



Guide

Property purchase

moore
barlow

The process

This guide is intended to describe the various stages in a conveyancing transaction.

Briefly, the purchase of a property has two distinct stages:

1. Exchange of contracts:

The moment when signed contracts are physically exchanged and when both parties to the transaction become legally committed to it.

2. Completion:

The moment when the balance of purchase monies are paid over and when you actually own and can move into your new property. When contracts are exchanged the completion date will be set and will become definite and legally binding unless the property is not ready in which case completion shall be "on notice".

Timescale

It is important to remember that until contracts are actually exchanged neither you nor your seller is bound by the transaction. Both of you can withdraw and furthermore neither party has any financial claim on the other. However, if you have put down a Reservation Fee you may lose this fee if you then withdraw.

Before we will be in a position to exchange contracts, the following work must be carried out:

1. We will submit all necessary searches.
2. We will receive contract papers from your seller's solicitor. We will check these carefully and investigate the rights, covenants (rules and regulations affecting the property) and similar matters. We will raise standard and specific enquiries on all legal matters relating to the property.
3. If required, you must have received your mortgage offer so you know that you can afford to purchase the property.
4. If your purchase is dependent upon the sale of your existing property, your own purchaser must be in

a position to exchange contracts simultaneously. Where the two transactions are financially dependent, we will ensure that you are not committed to one transaction without immediately being committed to the other.

Survey

Prior to exchange of contracts, it is important to consider whether you wish to have a full survey carried out. If you are obtaining a mortgage, it is important to remember that although your lender will instruct a valuer to look at the property, the valuer is acting for your lender and owes his prime responsibility to the lender and not to you.

In addition, he is simply ensuring that from the lender's point of view, the property is worth an adequate sum to support the mortgage.

It is worth bearing in mind that where you are purchasing a new property which has the benefit of a National House Builders' Council 10 Year Guarantee against major structural defects, the NHBC will not normally consider a claim for defects which would have been apparent upon a change of ownership. This is another good reason for having a survey carried out.

The deposit

To exchange contracts, it will be necessary for you to pay a deposit. Under the terms of the agreement the deposit is 10% of the purchase price although a lower deposit can often be negotiated, particularly where a purchaser is obtaining a high percentage mortgage and is only actually putting a small amount of his/her own cash into the transaction. However, 10% will still be payable should you default on completion and therefore be in breach of the terms of the contract.

If you have a related sale transaction, we will normally try to utilise the deposit received from your own purchaser to

cover or at any rate help towards the deposit you have to pay on the property you are buying.

Exchange of contracts

Prior to exchange of contracts, we will have reported to you on the terms of the contract, any relevant rights and covenants and the results of our searches and enquiries. We will also have obtained your signature to the contract and we will have obtained the deposit from you. The actual exchange process is effected between ourselves and your seller's solicitor and you are not involved in this, save that we will of course have taken your instructions as to the completion date which is to be set.

Between exchange of contracts and completion

There is further legal work to do at this stage. We need to carry out final searches and, if necessary, send our report to your lender to ensure that mortgage monies are sent to us in good time for completion. Prior to completion, we will send you a statement indicating the balance of purchase monies which we need to collect from you together with the transfer document for signature. This is the document used to pass ownership of the property to you.

Completion

As with exchange of contracts, the actual formalities take place between the solicitors. All you will have to do is move into the property.

After completion

There are various further jobs for us to do including ensuring that any Stamp Duty Land Tax is paid and registering your title to the property. After the registration has completed, we will either forward the title deeds to you, your lender or we can hold them here on your behalf for safe custody.

Additional services

Lasting Power of Attorney (LPA)

An LPA document gives you the opportunity to appoint a trusted relative(s), friend or professional person(s) to manage your financial affairs in the future should that ever be necessary. It is a safeguard should you ever lose mental or physical capacity and become unable to manage your own affairs.

Wills

It is extremely important as homeowners that you have Wills drawn up to specify how you would like your assets to be distributed in the event of your death. You may, of course, already have a Will and therefore we recommend it is reviewed in light of your move.

Making a Will and reviewing it regularly is the only way you can guarantee that your estate will go to those people or organisation you choose.

Declaration of Trust

If you are buying a property jointly or if more than one person has contributed to the purchase price it is very important to think about a Declaration of Trust.

A Declaration of Trust would set out exactly how the property is owned and can make provision for money to be repaid to an investor, even if they are not registered on the title as one of the owners.

These documents are very important in the event of a relationship breakdown or a party's death. By setting out in the Declaration of Trust what the parties wish to happen, you can ensure that each person can get back out of the proceeds of sale what they have put in and/or any profit made on the sale of property can be divided into the percentages that the parties wish.

You can also set out who should be responsible for paying the mortgage and other outgoings on the property and in what shares.

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