CAMPIONS SOLICITORS
& ESTATE AGENTS

Guide to Conveyancing

This guide will give you an overview of all main types of conveyancing transactions. It is divided into three parts: -

1. The Role of the Professionals involved in your transaction.

2. Chart showing key stages of the transaction. Whilst we will write to you at various stages, the chart should help you see "what happens next".

3. Frequently asked questions. These are arranged in sections, which correspond with the chart so that you can find the questions relevant to you as quickly as possible. However, we do recommend that you take the time to read through the whole section because the questions featured are based on real enquiries from real clients!

The Role of the Professionals involved in your transaction

We appreciate that it can be frustrating when you contact one of the professionals involved only to be told "it's not our job". This section will help you to identify who does what!

Estate Agents

Represent the seller and are paid by the seller. This means that they act in the interests of the seller and not the buyer. However, they can help the buyer arrange their survey. If the survey highlights matters which require further investigation the Estate Agents may be able to help arrange specialist reports. They may also be able to provide you with the names of reputable firms to actually carry out the recommended works. The Estate Agents should also be approached if you want to re-negotiate the purchase price following the results of your survey/reports. They will also negotiate any separate agreements with regard to Fixtures and Fittings.

Estate Agents cannot offer legal advice. However, some Estate Agents have their own Financial Adviser who can help you arrange your mortgage (see below).

Independent Financial Advisers

Will help you choose a mortgage which is suitable for your individual needs. Can also help you arrange any insurance policies you require and those required as a condition of your mortgage. Will also arrange any amendments to your mortgage offer should the purchase price alter during the course of the transaction.

Independent Financial Advisers will not deal with any other matters.

Solicitors

We look after all legal matters. This includes carrying out searches and complying with all of the conditions of the mortgage offer. We also examine the title deeds to ensure they contain all of the rights you need and that you are aware of any restrictions imposed on the property. We liaise with all other professionals in your transaction and keep you informed of developments.

We do not conduct an inspection of the property. We will not arrange your survey or any specialist reports mentioned in it. Where these are required you may wish to contact either your Independent Financial Advisor, Lender or Estate Agents. We will not conduct negotiations on price or Fixtures and Fittings, since this falls within the role of the Estate Agents if you do not wish to undertake such negotiations yourself.

Key Stages

Sale

General

You instruct us by returning all forms sent out to you in our initial instruction pack.

The Estate Agents notify us of the name and address of your buyers' solicitors.

We obtain your title deeds and prepare the contract package, which we send to your buyers' solicitors.

If you have a mortgage we will obtain a figure indicating how much it will cost to bring your mortgage to an end, this is called a redemption statement.

Purchase

General

You instruct us by returning the forms sent to you in our initial instruction pack.

If you are having a mortgage you should contact your independent Financial Advisor or alternatively approach your chosen lender directly to arrange for a mortgage offer to be sent to us.

The Estate Agents notify us of the name and address of the sellers' solicitors. We write to them and ask them to send us the contract package.

Searches

Having received the plan we now carry out any searches such as In addition we thoroughly recommend you carry out an Environmental Search, details of which were included in our initial instruction letter to you.

We receive and examine the contract package from the sellers' solicitors which contains the contract, Property Information Form, Fittings and Contents Form and other associated documentation such as supplementary deeds, planning permission and guarantees etc.

Where you have instructed us to institute an Environmental Search or any other optional search we will send you a copy of the result once this is received.

When we receive the Mining Search result we check the result and send a copy to you.

Enquiries

We draft the transfer deed for approval by the sellers' solicitors. We ask your sellers to complete general additional enquiries and also raise specific enquiries arising from the contract package.

We reply to any questions raised by your buyers' solicitors and approve the draft transfer deed which they send to us.

We send you a copy of the plan together with the copies of the Sellers Property Information Form and Fixtures and Fittings List.

We receive replies to our general additional enquires which your sellers have been asked to complete and send you a copy.

If your buyers raise general additional enquiries we will send there to you for you to complete and return to us.

Mortgages

We receive a copy of your mortgage offer and ensure that all the conditions can be complied with.

It is often the case that your Local Search is the last thing to arrive. Owing to the way the information is set out we do not send this out to you but will discuss the result with you when you come into the office to sign the documents.

We now review your file and draw up a completion statement, which shows how much money we require from you to complete the transaction.

At the meeting you will sign the contract, transfer deed and mortgage deed (if applicable). We will explain your search results, mortgage offer and title deeds to you. We will ask you to suggest a completion/moving date.

