



## **Your Guide to Property Transactions**

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# 1. Welcome

Welcome to our guide to your property transaction. In our first letter to you, we explained that we streamline the information which we provide you with, to make it easier for you to make your way through the process of buying or selling your house.

This guide is designed to provide you with all of the general information which may be of interest to you.

The first section is a basic run through of the process and the remaining sections give you more details about what is involved.

This guide should be read alongside the reports which we will send to you throughout your transaction. The reports which we send are specific to your property transaction.

The information provided in this guide is set out in the order that processes often happen, however, every transaction is different and often things will happen out of order or all at once!! Our table of contents should mean that you can find the information about the stage you are at, no matter in what order events happen.

Even though you may not be buying and selling at the same time, we include both sides of the transaction so that you can see what is going on on the other side of the transaction.

We understand that, no matter how much information we may give you, you will always have a question which is not covered. Please get in touch if you need more information, your Case Handler will be happy to help.

You will find a variety of self-explanatory icons through the document to highlight and remind you of things which you might need to do or to warn you of issues where you need to take special care.



## A word about signing!

Throughout the process there will be documents and forms for you to complete, sign and return. We work on the basis that if we get the papers signed as soon as they are available, it saves you a lot of hassle as all instructions from you can, from that point, be taken over the phone or by email.

Please return all documents sent to you to complete and/or sign as quickly as possible, together with any other documents requested. It will make things a lot smoother.

Some documents will need to be signed in front of a witness, who should watch you sign and then add their signature, name, address and occupation. A witness can be anyone over the age of 18 who is unrelated to you or the transaction; a friend or neighbour is ideal.

## Help us with Anti Money Laundering

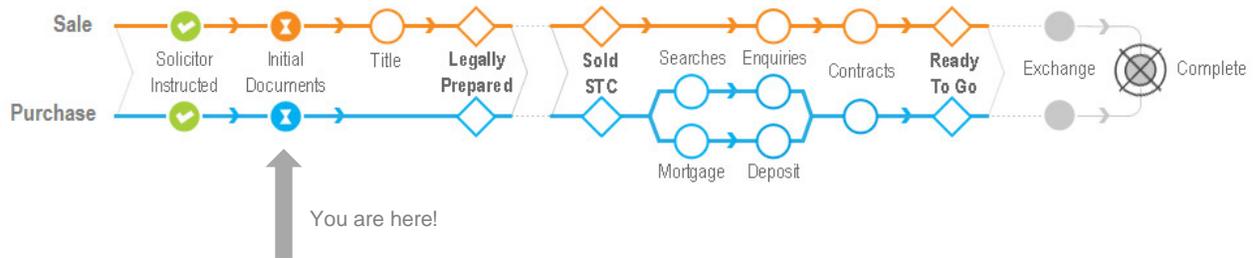
Love it or hate it – and there can't be many reasons to love it – like all Conveyancers, and many other professionals, we are bound by the Anti Money Laundering Regulations. These regulations are in place not only to prevent the laundering of the proceeds of crime, but also to prevent terrorism. They are a fact of life and we would ask for your patience and co-operation so that we can satisfy them as quickly as possible and with the least hassle to you!

The basics of the regulations are that we will need to identify you, verify your identity and your correspondence address, and establish the source of any monies which you will be paying to us. In some

cases this will be as simple as a copy of your bank statement, but if your circumstances are more complicated we may need additional information to satisfy the regulations. For example, if you are using someone else's money, perhaps a gift or loan from family, we will need to establish their identity and where their money came from. Please ask them to co-operate fully and quickly with our requests.

So without further ado, here is your guide to your Property Transaction.

## 2. The Process in a Nutshell



### Initial documents-

You need to complete and return the information that we have sent to you, to get your transaction underway. If you need any help providing the information then just give us a call so we can help you.

### Title-

We receive a copy of the legal title to the property and check it to make sure that there are no problems.

### Legally prepared-

We check that all of the information is available to proceed with your house move.

### Sold STC-

When the seller of a property accepts an offer, it is "Sold, subject to contract". This means that anyone can withdraw from the transaction until Exchange of Contracts, which is why we try to get everything ready for Exchange as soon as possible – to give you certainty at the earliest stage possible.

