

ONE

FIND YOUR HOME

Once you have found your home – you must then make an offer. Whether you offer the asking price or a lower figure will depend on a number of factors. How much you want this property, its condition, necessary alterations, if you can raise the mortgage, whether you have sold your own property and the “chain” is complete.

PLEASE NOTE – Any offer you make either verbally or particularly in writing must include the words “subject to contract”. Otherwise you could be held to the deal even though you are not ready and the property has not been surveyed or the legal title checked.

LEASES

Sometimes the property is Leasehold –essential if it is a flat or maisonette. This makes the purchase far more complicated than a freehold. The Lease is usually a long and complicated document and has to meet certain key requirements. Because of the additional time and specialist knowledge required to check that the Lease is satisfactory both buying and selling Leaseholds involve additional legal costs and fees.

TWO

PREPARING THE LEGAL DOCUMENTS

The Seller’s solicitor makes ready all the legal documents he/she believes the Buyer’s solicitor will need.

Since 2003 the “Deeds” have been dematerialised and the Land Registry holds only a computer file. There is no longer a Title Deed. If you bought before then you or your Lender will hold the original Deeds. There are however many other documents which may delay the sale if they are not available. Chief is Building Regulation consent for any alterations in the last ten years – this now also applies to Double Glazing and some other alterations since April 2002. We will need to contact your Lender for Deeds but also to check the amount needed to repay the mortgage and any penalties for early redemption.

The Seller will be asked to complete a “Property Information Form” and a List of Furnishings Fixtures and Fittings.

The Seller’s solicitor then prepares the contract and submits this with the other deeds and documents to the Buyer’s solicitor. Once the Buyer’s solicitor is happy with the documents they will “approve” the contract and return it, so that it can be signed by the seller.

THREE

SEARCHES

Local Authority, Drainage Water and perhaps environmental Searches will be required if you need a Mortgage and are prudent even if you are a “cash” buyer. Environmental Searches are particularly relevant if you are buying in an area where neither you nor we have local knowledge. We will advise on what searches are appropriate and will ask for payment before they are put in hand. The fees can vary from £130 to more than £250.

The Local Search also includes enquiries about many matters including new roads and planning restrictions. Searches replies normally take about two weeks but can take longer.

PLEASE NOTE: Except for environmental searches only the actual land which you are buying is covered. They do not cover the property next door or any neighbouring land and if you have any concerns about what might happen outside your own boundaries – please tell us and we will extend the area of search. This will cost a little more but may well save time later.

FOUR

FURNISHINGS, FIXTURES AND FITTINGS

Furnishings e.g. carpets, curtains and items of furniture not built in or attached to the house are not included in the price unless stated in writing. Fixtures and Fittings e.g. fitted bedrooms, fitted kitchens are included unless it is stated otherwise.

Confirmation of what is included is set out in detail in a questionnaire, which is attached to the contract. All the items included in a normal property are listed and a box is ticked to show whether they are included, excluded or do not exist.

Whether an item is a furnishing or a fixture or fitting can be confusing e.g. a freestanding wardrobe is furniture but if it is “built in” by screwing it to the wall, it becomes a fixture.

You may wish to split the price between what is paid for furniture and the value of the building itself. This may save Stamp Duty. Careful attention must be paid to whether it is normal to separate such items from the building and a “reasonable value” needs to be placed on them and agreed between Buyer and Seller as “reasonable”. The revenue will look closely at any such transaction to see whether the split is “reasonable” and not just an artificial split to avoid duty.

FIVE

SURVEY ?

A Lender will require an Inspection/Valuation before agreeing to lend. This is for their protection not yours and should their Valuer miss defects it may be impossible claim against them. Despite this the majority of Buyers do not have an independent survey. For most the valuation will reveal all the problems.

There are circumstances where it would be foolhardy to buy without a survey. We would always advise that, if you can afford it, you obtain at least an RICS Report.

There are four main types of survey:-

1. A lender's inspection/valuation (referred to above).
2. A valuation.
3. A "Home Buyer's Report" from a Chartered Surveyor.
4. A full structural survey by a Chartered Surveyor or qualified structural engineer.

We will advise you on which survey is appropriate but generally the older the property the more thorough the survey needed.

If you cannot afford a survey then an experienced builder should look over the property and report to you but bear in mind that they may have no insurance to cover any claim for defects which are missed.

Other specialist inspections and reports may be needed. Woodworm, Damp, Dry Rot Electrical, Drainage and Plumbing and it may be advisable to obtain builder's estimates for essential work.

SIX

YOUR LOAN

Your Lender's acceptance of your loan application or even a certificate of eligibility is not a "Mortgage Offer" on which you can exchange contracts and bind yourself to buy. This Offer is essential and it will include many standard and special conditions, some of which must be fulfilled before contracts can be exchanged. E.g. it is normal for any adult child who will be living in the property to be asked to sign a "Consent to Mortgage" form.

Almost invariably we will be asked to identify you and to witness your signature(s) to the Mortgage. This can only be done in the presence of a Solicitor or properly qualified legal executive or conveyancer. We will take this opportunity to explain, in normal English, what the Mortgage conditions are, how you may break them and what to do in such circumstances.

One normal condition is that interest starts to run from the date that the mortgage advance is sent to us. This is like the Taxi meter starting from the moment he arrives at your house – not when you start your journey. This means that on the first payment

you owe not just that payment but also the amount back to the date the funds were sent. We will explain this and how it works in practice in more detail.

SEVEN

EXCHANGE OF CONTRACTS

Under our legal system a Buyer or Seller can walk away from their verbal agreement made “subject to contract” at any time up to this stage. Other legal systems bind both parties at an earlier stage but their chief disadvantage is that they only deal with one transaction i.e. a purchase or a sale but not both together. So far as we are aware we are the only legal system where you can complete both sale and purchase on the same day.