You come in to the office to sign the contract and transfer deed.

We invite you to attend our offices to sign the necessary documentation.

Your buyers indicate to you that they are ready to proceed and a mutually convenient completion/moving date is agreed between both parties.

We inform your sellers' solicitors that you are ready to proceed and let them know your suggested completion date.

Exchange

We telephone the buyers solicitors to exchange contracts, which makes the moving date legally binding.

Exchange

Once a completion date has been agreed by all parties in the chain, we telephone the sellers' solicitors to exchange contracts, which makes the completion date legally binding.

We prepare for completion by gathering together a final redemption statement and your Estate Agents bill if applicable.

We prepare for completion by requesting your mortgage advance from your lender and carrying out a Land Registry search and a Land Charges search.

Moving

Completion day. You move out and hand your keys to your Estate Agent unless you have made private arrangements with your buyer. You should ensure that you have completely vacated the property by lunchtime.

Moving

Completion day. We send the money to your sellers solicitors in return they send us the title deeds to the property.

You collect the keys to your new house from the Estate Agents unless you have made private arrangements with the seller. Please note that the keys will not be handed over until the money has reached the sellers' solicitors account which is usually around lunchtime.

Your buyers' solicitors transfer the purchase monies to our account. In return we send them the title deeds to the property.

After completion

Upon receipt of the transfer we apply to the Land Registry to register you as the new owner.

Once you have been registered as the new owner, we report to your lender (if applicable). We ask you to collect any outstanding documents.

Frequently asked Questions

General

Q. How long will my transaction take?

A. On average transactions take approximately 8 weeks but each transaction is unique and various factors operate to either shorten or lengthen the time between your initial instruction and completion. It is important to remember that every seller is dependent upon their buyer and vice versa. Completion can only take place when all parties declare that they are ready.

Q. Will I always be able to speak to the solicitor dealing with my case?

A. As indicated in our initial instruction letter to you the department works on a team basis. For all general enquiries you can speak to the team members indicated on our initial letter. Where the issues are complex or of a legal nature then you will of course speak to the supervising solicitor. In any event all messages are fully noted and placed on your file so that anyone picking up your file to advise you or give you any information is doing so with the most up to date information to hand.

Q. Do I need to arrange my own survey?

A. Basically yes. If you are having a mortgage your lender will conduct a valuation of the property, which will assess for their purposes whether the property is adequate security for the loan they intend to make to you. **The valuation report does not give very detailed information and you may wish to institute either a Home Buyer's Survey and Valuation Report or alternatively a full structural survey.**

Both of these options will be conducted independently and for your sole benefit and it is for this reason that we strongly recommend that one of these types of survey are carried out. Both types of survey will identify physical defects which may not be apparent to you. Also your Surveyor should be able to give you a warning of either actual or potential works needed to the property now or in the future. Generally a Home Buyer's Survey and Valuation Report can be arranged for an additional fee via your Lender. Therefore if you want this type of survey then you should speak to your Lender or your Financial Advisor.

Where the property is high value, or your mortgage is for a low percentage of the purchase price, or particularly old i.e. more than 100 years old or where the construction is of something other than bricks and mortar, you should seriously consider instituting a full structural survey. By finding out early on that a large amount of costly work is required to the property may mean that you wish to re-negotiate the purchase price or ask the sellers to contribute towards the cost of the repairs.

Q. Can I complete my sale without my purchase?

A. Yes, but you will need to arrange temporary accommodation because you will be required to give vacant possession on completion.

Q. Can I complete my purchase without my sale?

A. This is a more difficult situation. Generally people use the money from their sale to fund their purchase and so you would need to find another source of finance. In addition, if you have a mortgage on your existing property and intend to have a mortgage on your new property, you need to get your new lender's permission to start your new mortgage before the end of the old one. You also need to get your existing lender's permission to run two mortgages at the same time.

Q. My sellers/buyers have pulled out, can I sue them?

A. If contracts have been exchanged then you can because the contract is legally binding. However, where contracts have not been exchanged anyone can change their mind about proceeding with their sale/purchase without liability to any other party.

Q. If my valuation report requires further reports to be carried out, do you arrange this for me?

A. No, the estate agent can help you with this. They usually have lists of reputable firms that can carry out the report and indeed any work identified. If there is no estate agent then we recommend that you contact at least three relevant companies so that you can compare prices/services. Try to use companies that belong to the relevant trade associations/professional guild.

