

Guide to Conveyancing



Buying a house is one of the most expensive, stressful, emotive, daunting and confusing processes; we hope this guide to conveyancing will make it just a little bit clearer.

This guide refers to the England and Wales conveyancing process which differs in Scotland.

This is not legal advice; it is intended to provide general information about the conveyancing process.

What is Conveyancing?

Conveyancing is creating or transferring land from one person to another.

The **conveyancing process** starts when your offer on a property is accepted and finishes when your purchase has been registered at Land Registry, after you have moved into your new property and received the keys

Who does Conveyancing?

Solicitors, licensed conveyancers and conveyancing executives can be instructed on conveyancing matters. Most solicitors firms, like Mullis & Peake LLP, will have several people in their residential property team who may be solicitors, licensed conveyancers or conveyancing executives.

To be a licensed conveyancer you have various assessments and must pass exams before being regulated by the Council of Licensed Conveyancers. Conveyancing executives would normally have several years' experience dealing with property transactions.

It is worth checking that your solicitor's firm is registered with:

- The Council of Mortgage Lenders
- Your chosen lenders panel – if not you will possibly have to deal with two solicitors firms which would be two fees for essentially doing the same job

Good accreditations include:

- The Law Society Conveyancing Quality Scheme
- Lexcel Practice Management Standard
- ISO 9001

These accreditations mean that the firm in question has shown they have excellent practice management skills.

First stage of the Conveyancing Process

Once your offer has been accepted on your chosen property, you need to instruct your chosen solicitor. This gives your representative the authority to act on your behalf and to collect the information you need to buy a property.

The estate agent and solicitor would then liaise regarding details of the sale.

The solicitors will send you documentation and questionnaires and you will be asked for money on account for searches.

Questionnaires and Documentation

You can expect to receive from your solicitor

- a) **Letter of engagement** – this is the terms of the instructions to the solicitor – make sure you read this thoroughly, several times!
- b) **Client questionnaire** – this will be asking you to provide as much information about the transaction that you can. Don't be shy, you need to make sure you tell your solicitor anything that may affect your transaction, such as if you are getting a Help to Buy ISA or are being gifted money. This questionnaire is used to build up a picture of you as a client including who you are; if a mortgage is required; what surveys you are planning on having completed; where the funds are coming from; other people living with you who would not be on the deeds such as a parent or child over 17 or a lodger; anything that is an added value in the sale; any particular requirements on moving dates.

You will need to provide ID to your solicitors, this is to verify that you are who you say you are so that the firm complies with anti-money laundering regulations. This is usually one or two forms of photo ID and recent proof of address within the last three months. **These documents must be originals, not photocopies.**

If you are planning to carry out any work to your new property then you should provide your solicitor with full details. It could be the case that the property is affected by a covenant prohibiting such works, or there could be pipes or sewers in the ground where you are planning to build, in which case you would need to speak to the Water Authority about consent to such works. This is aside from the fact that planning permission and building regulations approval may be necessary along with notices if the works are covered by the Party Walls Act. If your Solicitor does not know what you are intending to do then they cannot confirm whether the planned works are possible.

What searches can I expect to pay for?

You will be asked to provide money on account for searches. The solicitors will do this for you through their search provider. Most providers have a bundle of searches that can be provided, though you can get more.

The bundles tend to include:

- a) **Environmental search** – this includes flooding, ground stability, contaminated land, energy and infrastructure
- b) **Drainage and water** – this includes connection of the pipes and sewage
- c) **Local authority search** – this only covers the property you are purchasing not applications on the surrounding area. It will show up any planning applications and building regulation approvals and if the property is in a conservation area, if your permitted development rights have been taken away (this means that even for small extensions you would be required to get planning permission) or if there are any enforcement notices registered against the property (for instance, if there are any unsafe alterations).

If you are concerned about planning applications in the surrounding area or areas of land that could be used for development, you can request an additional planning search which can be a basic or enhanced package, these will be at an additional cost.

Also, depending on where you are buying your property. For example, if it is located in the West Country, you may need an additional Mining search, which is, again, an additional cost.



What happens during First Stage?

After the solicitors have received instructions, they will then expect to receive a draft contract from the sellers' solicitors.

Your solicitors will then investigate the title and raise any queries whilst applying for the searches.

Queries may include possible discrepancies in the title, consistency across documents, any right of way issues affecting the title, any covenants which affect the use of property and any discrepancies on the property plans.

You will then receive from the seller, via your solicitors:

- **Property information form**
- **Fittings and contents form**
- **Leasehold information form**
(if you are buying a leasehold property)

These forms are completed by the sellers and give all sorts of information like boundary maintenance, any works that have been carried out and any guarantees for those works.

Your solicitor might raise enquiries on any matters on these forms that they are concerned about on your behalf.

The fittings and contents form tells you what is included in the property price and sometimes gives you the opportunity to purchase certain items the seller is willing to sell, in addition to the purchase price.

HMRC have a useful guide on their website providing advice on what would be deemed to be a fixture or a fitting and thus part of the property, and what would be classed as a "chattel" on which Stamp Duty Land Tax would not be paid.

The solicitors will also raise any enquiries if there are issues raised by the surveys.

Surveys

Your mortgage lender will want to carry out their own valuation on the property you are buying. However, it is recommended that you do your own survey in addition to the mortgage survey as you want as much information as possible and the content of the mortgage valuation will be very brief.

