

FACT SHEET

# Buying a Property

KEY CONTACT



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Buying a property is the biggest financial transaction most people will undertake. Tying all the various strands together can appear a daunting task and it is not surprising that buying and/or selling a property is regarded as one of the most stressful events in a person's life.

We have prepared these notes to explain the legal procedures which we hope will help you to understand what we will undertake on your behalf, and what is happening at a particular stage of the transaction. Advice on tax is not usually part of our instructions, and if you require such advice you would need to take advice from an accountant.

When instructing us you should consider the following points:

## Preliminary Deposit

You should not pay any deposit to an estate agent or developer without speaking to us first.

## Survey

We consider you should always have a survey of the property - no matter how new or perfect the property looks.

If you are obtaining a mortgage, your lender will insist on a valuation report. Its purpose is to see that the property is worth enough for the lender to make a loan against it. It is a valuation, not a survey, and will not reveal all or any defects in a property.

KEY CONTACT



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We recommend you should have a structural survey or building report.

Although there are limitations, the surveyor will make a detailed inspection of the property and investigate problems which come to their attention.

## The Chain

Some sales and purchases involve separate properties in a chain of development transactions.

The length of the chain may vary but the object of all those involved is to make sure that all contracts in the chain are exchanged at the same time, with the completion date, so that all parties can move on the same day. The money paid by the first buyer in the chain is passed down the chain to provide the money for all the subsequent transactions, supplemented by mortgage or other money on the way.

As a result every person in the chain has to be ready to exchange contracts before contracts can be exchanged by any one. This may take time and the delay can be frustrating to all.

## Draft Contract

The seller's solicitors prepare a contract for the sale of the property in draft form and send it to us for our approval. The contract is usually headed 'Agreement'.

We will let you know when the draft contract has been received and notify you of any matters that need to be brought to your attention and if there is anything which causes us concern.

Until we receive the draft contract we cannot proceed.

## Enquiries and Title Checks

It is usual for the seller to provide certain information about the property in a 'Seller's Property Information Form'. This will include information as to disputes, ownership of boundaries and fences, the services connected to the property, planning and other matters. The seller will also provide a 'Fittings and Contents Form' showing what items are included in the sale and sometimes what items can be purchased as extras. We will send you copies of these two forms and it is important that you check them carefully.

We will raise enquiries with the seller's solicitors. These are questions about the property based upon the draft contract, copy title deeds supplied and the forms completed by the seller.

We do not inspect the property. If, when you have visited the property, there is anything unusual or anything about which you need further information, please let us know and we can ask the appropriate questions. It is particularly important for you to let us know if alterations or additions have been made to the property even if it is simply that new windows have been put in.

We will check the title to the property to see that the seller owns it and has the legal right to sell to you. We will check the title for adverse matters or defects that may affect your decision to purchase.

## The Searches

We will carry out various searches. When you instruct us we ask you to provide money on account towards the cost of these. Sometimes special searches are required but the standard searches are as follows:

### A SEARCH WITH THE LOCAL AUTHORITY

This will reveal information such as:

- » Whether the roads are maintained;
- » Whether there are any road proposals affecting the property;
- » Whether any public footpath runs through or near the property;
- » If the property is to be compulsorily purchased;
- » What planning and building regulation approvals have been granted;
- » A large amount of information as to town and country planning.

The local search is extremely important; only in exceptional circumstances are contracts exchanged without the local search. If you are obtaining a mortgage your lender will not allow us to use the mortgage money unless we have a search which does not show anything adverse concerning the property.

We will notify you of any matters that need to be brought to your attention and if there is anything that which causes us concern. The local search will only reveal information known to the local authority at the time the search is undertaken about the particular property you are buying. It may not reveal:

- » Information about adjoining properties (e.g. if the neighbours have applied for planning permission); or
- » Things which are proposed, or being discussed, about which no definite decision has been made.

If you think there is anything such as these which would affect your decision to buy, please let us know as soon as possible and we will ask the specific question of the local authority.

