

Buying or selling your home

A guide to the conveyancing process



myers&co
solicitors

What clients say ...

Kerry provided excellent service – very down to earth and easy to talk to. I would definitely recommend Myers Solicitors to friends and family. Thank you for making my house move (buying and selling) stress-free. ~ Mrs L

Very efficient service. Always did as promised and called back promptly if unavailable. ~ Mr P

Thank you for helping our sale and purchase run smoothly and swiftly. Kerry was excellent. ~ Mr S

Introduction

Buying a home is always an exciting prospect. It is also a major investment, so it is important to protect your interests and ensure that all risks are examined.

At Myers & Co, our experienced solicitors and conveyancers are qualified in all areas of property law.

As your conveyancer, we will carry out the following on your behalf:

- provide or obtain information on the property regarding important issues such as boundaries, rights of access, what fixtures and fittings will be included and whether there have been any disputes with neighbours;
- check regulatory documentation, including building guarantees and certificates and planning permission;
- perform local searches to ensure that you are aware of any implications such as flood risk, mining subsidence or proposed developments;
- carry out fraud checks, including confirmation that the seller is really the owner of the property;
- organise payment, including calculating and paying the Stamp Duty Land Tax; and
- registration of new owners with the Land Registry.

We will help you to avoid any potential problems and will guide you through each step of the conveyancing process.

This guide is designed to explain the work that we carry out on your behalf and to answer the questions that we are asked most often during the conveyancing process.

Beware property fraudsters

Just as in every other aspect of your legal or financial affairs, you should be aware of the risk of fraud and scams when buying or selling your home.

Sadly, fraudsters are aware of the high volume of money that changes hands in property sales and purchases and continually develop increasingly sophisticated ways of diverting that money. This can include impersonating you or your lawyer in emails.

The police website Action Fraud provides an up-to-date list of a wide range of scams.

www.actionfraud.police.uk

It is also important to take steps to keep your own email accounts and personal information safe.

If you consider anything to be suspicious, you should telephone us to check it out.

Identity checks and money laundering regulations

In order to prevent fraud, all solicitors have obligations under the Money Laundering Regulations 2007 and the Proceeds of Crime Act 2002.

To help us comply with these regulations we will ask you to provide sufficient proof of identification and, where applicable, full information concerning the source of funds.

Information that you will need to provide

We will require a variety of details and documents from you to enable us to proceed. If you can collect these in advance, it will help us to get started promptly.

These include:

- photo ID in the form of a current passport or driving licence;
- residential ID in the form of a current utility invoice no more than three months old;
- the sale or purchase price of the property;
- a copy of the energy performance certificate (EPC);
- details of estate agents; and
- any factors that may influence the exact time you want to complete, for example, to fit in with holidays, etc.

We will also need to know whether:

- you have applied for a mortgage;
- you plan to carry out work on the property;
- you are buying with someone else;
- the seller is buying another property;
- whether you have a property to sell;
- whether your deposit funds are coming from your own savings; or
- whether part of the deposit has been gifted by family members.

Key documents

It is important that these three reports are organised:

Energy performance certificate (EPC)

When your house or flat is put on the market the seller (or the estate agent selling it) must have commissioned someone to prepare an EPC if there isn't one currently in force for the property.

The EPC contains a rating for the energy performance of the property, and recommendations for improving it.

Mortgage valuation

If you are applying for a mortgage, your mortgage lender will need an independent valuation of the property. Usually they will appoint their own surveyor to do this and you will have to pay for it.

Remember that this is a valuation for mortgage purposes and not a survey.

Survey

We strongly advise you to consider appointing your own surveyor to carry out a survey or prepare a home buyer's report on the property.

It is up to you to satisfy yourself that the property is structurally sound before you buy it. Any survey or report could reveal that building work or further surveys need to be carried out, such as a structural survey, red ash test or damp and timber reports.

If this is the case, you may wish to renegotiate the price.

