

Conveyancing Factsheet

The Conveyancing Process

Conveyancing is the term for transferring ownership of a property from one person to another. Conveyancing may also be required for a re-mortgage.

Conveyancing is not easy, parts of it can be extremely complex, nevertheless the basic service can be described in a straightforward language.

In this Factsheet we describe the process, firstly if your a Buyer and secondly if your a Seller. When you are selling and buying then these transactions are undertaken simultaneously.

Buying a Property

The process starts when you see a property for sale, usually with an estate agent and you decide you want to buy it. After viewing it, you make an offer to the estate agent and if that is accepted you appoint us to do the Conveyancing for you.

Conveyancing involves many jobs, the most important is the investigation of the legal title, to check that the Seller has the legal ability to sell what he says he is selling and to ensure that there is nothing in the deeds that would affect the value of the property, your proposed use of it, your ability to mortgage it or to sell it in the future.

The second most important area is 'searches and enquiries'. Searches are made with a number of statutory and other authorities to make sure that there is nothing that could adversely affect the property. The searches which we carry out as standard are:-

- **Local Search**

The local search is carried out to ascertain if there are any matters affecting a specific property or piece of land, such as any restrictions which a prospective purchaser would want to know about before they decide to go ahead with a purchase. A local search will generally consist of both a search in the statutory register and other specific information about the property.

The Council maintains the statutory Register of Local Land Charges. It includes details about restrictions on the use of the property. A search of the statutory register will reveal all the entries registered against the property, for example conditional planning permissions and tree preservation orders. These charges are binding on successive owners of the property or land.

- **Water & Drainage Search**

This is a search of the water authority's records to check whether the property is connected to mains drainage and to the mains water supply. This information used to form part of the local authority search but it has not been included for many years now.

- **Environmental Search**

Recent legislation has made the clean-up of land contaminated by any harmful substance an issue for home owners and their lenders. The cost of dealing with any contamination could be substantial. A property affected by contamination may be harder, or even impossible, to sell and its value will be adversely affected.

This search will advise you of any environmental issues affecting the property. We are not qualified to advise you on the search results received, however, the search will refer you to people who may be able to help you, by telephoning a helpline number

- **Flood Report**

According to the Environment Agency, around 5 million people, in 2 million properties, live in flood risk areas in England and Wales. This Report will give you the vital information you need to decide whether a property is at risk.

The Flood report includes a guidance statement that confirms whether, based on the data revealed in the report, there is any flood risk associated with the property.

- **Chancel Check**

Chancel Repair Liability is an ancient interest benefiting some 5,200 pre-Reformation Churches in England and Wales. It allows the Parochial Church Council to require owners of former rectorial land to meet the cost of repairing the church chancel.

This Chancel Check is a screening search which will confirm whether you are in a 'potential' area that may be affected by chancel repair liability.

Depending on the location of the property further searches may need to be carried out.

Once all the results of the searches are received we will send to you copies of the searches together with a full report explaining the results of the same.

The Seller's solicitor provides a full package of papers which includes a Property Information Form which the Seller would have completed, this confirms certain information about the property such as:-

- Whether any alterations have been carried out;
- Who owns or maintains the boundaries;
- Whether any third party has any informal rights over the property;
- Whether the Seller has guarantees for any building works recently done, or for the heating system;

The Seller's solicitors will also provide a Fixtures and Contents Form which details the items of fixtures and fittings in the property which are included or excluded from the price.

Once all this information is received, we will look at all the Contract paperwork and if necessary raise enquiries with the Seller's solicitors about anything that needs clarifying or which is unclear.

A copy of the all paperwork which we will receive will be sent to you together with a Legal Report explaining the nature of the documents.

Whilst all these checks are going on a Buyer who is purchasing the property with the aid of a mortgage should have applied for the mortgage and once this has been approved and the property has been valued the Buyer will receive a mortgage offer which sets out all the terms of the mortgage.

The Lender appoints the Buyer's solicitor to act for them also and represent its interest in taking a mortgage over the property. The cost of that work for the Lender is paid for by you. A mortgage is the term used for a loan secured on a property. The mortgage gives the Lender the right to take possession of the property and

sell the same if you break the terms of the loan. In acting for the Lender, we have a responsibility to the Lender to provide a report confirming that the title to the property is in order.

On receipt of a satisfactory mortgage offer is received a Mortgage Report explaining the terms of the mortgage will be sent to you together with the Mortgage Deed which you will need to sign and return to us.

Once we are satisfied with the title and the results of searches and enquiries are received we will then invite you to come into the office so that we can go through all the paperwork and provided you are happy with all the documentation we will obtain your signature to the Contract.

When all parties in the chain are ready, Contracts are 'exchanged', a deposit is paid and at that point the completion date is agreed and fixed. The completion date is the day which you pay the balance of the purchase price and take possession of the property. Once Contracts have been exchanged you are legally bound to purchase the property. If you pull out between exchange and completion you will forfeit any deposit you have paid.

After exchange of Contracts we will conduct the final title searches to ensure that nothing has changed to affect the Seller's ownership. This is very important as a creditor of a Seller may secure his debt on the property. We will then send a report on title to your Lender and request drawdown of funds. Finally, we will prepare our bill and completion statement which details all the fees that need to be paid on completion and send the same to yourself.

On the completion date we pay to the Seller's solicitors the balance proceed by telegraphic transfer. Once the money is received the Seller's solicitors will telephone the estate agent and authorise them to release the keys to yourself.

We will arrange payment of any stamp duty land tax to the Inland Revenue and then proceed to register you as the new owner of the property at the Land Registry.

Selling your property

Most properties are sold through an Estate Agent. Once a suitable Buyer is found and the sale price agreed, the legal process can begin.

We obtain your title deeds from either yourself or your Lender together with an up to date redemption figure which will confirm how much money you owe to your Lender.

We will send you the Law Society TransAction Forms for completion and return to us. These provide general information about the property you are selling together with an inventory of the fixtures and fittings included in the agreed sale price.

Once we have obtained up to date office copy entries from the Land Registry we will prepare a draft Contract and forward this together with the TransAction Forms and other documentation to your Buyer's solicitors, who will then undertake the work we have referred to above. We liaise with you on any enquiries which they may raise and respond to them.

At this point we will then obtain your signature to the Contract and the Transfer Deed which is the legal document which transfers the property to your new Buyer's names on completion. This Transfer Deed is held on our file until the completion date.

Once exchange of Contracts is reached, a date for completion is fixed. We hold the deposit paid until completion unless you have a related purchase and this will then be held by the solicitor at the top of the chain. We will then obtain an up to date redemption figure from your Lender, obtain the Estate Agent's commission account and prepare our final bill and completion statement.

On completion we receive the balance proceeds of sale from your Buyer's solicitors and repay your mortgage, estate agent fees and legal fees. Any balance proceeds of sale is then sent to yourself or transferred to any related purchase file. We will also forward the Transfer Deed and balance title deeds to your Buyer's solicitors. That then concludes the sale Conveyancing.