



## CLIENT GUIDE TO CONVEYANCING MATTERS

### 1. INTRODUCTION

This guide explains some of the terms used in conveyancing, the steps which are usually taken (and the reasons for them), and the factors which dictate when these steps are to be taken.

A short written explanation like this cannot cover all the points which may arise. Please feel free to ask us for clarification or explanation at any stage of your conveyancing.

### 2. CONVEYANCING - WHAT IS IT?

Transferring the ownership of land is not like transferring the ownership of a piece of furniture or a car. Land is always there, and in the course of time many rights and obligations may be created in relation to it. They are often not evident on an inspection of the property. For example: someone may have a right to occupy part of the land, but not be there when you call; a neighbour may have a right to enter the property and dig up the drains in order to inspect or clean his drain.

The public, too, may have claims - perhaps there is a public footpath across the property; the council could have rights in respect of, for example, compulsory acquisition or unpaid charges for making up the road. The planning authority, or the highway authority, is perhaps considering schemes which would affect the environment of the house that you are thinking of buying.

Then there is the question: Does the seller really own it and, if so, is he free to sell it? If he inherited the property, were the correct steps taken to transfer legal ownership to him, or is it still outstanding in someone else's hands?

These are only a very few of the snags which arise and which it is our duty, as your Conveyancing Solicitor duty, to discover if they exist, and advise you about.

Conveyancing is the name given to the process of transferring ownership of land from one person to another, the solicitors for the seller and buyer each being obliged to safeguard their client's interests.

3. WHAT HAPPENS IN A CONVEYANCING TRANSACTION?

There are three main areas to consider and we shall briefly look at each. The table below sets out the main steps in each of the three stages from the seller and the buyer’s perspective.

BUYER	SELLER
<b>PRE-CONTRACT</b>	
<p>You have found the property you want, and the seller has accepted your offer.</p> <p><b>Searches</b>                      A local search must be carried out which reveals some planning decisions, compulsory purchase orders, financial charges affecting the property, tree preservation orders, planning applications, pending compulsory purchase orders, public maintenance of highways and drains, smoke control orders, planning policy of council, breaches of planning control, roadworks affecting the property. In some cases information relating to matters that will in the future become registered as local land charges.                      Additional searches such as an environmental or coal may also be necessary or advisable.</p>	<p><b>Draft Contract</b>                      Having found a buyer, your estate agent will instruct us to send a draft contract to the buyer's solicitors. To do this we shall need to view the Land Registry title which we will obtain electronically from the Land Registry. (If your property is unregistered we will need to view the title deeds which may be in your possession or that of your mortgage lender).</p> <p><b>Property forms</b>                      You will be asked to complete several forms to provide further information about the property and to confirm which of your fittings and contents will be included in the sale. The forms comprise the ‘preliminary enquiries’.</p>

**Enquiries**

In addition to the searches 'preliminary enquiries' are raised of the seller. These are questions about the property and legal title or issues which have arisen in the search results. After the preliminary enquiries we may have Additional Enquiries which have arisen as a result of our inspection of the legal title, the searches or the replies to the preliminary enquiries.

**Reporting to you**

Once all enquiries have been answered we shall summarise for you the information obtained about the property and ask you to sign the contract and pay us the deposit in readiness for exchange.

**Mortgage**

We shall receive mortgage instructions from your lender.

**Associated Sale (if you are selling and buying)**

We will arrange to co-ordinate the sale of your existing property with the purchase of your new property and in this circumstance the exchange of contracts on your sale and purchase will take place one after the other on the same day.

**Exchange**

Once all searches are complete, all enquiries answered, your mortgage offer issued and you have signed the contract and provided the deposit (unless the deposit is coming from an associated sale) we will be in a position to exchange contracts.

Exchange of contracts takes place over the telephone between the solicitors and it is the event of the parties becoming contractually bound to the transaction and the completion date is fixed. Once contracts are

**Additional Enquiries**

Once the draft contract and the property forms are sent to the buyer's solicitor they may send to us 'additional enquiries' which are questions about the property which have arisen from the searches, the legal title or the answers to the preliminary enquiries. We will answer all enquiries which we are able but some will need to be referred to you for your input. Once the buyer's solicitor is satisfied, he will approve the contract and we shall ask you to sign it.

**Exchange**

Exchange of contracts takes place over the telephone between the solicitors and it is the event of the parties becoming contractually bound to the transaction when the completion date is fixed. Once contracts are exchanged, if you back out the buyer can take you to court to enforce the sale, similarly if the buyer backs out they will lose their deposit and could be liable to you for damages.

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### BETWEEN EXCHANGE AND COMPLETION

#### **The Transfer Document**

We prepare the Transfer document which is the deed sent to the Land Registry after completion to transfer the legal title into your name. In addition the mortgage deed is prepared. Both documents will need to be signed by you.

#### **Balance funds**

As we approach the date for completion, we will prepare a completion statement showing the balance we require from you to complete your purchase, including our fees and the expenses and taking account of any mortgage advance and deposit paid.