The conveyancing process

Conveyancing is the legal transfer of ownership of land from one person or body to another and involves checking that the seller has the legal right to sell.

When the sale or purchase is completed, the title deeds to the property are handed over in exchange for the purchase monies and the property is then transferred from the seller to the buyer.

The process is divided into two stages.

The first stage leads up to exchange of contracts. Exchanging contracts creates a legally binding obligation on both you and the seller to proceed with the agreed transaction. At the time of exchange of contracts, the date for the actual transfer of ownership (the completion date) is agreed. This is your moving date.

The second stage of the transaction follows exchange and leads up to the completion date.

Stage 1 – Prior to exchanging contracts

Searches and enquiries are made to ensure that it is safe for you to exchange contracts and these can be summarised as follows:

Local search

This is a questionnaire sent to the local authority, which will research the following:

- Does the local authority maintain the road fronting the property?
- Are there any road proposals, such as a new bypass or trunk road, within 200 metres of the property?
- Are there any financial or other charges outstanding to the local authority?
- Are there any planning permissions or building regulation approvals relating to the property?
- Is the property in a compulsory purchase area or due for demolition?
- Is the property in a slum clearance area?

Additional information is also available at an extra cost, for example, does a public footpath run through the property?

The local authority search only relates to the property that you are buying and does not give any information relating to the land in the immediate vicinity, such as proposals for development. If you require such information, we suggest that you contact the local authority directly.

Mining report

This is a report obtained from the Coal Authority and asks for the following information:

- Are there any mine workings in the vicinity of the property, past, present and future?
- Are there any past or pending subsidence claims?
- Has there been any opencast mining within the vicinity of the property?
- Are there any disused mine shafts within 20 metres of the property?

Water and drainage report

This report is obtained from the local water authority and reveals the following:

- the nearest mains water supply;
- the nearest surface water and foul waste drainage. This could be important if you intend to extend the property since if there is a mains pipe within 3 metres of the proposed extension, the water provider will object to any planning permission; and
- whether the service is measured or metered.

Environmental search

An environmental search relates to contaminated land. Many mortgage lenders do not request this report. However, we recommend that an environmental search is made and we will automatically carry out this search on your behalf.

The report will tell you about former uses of land, indicate whether the property is built on an infill site and will indicate possible sources of contamination around the property to a radius of 500 metres.

Property information forms

This form is a questionnaire completed by the seller providing information about the property, for example, any neighbour disputes, responsibility for boundaries, structural alterations, guarantees for any damp-proof course, etc.

Please remember, the existence of any guarantee does not necessarily mean it is valid; enquiries should be made directly to the company issuing the guarantee to ensure that it is valid and transferable.

Fittings and contents form

This document is also completed by the seller and it lists the fittings that are included or excluded in the price of the property.

You should read this document carefully as it forms part of the contract and will prevent any surprises after completion. You should raise any queries with us prior to the exchange of contracts taking place.

The mortgage

It is essential that finance is arranged to enable you to complete the purchase before you commit yourself to buying the property.

If a mortgage is required, then an unconditional written offer of mortgage must be obtained before you exchange contracts.

Many mortgage offers contain conditions such as 'to obtain a damp and timber report' and 'to provide full buildings insurance details'. It is therefore important that all of the conditions are satisfied as soon as possible to avoid any delays in the exchange of contracts and, in turn, the completion of your purchase of the property.

Stage 2 – Exchange of contracts

When we are in receipt of the results of all searches, replies to enquiries and mortgage instructions, then the contract is signed, the deposit paid and the contracts are exchanged.

A completion or moving date is agreed and it is then safe for you and the seller to make final arrangements for moving.

Further checks of the legal title are made and the final transfer document is prepared and signed.

We will request the mortgage monies from the buyer's building society or bank, and any balance from you. Payments can be made by bank transfer, bank draft or cheque, and seven days must be allowed for the clearance of personal cheques.

