day when the money is transferred from Solicitor to Solicitor and the keys are handed over. This date needs to be agreed by all parties in the chain before the Solicitors can exchange Contracts.

Completion Monies

It is worth ensuring that before contracts are exchanged, you have access to all the necessary monies needed to complete the transaction. You will need:

- ✓ The purchase price of the house (less any deposits paid) or, if you are having a mortgage, the difference between the purchase price and the mortgage. If you are buying and selling, all or part of this may be coming from your sale, but please bear in mind that any prior mortgages or debts secured on your present property will need to be paid off.
- ✓ The cost of any fixtures and fittings for which you have agreed to pay extra in the contract.
- ✓ A sum equal to any retentions or deductions made on your mortgage.
- ✓ Stamp duty – based upon the value of the property.



- ✓ Land Registry Fees – paid to register your ownership of the property.
- ✓ If you are selling as well as buying:
 - (a) estate agents/valuers charges
 - (b) mortgages on your existing property.
- ✓ Our charges plus VAT and any search or other fees which have needed to be spent on your behalf.

You will always be sent a full financial statement, detailing the above, and usually before completion.

Completion

What We Do

After exchange of contracts but before the Completion Date (the moving day) we will be dealing with the final conveyancing searches against the new property, preparing any outstanding documents, and arranging for the necessary mortgage and any other funds to be sent through. We will also make arrangements to have the agent's account sent to us and to discharge any existing mortgages on any property that you are selling.

In the case of brand new properties, we will instruct the building society or bank surveyor to carry out the final inspection and, if satisfied, to recommend the release of the mortgage funds. We will also advise you to make your own inspection and prepare a "snagging list" of any items that you wish the builder to put right before or at completion.

We will arrange for you to sign any documents that have not already been signed, check that all life and house insurances are either already in effect or about to be put into effect and make arrangements for keys to be released to you.

What You Do Before Completion

On your part, now is the time to arrange for the removal men, to inform the gas and electricity companies about your move and to arrange for your telephone account to be transferred.

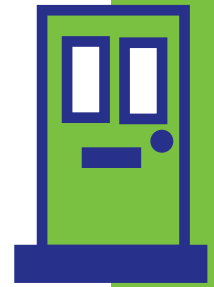
With your removals we recommend that you do not make any definite booking until we inform you that contracts have been exchanged. It is only then that you have a definite moving date.

Often it is best not to book your removals for too early in the day, as you will not be able to move into your new property until the money is in the hands of the seller's solicitor and until the seller has moved out. If there is a chain of transactions, this may not be until early or mid-afternoon.

Please note also that if you are moving from rented accommodation, it is unwise to give your landlord notice to quit until after it has been confirmed to you that contracts have been exchanged.

Completion

Usually you will not need to come to our office on the actual day of completion as you will collect the key directly from the seller or from the estate agent or, in the case of a new house, from the representative at the site office. All the technical aspects of completion will be dealt with without your attendance, leaving you free to concentrate on the actual move.



If you are selling, please remember not to hand over the keys of your old house until you have checked with us that the completion monies have been received.

Finally, remember that removal men generally thrive on copious quantities of hot tea, so always make sure that you can find the kettle!

After Completion

Congratulations, you made it! Now there are only the loose ends to tidy up; for example, signing any outstanding documents, getting spare sets of keys, and remembering where you packed the cat.

We will continue now by dealing with such formalities as the Stamp Duty and title registration, discharging your old mortgages, paying the estate agents and then finally, once registration has been completed, sending the deeds either to you or, if you have a mortgage, to the bank or building society.

Points of Interest

The following is a brief summary of a few of the more important points which you may encounter during the conveyancing transaction. If you are unsure about something then please contact us and ask – it could be important.

Freehold and Leasehold

A freehold title to your house is the best you can obtain. The house remains in your ownership forever subject only to compulsory purchase powers held by the local authority.

A typical leasehold property may have a 99-year or even a 999-year lease usually running from about the time the house was built. As long as a house has at least 50 years plus left remaining on the lease this is normally an acceptable length of time to banks and building societies who provide mortgage finance and so such a leasehold property is fully saleable. However, as a buyer you should remember that if you buy a house with say 53 years remaining on the lease you will very likely need to purchase the freehold before you resell.

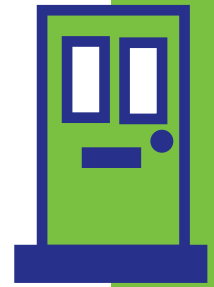
If you have a long lease (i.e., one for over 21 years) then, once you have lived in that house for three years you are entitled to the right to buy the freehold if you wish. This right to buy does not apply unless your lease is of the whole house, is at a low rent and you are occupying the property as your only or main residence.

Sometimes a buyer will come across a desirable property which has less than 50 years remaining on its lease. The seller will probably either offer to buy the freehold interest and then sell it on to the buyer or, if the seller has lived in the property for three years or more, he can offer to transfer to the buyer the right the seller has to buy the freehold. The buyer then buys the leasehold interest from the seller and the freehold interest directly from the freehold owner

Both these methods are good solutions to the problem of too few years remaining on the lease but we would not recommend such a house to the buyer who wishes to move quickly since despite our best efforts the process of buying freehold can often take several weeks.

Leasehold Flats

The leases relating to flats deserve a special mention as two points in particular always arise. First, the lease will usually specify that the freeholder, or where applicable the service or management company, will maintain the block



fire insurance policy. As a rule your bank or building society will wish to maintain fire insurance on the structure. To prevent you paying twice it will be necessary for us to obtain from the seller's solicitor a copy of the current insurance policy which is then sent to your bank or building society as confirmation that the policy is acceptable to them. In some cases the insurance policy, for whatever reason, is not readily available and this can delay the transaction.