#### **Completion**

On the day of completion we will electronically transfer the purchase price to the seller's solicitor and once they receive it the keys will be released. You will then be free to collect the keys from the estate agent (or from the seller depending on the arrangements made). You will then be entitled to occupy the property. Key release usually occurs around lunch time.

From the date of completion you are responsible for insuring the property, paying Council Tax and utilities. You should make arrangements prior to completion to have your insurance in place from the day of completion. As soon as possible after you move into the

#### **The Transfer Document**

You will be asked to sign the Transfer document which will have been prepared by the buyer's solicitor, to transfer the ownership of the property into the buyer's name following completion.

#### **Mortgage Redemption**

If you have a mortgage on the property we will contact your lender for a redemption statement. On the day of completion we will electronically transfer the redemption amount to your lender out of the sale price. Your lender will then release the property from their charge so that the buyer takes the property free of the charge.

#### **Completion**

On the day of completion you should ensure the property is empty and clean and tidy by no later than lunchtime (unless you've made arrangements to leave the property later). You should hand all keys to the estate agent. We will receive the purchase price from the buyer's solicitor and on receipt we will telephone the estate agents to authorise the release of the keys and we will telephone you to confirm that completion has taken place.

On the day of completion you should take meter readings for the gas, electricity (and water if metered) and contact the suppliers to settle your account. You should cancel your home insurance and contact the

<p>property you should take meter readings in respect of the gas and electricity (and water if metered) and contact the suppliers to set up an account in your name.</p>	<p>Council to close your account for the property.</p>
<b>AFTER COMPLETION</b>	
<p>The day after completion we will receive from the seller's solicitor the transfer document signed by the seller together with any title deeds, guarantees or other original documents concerning the property.</p> <p>We shall submit a Land Transaction Return electronically at HM Revenue and Customs, after asking you to approve the details. We will pay any stamp duty land tax which is due (unless you are exempt) if the purchase price exceeds £125,000 (the stamp duty land tax amount if any will have been itemised on your initial estimate and on our completion statement).</p> <p>Once the seller's mortgage company has released the property from their charge we will register your ownership of the property at the Land Registry. We will then send to you a copy of your registered title for your records together with any other documentation relating to the property for you to keep pending a future sale. You will usually receive the final paperwork within a month of completion.</p>	<p>The balance of the sale proceeds, after the deduction of the mortgage redemption amount, our fees and the estate agents fees, plus any expenses, will be paid to you.</p> <p>Any original documents you have handed to us such as old title deeds or guarantees will be passed to the buyer's solicitor.</p>

#### 4. GLOSSARY OF TERMS USED

<b>Exchange of contracts</b>	Literally, the exchange of one copy signed by the buyer for another signed by the seller. At this point both parties become committed to proceed.
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<b>Completion</b>	The date fixed for transfer of ownership, on payment of the price. Normally between two and four weeks after exchange of contracts. Exchange and completion can occur on the same day where there is no gap between and in this case the work between exchange and completion is carried out before exchange.
<b>Registration of title</b>	Ownership of unregistered land is proved by showing its recent history as recorded in the "deeds". A sells to B, who dies leaving it to C, etc. In all areas of the country title to land now has to be registered in one of the registries maintained by the Land Registry on completion of a purchase. The Register records ownership and all important details of rights and liabilities. Once a property is registered the physical deeds are not needed and proof of ownership is a print of the electronic Land Registry record – referred to as an “Official copy (or Office copy) of the Title”.
<b>Local searches</b>	The search is in the registers maintained by the district council in relation to such matters as road charges and planning decisions. The expression includes the enquiries made of different departments of the council to do with a wide range of other matters which may affect the property. Apart from road proposals affecting land within 200 metres of the property, the local authority search will only give information about the property itself. The search will give no information about other property, for example, the development of neighbouring land. If, therefore, you are concerned about the possibility of development or any matter relating to other property in the neighbourhood, you should make enquiries of the local authority before you consent to exchange of contracts on the purchase.
<b>Preliminary enquiries</b>	A series of questions addressed to the seller in the form of pre-printed forms and additional questions raised by the buyer’s solicitor. The seller is expected to answer from his own knowledge about such matters as disputes with neighbours, or work done on the property needing building regulation approval, or rights enjoyed over the property.
<b>Deposit</b>	Part of the purchase price paid at exchange of contracts, normally 10%. Where 10% is not available 10% will still be owed so that if you back out of the purchase following exchange you can be sued for the balance of the 10%
<b>Mortgage</b>	Document recording loan of money secured on the property. If payments are not maintained, the lender may have the right to take possession and sell the property.
<b>Transfer</b>	The document transferring ownership.
<b>Conveyance</b>	The same as the transfer where the property is not registered at the Land Registry.
<b>Indemnity Policy</b>	If there is a defect in the legal title for example an onerous covenant or where building work has been carried out without the necessary planning permission, a policy may be obtained (usually at the seller’s cost) to cover the buyer for future cost/losses associated with the defect.