



ocean
property lawyers

The Conveyancing Process: Acting for the seller



Acting for the seller

Please read these notes as they contain most of the information you will wish to know about what happens in the conveyancing process.



1. Preparing for the sale

If you have an existing mortgage we will write to your mortgage lender for any title deeds they hold as soon as you supply to us the details of your mortgage account. However please bear in mind that most mortgage lenders these days do not ask to hold the deeds, and they are only likely to do so if the mortgage is quite an old one. If you have old deeds or other papers such as guarantees, planning permissions etc. in your possession you should forward these to us. This may well avoid the need to pay for further copies from the Land Registry or local authority, and may also of course save time.

We would also recommend that you complete your property information form and fixtures and fittings form at this stage so that we can issue a full draft contract package to your buyer's lawyers as soon as you have sold.



2. Sending out draft contract papers

When a buyer has been found and we send out the draft contract papers, the buyer's lawyers may raise some additional enquiries on which we will need to refer to you. We may be able to answer some of these further enquiries ourselves from the title deeds/old papers or Land Registry documents.

On occasions these enquiries may include requests for consents for past alterations or extensions to your property, either from the local authority or under covenants in the title deeds. It is not uncommon for a seller to comment that he or she was not aware of any missing paperwork, and that the matter was not pointed out at the time he or she bought the

property. This does not necessarily mean that a mistake was made previously. Current rules which conveyancers have to adhere to, at the insistence of the mortgage lenders, are somewhat stricter than the rules applying only a few years ago, and as a result fairly small, seemingly pedantic points are pursued which would previously have been ignored. On occasion this may mean that you as the seller are asked to pay a premium for an 'indemnity insurance' policy to cover any risk to the buyer or his mortgage lender. Obviously we will discuss this with you before agreeing anything on your behalf.

At an appropriate stage – i.e., when the buyer's lawyers indicate that they expect to be ready to exchange contracts, we shall either ask you to come into the office to sign the contract or post it to you. At that stage, we will need your instructions on the completion date which you can agree – i.e., the date at which you will be able to move out of the property. This may, of course, need to tie in with the date when you are completing the purchase of another property.



3. Exchanging contracts

Upon exchange of contracts - when a binding agreement to sell the property arises - a deposit will be payable by the buyer which, unless you are buying another property, will be held by us as "stakeholders" – i.e., on behalf of both yourself and the buyer. The amount of the deposit offered by the buyer may well depend on the amount of mortgage advance which he or she is obtaining. If, for example, this is a 95% mortgage, only 5% will be offered. You, as the seller, can insist upon payment of the full 10% deposit but this may sometimes meet with resistance, particularly if this means the buyer having to borrow money. Should the buyer fail to complete the purchase, having previously exchanged, you as the seller can keep the deposit actually paid and also sue the buyer for the balance of 10% and for additional losses incurred. The risk to you in accepting a low deposit is that the buyer might have insufficient assets to satisfy a court judgement for the additional money.

Upon exchange of contracts you and the buyer are, for the first time, committed by law to proceed with the sale/purchase. If there is a 'chain' of transactions, the same completion date will normally have to be agreed by all parties and the best procedure is for the parties to speak direct to each other to agree this or to ask the estate agents to do so – all lawyers can do is pass on their client's wishes and using only that route may slow things down.

Exchange of contracts does not in itself require you to come into the office again. It is normally done over the telephone between the buyer's and seller's lawyers, who give each other professional undertakings to send to each other their client's signed contract (and the deposit cheque in the case of the buyer). In order for us to exchange on your behalf in this matter, we need your irrevocable authority to do so. This means that, once you have signed the contract and we have dealt with any outstanding matters specifically discussed with you (for example, agreeing a particular completion date), we can give the necessary undertakings (which are binding upon the firm) and start the process of exchanging contracts without the risk that you will change your mind before the exchange process is complete. By signing the copy instruction letter, you are giving that authority to us.

Although it is theoretically possible to exchange contracts and complete on the same day, in practice, particularly if there is a chain of transactions, it is better to have a minimum of a few days between exchange and completion to avoid uncertainty and stress, and someone in the chain will probably insist on this.

Before completion, the buyer's solicitor will draft the transfer deed, which we will send to you for signature.

Following exchange of contracts we will supply to you a statement showing the final sum due to you on completion, taking into account the mortgage loan (if any) which needs to be repaid. Very often this has to be done (or it is cheaper if it is done) by means of a telegraphic transfer, for which a charge of £48.00 (inc VAT) will be made. We shall also settle the estate agent's charges on completion. The money due to you will be sent to you as soon as possible following completion, usually on the day itself. If you wish the money to be telegraphed to an account so that it is immediately cleared funds, we can do so upon payment of a telegraphic transfer charge of £48.00, along with signed and written instructions as to where to send the funds.



4. Completing the sale

The completion date will be fixed when contracts are exchanged.

Unless you are selling a property subject to a tenancy you are agreeing to give 'vacant possession' on completion. This means that you must move out, make sure any other occupiers move out, and clear the property (including all garages, outbuildings etc.) of all items which the buyer has not agreed that you may leave. Quite frequently this can be ignored and a seller may then receive an unwelcome request to pay for the cost of a skip required to clear rubbish or unwanted items.

When you have moved out of the property, it is normally best for you to leave the keys with the estate agents to be released by us by telephone once we have received the necessary funds. You should generally aim to have the property cleared by midday. We cannot, unfortunately, guarantee the time at which the money will be received. Often when there is a chain of transactions this can be anytime later in the day.

We will then send out the deeds to the buyer's solicitors and send to your mortgage lender the funds required to pay off your mortgage.

Any life assurance policies which were formerly mortgaged to the lender will then be released and will be sent on to you shortly after completion.



5. Interest

Please note that, unless a contrary agreement is made in writing, we shall not be required to open a special deposit account or account to you for any interest that accrues, or ought to accrue, on money received for you or on your behalf.



6. Disclosure and payment to estate agents

Unless we hear from you to the contrary we shall assume that we have your authority to disclose information to the estate agents selling your property and to your mortgage lender and also your authority to settle the estate agent's account from the sale proceeds.