Secondly, it is essential that the lease of the flat contains a clause enabling you to require the freeholder or management company of the block to take action against other flat occupiers who are not observing the terms of leases. In leases made before the mid 1970s such a clause can be missing. This can mean that the lease may not be acceptable to your bank or building society and also the flat will be more difficult, if not impossible, to resell. If on receipt of the draft contract papers we advise you that the lease does not contain an appropriate clause, you will need to consider carefully before going further and we recommend that the lease is reviewed with the client on an individual basis. Additional charges are likely if we have to deal with alterations to the leases which involve contact with the freeholder's solicitors.

Your Mortgage Offer

The formal written offer will arrive through the post from your Bank or Building Society. If there is a form to sign to confirm that you accept your offer this should be signed and returned straight away. Without this the lending institution will neither forward to us the duplicate of your mortgage offer (which normally arrives at our office a few days after you receive your copy) nor will it release any mortgage funds when the time comes!

Listed below are some common points arising in connection with the mortgage offer.

Mortgage Guarantee Premium

This is a one-off premium deducted by your Bank or Building Society from the total amount you are borrowing. This is to ensure that if they have to take possession of the property at any time and sell it for a price less than the debt recoverable under the terms of the mortgage, an insurance company will pay them the difference. A mortgage guarantee premium is usually payable when you are borrowing more than 80% of the Bank or Building Society valuation of your property.

Retention

As the name implies this is a sum of money held back by the Bank or Building Society from the total amount they have agreed to lend you.

The money is held back until the work specified in the mortgage offer or valuation report has been carried out to the satisfaction of the Bank or Building Society surveyor. The usual practice is for the surveyor to re-inspect the property after the work has been carried out and if satisfactory to authorise a cheque release by your Bank or Building Society for the amount of the retention (often the surveyor's fee for the re-inspection

will be deducted from the cheque). A retention may be placed on your mortgage offer right from the start or it may be added at a later stage e.g. when timber and dampcourse or electrical reports which the Building Society have asked for become available and show that remedial work is needed. In some cases there may be a retention placed on the whole of your mortgage until further reports specified in your mortgage offer have been obtained.

Often when you are faced with a retention on your mortgage you will wish to ask the seller for a price allowance in your favour to help you with the cost of the work that is needed. We can negotiate on your behalf but if no allowance is forthcoming and the work cannot be done until after you have completed the whole transaction, you will first have to find the amount of the retention money yourself before completion. Eventual reimbursement will take place when the work is done and the Bank or Building Society has checked that all is satisfactory. Unless you have an understanding builder you will also have to find the money to pay for the work to be done.



Endowment Mortgages and Life Policies

If your mortgage advance is to be repaid using a new endowment life policy you should make sure, if you have not already done so, that as soon as contracts are exchanged the life policy is put into force. Should your Building Society not be arranging the life policy itself we will need to give the Building Society full details of the policy, including the policy number and its commencement date, at least five working days before the Completion Date.

Time Between Exchange of Contracts and Completion

The exchange of contracts "fixes" the date for completion in the legal sense. Completion is the day upon which the property is paid for, the legal formalities are finished and you are entitled to move in.

In theory the exchange of contracts followed by completion could take place on the same day. However, this should be avoided because it could enable another person in the "chain" to change their mind about the date or even the whole transaction on the morning completion is due to take place – leaving everyone else with expensive bills to pay and removal men at the door! Further, as a purchaser, it could leave you with unnecessary mortgage interest to pay as obviously we would need to have requested the funds to be forwarded from your Bank or Building Society to us in anticipation of completion day.

We strongly suggest a minimum of seven to ten clear days between exchange of contracts and completion and indeed fourteen days or more where there are more than three parties involved in a chain.

This provides sufficient time to make the final conveyancing searches and to request mortgage money from the Bank or Building Society (most need at least five working days notice to send the money) and, more importantly, provides you with the time to make your removal and other change of address arrangements.

We firmly believe that allowing yourself ample time between exchange of contracts and the actual completion or moving day will reduce pressures and strains clients often experience at this stage of the transaction.

Please bear in mind that the delays apparently experienced at this stage are not "legal delays" – but the practical ones of getting your building society to send on the mortgage cheque and you arranging the removal men, etc.

The Law Society "Transaction" Scheme

This was introduced in March 1990. Its primary aim is to speed up the rate at which information needed about a property before an exchange of contracts can usually take place and is made available to the buyer's solicitor. The seller's solicitor prepares in advance replies to all the information of a legal and factual nature. A buyer's solicitor will need to ask about the property being sold and makes this information available straight away to the buyer's solicitor.



Keeping in Touch

At the start of the transaction, one of our team of Solicitors and Conveyancing Executives will be assigned to your case, the conduct of which will receive his or her personal attention throughout.

You will be informed by first-class post of all developments and telephoned when it is necessary to speak to you straight away.

If you write with a query we will always attempt to reply to you by first-class post within 48 hours. We are of course very happy to answer clients' queries by telephone but we would ask you to help by being just a little patient if the Solicitor or Conveyancing Executive with whom you wish to speak is engaged with other duties when you ring. They make and receive calls (or see clients) constantly during the day – so do not be surprised if they are on the telephone – they may very well be talking to another firm of solicitors and trying to speed up your house move. If you leave a message or query with any of their staff your call will be returned as soon as possible.

Rest assured that we will if necessary spend all day telephoning and writing letters on your behalf and that you will be contacted immediately when there is some worthwhile news.

Good luck with your move!