

FACT SHEET

# Selling a Property

KEY CONTACT



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

## Estate Agents and the Chain

Many house sales and purchases involve several properties in a chain of dependent 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 same 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.

If you are selling your property through an estate agent, part of the agent's role is to keep in contact with other estate agents in the chain to check how matters are proceeding. We will only be dealing with your buyer's solicitors, not solicitors further down the chain.

KEY CONTACT



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Wherever possible it is best to sell to someone who has no property to sell or at least is involved in a short chain. Sometimes an offer will be received from a 'cash' buyer. This needs to be checked as sometimes 'cash' simply means that the buyer does not require a mortgage. Your estate agent should check this for you before you agree to accept the offer.

### What is 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 binding contract between the parties comes into effect. You should not rely on the sale proceeding until exchange of contracts.

If you are selling your property privately it is important to avoid a contract being created inadvertently. Therefore any letters to the buyer should be clearly marked 'Subject to Contract'.

### What is Completion?

Completion is the day you move and the ownership of the property passes to the buyer who is entitled to occupation and the keys. Completion is the day the money is paid by the buyer and becomes available to you.

### Getting Started

At the outset we will send you several forms to fill in and return to us. The forms are as follows:

#### FITTINGS AND CONTENTS FORM

This form shows which items you intend to leave at the property and which you intend to take with you. If you have a related purchase and are not sure what curtains, cookers etc. are being left by your seller it is possible to agree this with your buyer later. If you wish to take items, unless the buyer is willing to pay extra for them, this can be indicated on the form. Any additional payments should be made via solicitors with the purchase money on completion and an appropriate condition included in the contract so as to avoid any misunderstandings. Sometimes where you have already agreed a price which includes carpets, curtains and similar items you will then be asked if the sale price can be apportioned between the property and these 'chattels'. That is because a buyer does not have to pay stamp duty on chattels. This is particularly the case where the total price puts the property in a higher rate band for stamp duty. The difference between stamp duty payable at 1%, and say, 3% is significant. However, it is important that any apportionment of the price is a true reflection of the second hand value of the items.

#### SELLER'S PROPERTY INFORMATION FORM

These forms include questions about disputes, ownership of boundaries and fences, the services connected to the property, planning, guarantee and other matters. It is important that you answer each question carefully and honestly. If you do not know then you can say 'not known' but if you do not understand the question or are not sure how to reply then please ask us. Please also let

us have the original guarantees and other documents in your possession as we will need to hand these over on completion.

## SELLER'S LEASEHOLD INFORMATION FORM

This form is only relevant if the property you are selling is leasehold. Clients sometimes find this form difficult to fill in or do not have all the documentation requested in the form. Invariably we have to write to the managing agents and/or landlord at some stage for additional information so simply supply us with as much information as possible. Managing agents and landlords will make a charge for supplying information and this can vary significantly. If you are selling a leasehold property we will usually ask you to pay money on account at the outset or when we know the exact sum involved.

## DRAFT CONTRACT

We prepare a contract for the sale of the property in draft form and send it to the buyer's solicitors for approval. The solicitor who acted for you when you purchased the property may have sent the documents and papers to you. Some of these documents will be very important so please make sure that you pass all of them on to us at an early stage. We will let you know when the draft contract has been sent out.

## Enquiries

The buyer's solicitors will often raise 'enquiries'. These are questions about the property based upon the draft contract, the copy title deeds we have supplied, the forms you have completed or the result of searches. Some of these enquiries we will be able to answer and others we will refer to you. We may need to apply to the local council for copies of planning consents and/or building regulation approvals if these are not with your papers or supplied by you. Sometimes you may have carried out work without obtaining the necessary consents from the council or a third party or have breached a restrictive covenant which affects the property. This can cause difficulties so if that is the case please seek our advice at an early stage in the transaction.

## Your Mortgage

We will ask your lender to let us have a redemption statement for information purposes. If a penalty is payable for early redemption of the mortgage details of the penalty will be shown on the statement.

If you have a second mortgage or other secured loans we will need details of those as well because on completion we will be required to discharge all mortgages. If there is insufficient money to do this then the sale cannot proceed. You should continue to make your usual mortgage or loan payments until completion.

## Contract Races

If you receive more than one offer for your property, or your buyer is being slow, it can be

tempting to ask us to send out another contract. There are strict rules about 'contract races' which we have to comply with so that buyers are aware of the risks involved before they pay for searches and survey fees and incur legal costs. The usual expectation is that you withdraw from one sale before issuing a contract to another buyer. If you do want to proceed on the basis of a contract race please seek our advice.

## Contract Signing

When the contract has been approved we will send you the contract to sign and return in readiness for exchange of contracts. We will also ask you to sign the Transfer Deed if this is available at this stage. It must be signed before completion.

## Deposit

On exchange of contracts, the buyer will usually be expected to pay a 10% deposit. If the buyer is not offering a full 10% deposit we may want to seek your authority to proceed. However if you have a related purchase and the deposit is acceptable to your seller then we will assume that this is acceptable.

## Joint Ownership

If you are selling jointly with another then we will account to you jointly with the net sale proceeds unless we receive joint written instructions to the contrary prior to completion.

## Exchange of Contracts

When everything is in order; everyone is satisfied as to the terms of the contract; the buyer has made the necessary financial arrangements and their buyer is ready to proceed (and so on down the chain) contracts can be exchanged. A completion date is agreed and then contracts in identical terms are exchanged with the solicitors acting for the buyer and the deposit is paid. It is only when we have exchanged the two parts of the contract that the buyer is committed to buy the property and you are committed to sell.

## Insurance

We always advise sellers to keep their property insured until completion.

## After Exchange of Contracts

Following exchange of contracts, we will contact your lender(s) for a final redemption statement made up to the date of completion and your estate agents will send us their commission account for settlement. Once contracts have been exchanged you should make removal arrangements.

## Completion

This is the day you must move out of the property if it is not already vacant. Although there is no law as to exactly when completion takes place you should aim to be out of the property by 1pm. You must clear the property of all items not included in the sale price or being sold as extras. Normally the keys are left with the estate agents and only released to the buyer when we have confirmed that we have received the monies from the buyer's solicitors. You can arrange to hand over the keys directly if you prefer but you should not do this until we tell you that completion has taken place.

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

## After Completion

On completion we will pay off all the mortgages secured on the property; pay the estate agents (unless you have instructed us not to) and account to you with the net sale proceeds. The title documents will be sent to the buyer's solicitors together with the transfer and, when received from your lender, evidence that your mortgage has been paid off.

You should remember to cancel buildings insurance and any direct debit payments to your lender.

**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 November 2022), 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.