Utilities and insurance

You will need to make arrangements regarding:

Meters and service charge

It is the seller's responsibility prior to completion to arrange for any telephone, gas, electricity, water, council tax or other utility charge to be settled up to the date of completion.

You should, however, check that this has been dealt with and arrange for the supply of services to your new home.

Gas, electricity and phone services can now be provided by a number of

organisations. You should check with the estate agent, or directly with the seller, to obtain details of the current supplier(s).

Home insurance

Although the seller should maintain building insurance on the property until the completion of the sale, on exchange, you have to insure the risk.

If you are using a mortgage to purchase your new home, your lender may have specific insurance requirements. Either your lender will insure the property for you, or you can insure the property yourself.

You should check the insurance situation with your lender to ensure you have complied with the lender's requirements and your new home is protected.

How you own your home

You may look at the property as your new home but when you come to sell it you make a profit from the transaction. This profit is known as 'equity'.

If you are buying the home in more than one name you must decide:

- how any future profits will be shared; and
- how the value of the property will be shared should you separate.

You have two choices. It is important to realise that your choice will bind you legally and your share of the property cannot be changed, unless it is done by mutual agreement.

We will be discussing this issue with you, but, if you cannot agree on this point, we may have to refer either or both of you for independent legal advice. The choices are:

Joint tenants

This means that you each have an equal and indivisible share in the equity. Upon the death of any of the joint tenants during ownership of the property, the deceased person's share would automatically pass to the survivor(s).

This would happen even if the deceased person had made a will leaving the share to someone else.

Tenants in common

This means that each of you would have a defined share in the equity. These do not need to be equal shares – *it would depend on you*.

On the death of any one of the tenants in common during the ownership of the property, the deceased person's share should not automatically pass to the survivor, but would pass to whoever was named in the person's will as the recipient.

If a partner were to die without making a will, there are detailed rules known as the Intestacy Provisions governing who might inherit that share on the equity of your house.

Completion

The balance of the purchase monies is sent to the seller's solicitor in return for the transfer documents and deeds.

You usually arrange to collect the keys from the seller or his estate agent.

Any existing mortgage(s), estate agent fee, disbursements and our own fees are paid on the day of completion. Any balance due to the seller is also paid on the day of completion.

Remember to cancel any services you no longer need at your old address and notify everyone of your new address. You should consider:

- utility providers – gas, electricity, water, telephone, broadband;
- local council;
- TV licensing;
- DVLA;
- banks and building societies;
- credit, store and loyalty card providers;
- doctor, dentist and vet;
- children's school;
- newsagent; and
- window-cleaner, etc.

Following completion

We forward the Stamp Duty Land Tax return and payment due (if applicable) to HM Revenue & Customs on your behalf on completion.

Finally, we register your ownership of the property at the Land Registry and send completion documents to your lender and a copy of the registration to yourself.

Confirmation of registration will also be sent to the bank or building society as security for the mortgage if required.

The deeds can be held at our office for safekeeping. No charge is made for the retention of deeds in our strongroom.

Other legal considerations

Do you need a will? Or an update to your will?

You should definitely make a will if you have not already done so.

Even if you have a will, it may need updating due to a change in your marital status or your eligibility for inheritance tax.

Concerned about care fees?

If you are concerned about your long-term health, physical or mental, there may be steps that can be taken to protect your home from being sold to pay care fees.

Will you be letting out your property?

As a landlord, you will have a range of obligations which our commercial property team can advise you on. If a dispute should arise with any of your tenants or neighbours, then we also have a team of lawyers who specialise in dispute resolution.

Legal advice for you and your family

- Dispute resolution
- Employment problems
- Residential conveyancing
- Wealth protection
- Wills and probate

Legal advice for you and your business

- Corporate
- Commercial agreements
- Commercial property
- Construction law
- Dispute resolution
- Employment law
- Intellectual property

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