Q. When should I give in my notice on my rented accommodation?

A. At exchange of contracts and definitely not before! If your notice period is four weeks, the only thing we can guarantee is that in four weeks time you will have to move out! We cannot guarantee that you will be able to move into your new property. The only 100% safe course of action is to exchange contracts with completion four weeks later. At this point, now there is a legally binding completion date, it is safe to hand in your notice.

Q. How often will you give me an update?

A. As you will see from the enclosed chart, we will contact you at various stages throughout the transaction.

Searches

Q. Why do I need a local search for a remortgage?

A. You may feel that because you are remortgaging and therefore not moving, it is not necessary to conduct the usual searches. However, because your new lender does not have knowledge of your property, it will be part of your lender's requirements that all necessary searches are conducted. In some cases it may be possible to obtain a special legal insurance policy which removes the need for a Local Authority Search but this can only be assessed on an individual basis because each lender has their own view on whether such an insurance policy is acceptable to them. We will be able to tell you whether or not a Local Search is necessary as soon as we are aware of which new lender is going to provide your new mortgage.

Q. Are the mining and drainage searches optional if I have a mortgage?

A. Unfortunately the short answer is no. If you are having a mortgage we will be obliged to comply with the general mortgage conditions which state that all necessary searches are carried out. With mining searches we refer to guidance produced by the Coal Authority and conduct searches in all recommended areas. Drainage searches are conducted in every case because they reveal whether the property is connected to mains drainage and sewerage services. It also reveals whether any water or sewerage pipes pass under the property.

Q. Why should I have an Environmental Search?

A. The benefits of an Environmental Search are set out on the second page of our initial instruction letter. You will see that we strongly recommend that you instruct us to institute an Environmental Search on your behalf.

Mortgages

Q. When do I make my first mortgage payment?

A. Each mortgage company is different and therefore when contracts have been exchanged and you know the completion date, you should contact your mortgage company and ask when the first payment is due to be taken from your account. You should also enquire as to the amount of the first payment because this can be larger than subsequent payments due to the way lenders calculate interest.

Q. Do I need to let you have a copy of my mortgage offer?

A. No, your lender will send us a copy of your offer a day or so after you receive yours.

Q. Can we exchange contracts based on a faxed mortgage offer?

A. Yes provided that the completion date is at least a week away. This is because our mortgage offer is slightly different to yours in that included in ours is the request for the funds. Most lenders require the original signed request from us before they will release the funds. Therefore, we can exchange contracts on a faxed mortgage offer because at least we can be certain that the hard copy will be sent

shortly. We must leave plenty of time to completion however, to ensure that there is enough time to receive and process all of the original documentation when it arrives.

Q. Why do you need to report an amended purchase price to my lender if my borrowing isn't affected?

A. We are required by all lenders to ensure that all of the details in your mortgage offer are correct and this includes any alteration in the purchase price.

Appointment

Q. My buyers and sellers have already signed, why haven't I signed yet?

A. There are all sorts of reasons why another party may sign before you do. Indeed, *you* might be the first party to sign. It really doesn't make any difference because signing doesn't actually make you legally bound to complete, that only happens on exchange of contracts. For contracts to be exchanged, *all* parties need to be ready so who is ready first is irrelevant.

Q. How many appointments will I need?

A. Because we need to see you during office hours, i.e. between 9 – 5 Monday to Friday, we appreciate that most people will have to take time off work. Therefore, you will only be required to have one appointment and where possible all documentation is signed in one go. If any further documentation needs to be signed after your appointment, this can be sent out to you.

Q. How long will my appointment take?

A. Generally appointments take between 30 minutes to an hour.

Q. Why do I need to bring identification?

A. We are required by the Law Society and Council of Mortgage Lender guidelines to verify the identity of all clients.

Q. Why do you need to know about anyone over 17 who will occupy the property?

A. Persons aged 18 who are in occupation of your property at the time of completion acquire what is called an overriding interest. This is a bit like the old fashioned idea of "squatters rights". If you are having a mortgage and you do not keep up the repayments on it, the right of the lender to repossess the property will arise. Whilst the lender can remove all parties to the mortgage and anyone under 18, those with an overriding interest cannot be evicted easily. Therefore, your lender requires all such persons to sign what is effectively a waiver of their right to remain in the property if repossession occurs. If this is required in your case, you must let us know so that the documentation can be sent out to your occupier who should then take it to an independent solicitor to have it witnessed. There is likely to be a charge for this.

