

The Conveyancing Process

With the exception of remortgages where a simplified procedure applies, there are three stages of the conveyancing work involved in the sale or purchase of a property. These are:

- A From commencement until exchange of contracts
- B From exchange of contracts until completion, when ownership is transferred
- C The post-completion formalities

A Commencement to exchange of contracts

- 1 The Estate Agents handling the sale send out a memorandum of sale to both parties and their solicitors.
- 2 The Seller's Solicitor obtains the title deeds from the client or, if the property is mortgaged, from the Bank or Building Society by whom they are held.
- 3 The Seller will be asked to fill in a questionnaire about the property and a fixtures and fittings form.
- 4 The Seller's Solicitor, having received the title deeds, prepares a draft Contract which is then sent to the Buyer's Solicitor together with the forms completed by the Seller as in Para 2 and other relevant information relating to the property.
- 5 The Buyer's Solicitor, having received the bundle of information sent to him by the Seller's Solicitor, checks it through and despatches a Local Search to the relevant District Council for any Local Land Charges registered in respect of the property. (Please note this only provides limited information and in particular does not automatically give details about potential development in the vicinity. If the Buyer is concerned about this, he or she should visit the Planning Office for the Local Authority and ask the Planning Officer about any planning applications pending in the area).
- 6 The Buyer's Solicitor will consider the documentation received and, at this stage, makes such further enquiries as may be necessary with regard to matters such as the title and the boundaries. Please note that boundaries are often very indistinctly drawn on legal documents and if there is any uncertainty on the ground, this should be reported to the Buyer's Solicitor so that proper enquiry can be made.
- 7 We strongly advise that all Buyers have a survey carried out of the property they are buying. This should preferably be a full structural survey (especially where the property is elderly or there are possible defects) or at the very least, a Homebuyers Valuation and Report which should highlight any defects that exist. An electrical check, timber infestation survey or structural engineer's report may be advisable in certain instances.
- 8 If the Buyer is to obtain a mortgage in connection with the purchase, it is essential that a satisfactory offer is received before contracts are exchanged and regard made to any special conditions. (Please note it may be possible to save a double fee by using the mortgagee's surveyor to carry out the survey referred to in Para 7, but it is insufficient to rely on the mortgagee's own valuation survey).
- 9 The Buyer will be required to pay his Solicitor a deposit in good time for exchange. That is normally 10% of the purchase price, although in certain circumstances this can be negotiated downwards to 5% for example where the Buyer is obtaining a higher mortgage or there is a chain of transactions. However, it is essential that you let us know if you are unable to provide a 10% deposit, so that we can make appropriate arrangements as soon as possible. Mortgage monies cannot be used for the purpose of a deposit.
- 10 Once the Buyer's Solicitor is satisfied with the enquiries he has made, the Buyer is satisfied with his or her survey report and (if appropriate) a satisfactory mortgage offer received, the Seller and Buyer each sign a copy of the Contract and these are then exchanged (which is effected normally by telephone) and the contract then becomes legally binding. The deposit is paid to the Seller's Solicitor. It is at this stage that the completion date is fixed. It is usually about 2-3 weeks later and can only take place on a working day (ie not Saturdays, Sundays or Bank Holidays). The Seller must vacate the property on or before the completion date.

The Conveyancing Process

Continued

B Exchange of Contracts to Completion

- 1 As soon as Contracts have been exchanged, you should confirm your removal arrangements (it is advisable to arrange them provisionally beforehand).
- 2 Please note that it is the Buyers responsibility to insure the property he is buying with effect from the exchange of Contracts.
- 3 The Buyer's Solicitor reports to the lender, if applicable, the date of completion and requests the mortgage advance. A completion statement is sent to the Buyer, setting out the monies required on completion, which must be received at least three working days beforehand.
- 4 The Buyer's Solicitor also prepares the Transfer deed and any Mortgage deed and these will be executed. The final searches are carried out.
- 5 If a property is being purchased in joint names a decision will need to be made at this stage as to the form of joint ownership, ie whether the property will be owned as joint tenants or as tenants in common and if as tenants in common, in what shares.
- 6 The Seller's Solicitor will obtain details of any monies due to existing mortgages in respect of the property which have to be redeemed on the day of completion.
- 7 On the day of completion itself, the balance of the purchase money is telegraphically transferred to the Seller's Solicitor. The keys will not be released until that money is received.

C After Completion

- 1 The Seller's Solicitor will repay any mortgage in respect of the property and generally pay the estate agent's account out of the proceeds of sale and send the title deeds to the Buyer's Solicitor. The Buyer is required by the Inland Revenue to submit a Land Transaction Return Form to the Inland Revenue, together with payment of the appropriate Stamp Duty within 30 days. The Buyer's Solicitor will register the Buyer as the person entitled to the benefit of any guarantees relating to the property (if applicable) and then register the Buyer as the new owner of the property at HM Land Registry and at the same time, register details of any mortgage on the property.
- 2 Once these matters have been completed, the title deeds will then either be sent to the lender where there is a mortgage (in which case copies of the Register Entries will be given to the Buyer). If there is no mortgage the deeds can be passed to the Buyer, or retained by the Buyer's Solicitors or Bank for safekeeping (a Bank will usually make a charge for this service). It is not advisable to keep the original deeds within your own property.
- 3 A copy of the land transaction return form will be sent to the Buyer and should be retained for a period of 21 years as the Revenue reserve the right to raise requisitions on it for that length of time.

For more advice contact Vicky Langdown, Caroline Chandler or Sarah Parsons
on 01722 410664 or email
vicky.langdown@sampsoncoward.co.uk
caroline.chandler@sampsoncoward.co.uk
sarah.parsons@sampsoncoward.co.uk