If there is a long “chain” of sales and purchases this can become a logistical nightmare as the “chain” can only proceed at the pace of its slowest member. This is often the First Time Buyer on whom the rest of the “chain” are dependent.

Resolving the synchronisation of thousands of transactions over many years has enabled us to resolve most of the difficulties inherent in “chains”. But they are not always resolvable and chains do break down with massive disappointment and expense as an inevitable consequence. “Chains” are held together by people communicating accurate information to every party concerned. Our experience is that it is when communication is lacking or inaccurate that chains normally break down. It is always easier to “stitch up” someone you do not know rather than someone with whom you are friendly – keep in touch with your Buyer and Seller. Despite the position they assume, Estate Agents are not best placed to obtain accurate information or to place the right value on the information received.

We will not ask you to sign your contract until we are reasonable confident that we are about to exchange or you wish to e.g. to bring pressure on to other parties.

Before exchange of contracts we will wish to see you personally to go through our enquiries and to explain and witness your signature to the mortgage and perhaps the final Transfer Deed. Our experience is that a “face to face” interview eliminates misunderstandings. This is a partnership between us and you and we need your participation as much as you need ours.

When everyone is ready contracts are exchanged using a special formula laid down by the Law Society for exchange between solicitors. In a lengthy chain this process can take days but usually it happens in minutes. We will then confirm to you that we have exchanged.

You must then put in force necessary Buildings or Life, Redundancy or Critical Illness cover as you are now committed to complete your purchase/sale.

EIGHT

HOW MUCH DEPOSIT ?

The Standard Form of Contract provides for payment of ten per cent of the purchase price on exchange of contracts.

In practice such a deposit is rare. The “chain” relies upon the First Time Buyers (FTB) deposit being passed up the “Chain”. Since the FTB will normally need at least a 95% loan – the deposit will be 5% of their purchase price.

The FTB is the weakest link in the “chain” but provided the amount of their deposit is sufficient to make it unlikely that they will not complete and forfeit that sum, everyone else in the chain is happy that they do not have to incur the delay and the expense of borrowing from their Bank.

There are exceptions as some FTBs may get a mortgage of over 100%. This can present real difficulties in a “chain”. We will advise on the alternatives in such circumstances.

NINE

EXCHANGE TO COMPLETION

Completion, when keys are handed over and you can move in, is usually two weeks from exchange of contracts. The period can be longer or shorter. It can even be simultaneous with exchange. We will charge an additional fee for each day under two weeks to completion and shorter periods create difficulties with Removal Firms as well. We would urge you not to think about a very short period if you are involved in a “chain”.

In this period we will obtain an up to date redemption figure for your mortgage, obtain details of your agent’s commission and request the mortgage money. Most Lenders require at least five working days notice. We will prepare and send to you Final Statements showing the balance we need or that will be due to you.

For Leasehold sales we will need proof of payment of rent, insurance and management or service charges to produce to the Buyer’s solicitors. We will split any payments in advance or arrear so that you only pay up to the date of completion.

We will ask both you and your Lender for cleared funds for the day before completion. We can then remit these funds to the Seller’s solicitors early on completion day through the Banking system. There is a cut off time of 2 p.m. by which we must put cleared funds into the Seller’s solicitors Bank Account and the Banks, although aware of this time limit, refuse to accept any responsibility for delivering the funds by any time, other than their close of business.

TEN

VACANT POSSESSION

This means having the release of all the keys of a property, which is empty and free of rubbish. Such release will not be authorised until the Seller's solicitor has received confirmation from their Bank that the purchase money has been received. Often the Buyer may arrive to find that the Seller has not yet completed their removal or that loads of rubbish has been left or even that they have taken furniture or fixtures and fittings, which were clearly included in the price.

We must know of this problem before we release the money if there is to be an instant effective remedy. It is a very good idea to check your new property by 9 am on the completion morning and alert us of any such problems. If we cannot take action then your remedy will be in the Courts and that is expensive and may not give you the desired result!

If you are moving some distance, it may be convenient to leave your keys with your Estate Agent or a trusted neighbour. Let them know not to release the keys until they receive clearance from us.

ELEVEN

REMEMBER

1. To arrange, as soon as you have a definite completion date, for connection of Gas Electricity and Telephone. Read the Meters before you leave and when you arrive and keep these records for at least twelve months.
2. Inform the Local Council and the Water Boards for both Sewage and Fresh Water of the date you moved in.
3. Cancel or Transfer your Contents Insurance and Buildings Cover (if applicable).
4. Removers – agree a provisional date only, until we can confirm a definite date.
5. Our costs and other fees and expenses as set out in our Quote are payable before completion and cleared funds must be provided.
6. To cancel any Standing Orders or Direct Debits that apply to your old property/mortgage

TWELVE

AFTER COMPLETION

We will continue to work on your file for several weeks after completion when we deal with Stamp Duty and registration at the Land Registry. On a sale we have to provide

evidence of the discharge of your Mortgage from your Lender for the Buyer solicitors to produce to the Land Registry – sometimes this can take many weeks.

Our commitment to you does not end. We are ready to help with any unforeseen problems.

Moving home is an appropriate time to take stock of your legal affairs. Have you made a Will? If so, does it need alteration? This is particularly important if you now have children or a relationship has changed. If you are elderly or ill you might wish to consider appointing a trusted friend or relative as your Attorney so that they can deal with your finances should you become unable to do so.

Finally, if you feel that you are unhappy with any aspect of our service or you feel that we could have given a better service then please tell me – John Hawkrige. I would like the opportunity of showing you clearly that we really do care about the service you receive from us. We want you to return to us when you next need legal help and if you were pleased with our service, to recommend us to your relatives and friends.