### A SEARCH WITH THE WATER COMPANY

The result will confirm whether or not the property is connected to the public surface and/or foul drainage systems and also give information about the water supply, including the basis on which charges are made. The company usually supplies plans showing the location of the public sewers and water mains.

### AN ENVIRONMENT SEARCH

We apply for this search as it is important to establish that the property is not built on 'contaminated land'. If it is it will have an adverse effect on the value of the property. The search provides details of past and current industrial use within a radius of 500m and information about discharging licences; landfill sites etc. It will also indicate if the property is in an area more likely

to be affected by subsidence or flooding. Everyone has different approaches to environmental risks so even if the search says the property has 'passed' there may be information in the search which is of concern to you so it is important that you read it carefully.

## Reporting to You

When we are satisfied with the terms of the contract, we have had satisfactory replies to the Enquiries and Title Checks and received back the satisfactory search results we will usually prepare a written report for you to keep regarding the property. We will submit this to you with the contract for signature and the Stamp Duty Land Tax form to check and sign.

## Deposit

On exchange of contracts, you must pay a deposit, usually 10% of the purchase price (although your seller may agree to accept less). We cannot exchange contracts until we have cleared funds.

If you are obtaining a mortgage of greater than 90% of the purchase price and the 10% deposit will cause you difficulty, please let us know as soon as possible so we can see if a lesser deposit can be arranged.

If you are selling at the same time as buying, we should be able to use the deposit received from the buyers to pay your deposit on the property you are buying although you may be required to 'top it up' to a full 100% of your own purchase price. However, occasions where this is required are not common.

## Finance

It is important that before contracts are exchanged you are sure that you will have sufficient monies available to complete your purchase. This means that if you require a mortgage you have a satisfactory mortgage offer from your lender and can comply with all conditions attached to the offer. We will send you a written report on the mortgage offer.

## Exchange of Contracts

Until 'exchange of contracts' either the seller or buyer may withdraw from the deal. The other party cannot claim any fees or expenses from the party who withdraws. When contracts are exchanged a contract between the parties comes into effect. You should not enter into any financial commitment in relation to the property until exchange of contracts.

## Insurance

There is a general rule of law that from the date when contracts are exchanged the risk of damage to the property passes to the buyer. Buyers should normally insure the property when contracts are exchanged, not when it is completed.

## After Exchange of Contracts

Any outstanding transfer documents are signed.

If you are having a mortgage we report to your lender who is usually also our client and confirm that you will obtain a good and marketable title. We ask them for the mortgage money in time for completion. Lenders usually send us the money on the day we request and there is no guarantee that this will reach us in time to complete. To avoid any delays in your purchase we will request the mortgage money before the completion date. Most mortgage lenders will only charge interest from the completion date, but a few will charge interest from the date they send us the money.

We will also ask you to let us have any amount you need to pay to complete the transaction. This amount will include Stamp Duty Land Tax, Land Registry fees and other disbursements which are payable.

We will request that you make payments by bank transfer direct to our account.

Once you know the completion date you should make removal arrangements and arrange for the final reading of service meters, telephones, etc. No completion date is certain until contracts have been exchanged.

## Completion Day

This is the day you move. Although there is no law as to exactly when completion takes place, if you are selling you should aim to be out of your old property by 1pm. You would similarly not expect to be in your new property by that time.

Unfortunately there are frequently delays in the transfer of money especially if there is a long chain, so never count on doing anything by a particular time.

If you are buying a new property, the builder may not allow you access to the property until the money is received in the builder's bank account. This may take some time and you may find you are waiting to move in until the money arrives.

## After Completion

Following completion we will pay the Stamp Duty and Land Tax and register the transaction at the Land Registry. We will let you know when this has been completed and we will send you any relevant title documents. It is very important that you keep such documents in a safe place as they will be needed when you sell the property.

**NB: Time considerations may mean that the order of events outlined in this fact sheet may not always be strictly followed.**

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This fact sheet has been provided for information purposes only and should not be construed as legal advice. Whilst every effort has been made to ensure that the information in this fact sheet is correct (as at May 2019), it is intended as a guide only and should not be relied upon. Specialist legal advice should be sought so that all the factors specific to your circumstances can be taken into account.