There are two main surveys available:

- HomeBuyer's Report
- Building Survey

For most clients, a HomeBuyer's Report should suffice. You may choose a Building Survey if you are buying an older property or if you think the property may have some structural defects.

Remember the phrase: "With any purchase buyer beware"!

Buying a property is a significant financial investment; possibly the greatest in your lifetime, and so it is important that you are fully aware of the true condition of the property and seek a professional opinion. It is surprising how many Buyers try to 'save money' by not having a survey carried out at all, or relying upon the Lender's valuation which is what it says it is, a valuation only.

The survey report will highlight any works which need to be carried out, and whether these are urgent. This will enable you to prepare a more detailed budget of expenses and renegotiate the price if appropriate. If there is some urgent remedial work required, then you may elect to ask the sellers to fix this prior to exchange of contracts.

Getting ready for the Exchange

Once your solicitors receive your mortgage instructions, they will make sure that the transaction is in compliance with the UK Finance Lenders' Handbook and that they have dealt with all of the lender's requirements and conditions.

Once all enquiries are completed, searches received and your mortgage offer is approved, the solicitor would send you a **Report on Contract**, which sums up what it is you are purchasing; their findings or enquiries and any areas of concern they may have and any advice they can offer; as well as reporting on obligations on the conditions of the mortgage. They would also include the contract to sign and the mortgage deed and any other documentation that might need signing, this could include a **Transfer deed**, a **Deed of Covenant** or a **Membership Form for a Management Company if you are buying a leasehold property or a property on a managed development**, if relevant.

The solicitor will then ask you for the deposit funds in readiness for the exchange.

If both solicitors are ready, now is the time to discuss the completion date.

If you are getting a mortgage, the time between exchange and completion is normally one to two weeks but any completion date can be agreed as long as all parties in the chain are in agreement and it is within the expiry date of your mortgage offer.

The Exchange

On exchange of contracts, the completion date is entered into the contract and the contract becomes legally binding.

The solicitor would request your mortgage money from the lender. Best practice is to request it a day before completion so that it is ready to go on the day. You will be charged interest from the day the funds are released, but we ask for funds a day before as a precaution to avoid delays on completion.

Your solicitor will then work out a final invoice and statement which would take into account any money already paid on account and would include your solicitors' fee, stamp duty, land registry fee and balance of the purchase price. As a precaution we would suggest that clients send the balance to complete at least one day before completion as well to avoid any delays.

Stamp Duty

You must pay Stamp Duty Land Tax (SDLT) if you buy a property or land over a certain price in England and Northern Ireland and Land Transaction Tax in Wales. Check out the HMRC website on stamp duty:

www.gov.uk/stamp-duty-land-tax/overview

They also have a stamp duty calculator:

www.tax.service.gov.uk/calculate-stamp-duty-land-tax/#/intro

Make sure you are clear on the rules of stamp duty, such as the purchase of a second property. This can include other properties you may own or have an interest in, anywhere else in the world.

Completion – nearly there!

On the day of completion, your solicitor will send monies to the sellers' solicitors and they will notify your solicitor once they have received the money. The solicitors will then formally confirm completion has taken place. The sellers solicitors would then authorise the estate agents to release the keys to the property.

After Completion

The sellers solicitors will send your solicitors the title deeds and your solicitor would then make the application to the Land Registry to register your ownership of the property and any mortgage to be secured against it.

The return time of this application from the Land Registry can vary, once successful you will be sent a copy of the updated title, showing you as the registered proprietor of that property, and any deeds for safe keeping.

Land registration costs varies. If the solicitor is able to make the application for registration online, this is much cheaper. However, new builds and any properties that have never been registered before have to be registered offline which takes longer and costs more.

Get your affairs in order

When buying and selling your home, it is a sensible time to review your arrangements as to what would happen if you were to lose your job, become unwell or pass away. It is a good time to take independent financial advice from an expert as to whether you should take out some policies to protect you and your family. Equally, if you have not made a Will and a Lasting Power of Attorney then this is the right time to set this up and, even if you do have a will, then you should get this reviewed to ensure that it remains appropriate in view of your change of circumstances. If you are buying with someone else, your solicitor will be able to advise you as to the appropriate type of joint ownership.

Notify the service providers

You will receive details of the service providers in the forms completed by the sellers and you should make a note of these. It is important that you take meter readings when you move in and whilst the sellers should have done likewise, you should not assume that this is the case. This will ensure that any bills sent to you are accurate and will prevent there from being disputes at a later date. You should not assume that the council tax banding for the property will remain the same, particularly if the property has been extended or enhanced since the last valuation. The local authority can revalue the property, meaning that you could be responsible for a higher level of council tax.

Insurance

Ensure that you have made the necessary arrangements for insurance on the property, in accordance with your lender and solicitors instructions.

Remember

- Make sure you read the Letter of Engagement from your solicitor, and are aware of what you are required to provide and when things have to be paid for.
- Communicate with your solicitor, in particular anything that may affect your transaction.
- With ID, remember to bring originals not photocopies.
- If you are in a chain, remember that you might be ready but you will have to wait for all the other people in the chain before you can proceed to exchange.
- With any purchase, please remember the rule, buyer beware!