Exchange

Q. When can I have a completion date?

A. When you come in to sign the documentation you will normally be asked to suggest a completion date. The completion date has to be agreed by all parties in the chain. Once a date has been agreed, contracts will be exchanged which will make the completion date legally binding. Until contracts are exchanged then any party can change their mind over the date or any other aspect of the transaction. As a precaution, until contracts are exchanged you should avoid entering into any arrangements likely to cost you money or cause inconvenience if completion does not take place on the anticipated date. For example, holding fees for removal vans may be lost and it may not be possible for deliveries to be made to your new property. In addition you should not arrange for your telephone and utilities to be cut off or for post to be re-directed.

Q. My sellers said they would move into temporary accommodation but now they want to link their purchase. Is there anything I can do?

A. Unfortunately not. Until contracts are exchanged, anyone can change their mind about any aspect of the transaction and can even withdraw totally, without liability to any other party. This is why we will do

all we can to ensure that as soon as you are ready, contracts are exchanged and therefore legally binding.

Q. If everyone has agreed the completion date surely I can make my removal arrangements safely despite contracts not being exchanged?

A. You would think so, but even the most reliable people occasionally have to revise their plans. The only safe time to make your arrangements is when contracts have been exchanged and all parties are legally bound.

Q. If I pull out of my purchase will I lose my deposit?

A. If contracts have been exchanged then yes you will lose your deposit. Until contracts are exchanged you can withdraw from the transaction without risking your deposit. Please note however, if you are buying a new property from a builder you may have been asked to pay a reservation fee, usually in the region of £250 which may not be refundable if you withdraw even before contracts have been exchanged.

Moving

Q. If I am owed a balance when will you pay this to me?

A. If a balance is due to you then we would generally like to make a BACs payment to your account which would take up to 4 days. If you would like a same day transfer the cost will be £37.00.

If you are joint clients and want payment to one party, we shall need authorities in writing to do this.

Q. What time will completion take place?

A. If you are selling a property then you need to ensure that you have moved yourself and all your belongings out of the property by lunchtime. You should then hand your keys in to the Estate Agents unless you have made private arrangements with your buyers.

If you are purchasing a property then the keys will be available for you at the Estate Agents unless you have made private arrangements with the sellers. Please note that the keys will not be released until the sellers' solicitors have received the purchase monies in their account. The time it takes for monies to be transferred from our account into the sellers' solicitors account depends on bank transfer times over which we have no control. However monies are usually received by the sellers solicitors around lunchtime and you should contact the Estate Agents at this time to check whether they have been instructed to release the keys to you.

Q. If I am both selling and buying, do I have to move out of my old property and into my new one on the same day?

A. Yes, generally you have until lunchtime on completion day to vacate your old property. This means that you have approximately half a day to move out and half a day to move in!

Q. Can I move on a Saturday?

A. Legal completion must take place on a weekday. Obviously, if you are only purchasing, legal completion and the day you actually move in can be entirely different days. Lots of people like to decorate before moving in. However, sellers must give vacant possession on completion, which excludes Saturdays. Therefore sellers and those doing both a sale and a purchase cannot legally move on a Saturday.

Q. Can I complete on Friday but then move on Saturday?

A. Unfortunately, as attractive as this idea may be, the answer for sellers and sale and purchase clients is, not legally.

Q. What is the latest time I have to get my final balance to you?

A. You must let us have your final balance in cleared funds at least three days before completion.

After Completion

Q. How long after completion will I receive my Title Deeds?

A. Following completion we will need to register you as the new owner at the Land Registry. This can take between 4 and 6 weeks. Once your application is completed we will receive your Title Information Document which has replaced traditional Title Deeds. If you have a mortgage secured against the property your Title Information Document will be sent to your mortgage company. We will invite you to collect the remaining important documentation from our offices as soon as it becomes available.

Q. I've just found a damp patch can I sue the sellers?

A. It is unlikely that your claim would be successful against the sellers. This is because you are generally expected to rely on your own independent searches, surveys and reports. **This is why having your own survey done is so important.** In any event apart from the Sellers Property Information Form, the answers given by the sellers to any enquiries usually includes a disclaimer that they are given to the best of the sellers knowledge and cannot be treated as guarantees.

If you do decide to sue your sellers however, and the total loss does not exceed £5,000.00, your claim will be dealt with by Small Claims Court. We can provide more details on request.

Useful Websites

www.home-envirosearch.com	(reveals environmental issues)
www.homecheck.co.uk	(free basic environmental risk assessment)
www.ihavemoved.com	(notifies utility companies etc for you after completion)
www.landreg.gov.uk	(information on property prices and role of the Land Registry)
www.cml.org.uk	(Council of Mortgage Lenders site, provides information on various lenders)