### Searches-

These are questions posed to the relevant authorities to find out if there is anything which might affect the use and enjoyment of the property or its mortgageability.

### Enquires-

This is just a fancy word for 'Questions'. They could be questions which are asked to the seller, landlord or to a Conveyancer. Exchange of Contracts cannot happen until all the answers are received.

### Mortgage-

The Mortgage offer issued by the lender, who will also send mortgage instructions to their Conveyancer a couple of days after the Mortgage Offer is issued.

### Deposit-

The down payment collected by the Conveyancer before Exchange of Contracts and held by the Seller's Conveyancer between Exchange and Completion.

### Contracts-

The Contract is the document which will bind the seller and buyer into the transaction on Exchange of Contracts.

### Ready to go-

When the Conveyancers hold the signed Contract and other documentation and have checked that all the finances are in place, the transaction will be Ready to Go.

### **Exchange-**

Once everyone in the chain is in a position to go, signed contracts will change hands and a legal commitment will be made. A Completion Date will be agreed in advance of Exchange of Contracts and will be fixed on Exchange.

### **Complete**

On Completion, the buyer's Conveyancer will pay the monies over to the seller's Conveyancer and legal ownership of the property will change hands.

### **Post Completion**

Any mortgages on the property will be repaid, Stamp Duty due will be paid to HM Revenue & Customs and the change in ownership will be registered at the Land Registry. A copy of the updated title to the property will be sent to the buyer approximately 6 weeks after Completion.

## **3. The Sale Transaction**

As the seller, it is your responsibility to provide the buyer with all the information that they need to buy the property.

### ***The Contract Pack***

We will provide the buyer's Conveyancer with a copy of the title to your property, a draft contract and the information forms completed by you. These are the Property Information Form, Fixtures and Fittings List, Overriding Interest Disclosure Form and, if you are selling a Leasehold Property, a Seller's Leasehold Information Form.

The buyers Conveyancer will check through all of the information and advise their client (your buyer), and also the lender (if your buyer is getting a mortgage) of any issues which might affect their use and enjoyment of the property.

### ***Enquiries***

Your buyer will not only rely on the information which you provide but also information which they receive from their survey or valuation and also from Searches which will be carried out on their behalf. Sometimes this information needs to be clarified and the buyer's Conveyancer may ask us to confirm certain information.

When we act for you in connection with the sale of the property we will try to answer as many of the buyer's enquiries on your behalf using the title deeds and our property law experience and training. If we do not know the answer then we will ask you for your help to answer their questions.

This is a standard part of the process but it can be frustrating when one question leads to another, but please bear with us.

Sometimes, there is an issue which cannot be resolved. In this case the Buyer's Conveyancer may request that you pay for a policy to insure against a loss in value or defence costs should someone try to take action in respect of the unresolved issue. This is often a swift and cost effective way of solving the problem and we will advise you should this be required.

### ***Signing the Contract***



When we send the contract papers to your buyer's Conveyancer, we will also send the contract to you to sign.

You can sign and return it immediately as we will then hold it on your behalf until you, and everyone else, are in a position to exchange contracts.

By signing the contract, you are confirming that on exchange of contracts, you will commit to selling the property to the buyer for the sale price, as listed in the contract. We will not exchange contracts on your behalf without your authority. Your rights over the property do not change until exchange of contracts, when you will be legally bound to give up your legal title and vacate the property on the Completion Date.

Included in the sale contract are any items which you have marked as being included in the sale price in the Fixtures and Fittings List.

We will not complete the details in the contract and set the Completion Date, until everyone is ready to exchange contracts and has agreed the Completion Date. The Completion Date is the date on which you hand the property over to your buyer. Generally the actual time that Completion takes place will be by 1pm so you should aim to have the property, including attics and sheds, cleared of all your possessions and rubbish by 12 noon at the latest.

If the property is not vacant by the time that Completion is contracted to take place, then you might have to pay damages to the buyer (which could be very expensive) if they have to rearrange removals up the chain of transactions. Remember, yours maybe just one transaction in a chain of several dependant transactions.

### **Adult Occupiers**



If anyone over the age of 17 lives at the property with you, we will ask them to sign the contract too. This is for your protection, as well as the Buyer's, to ensure that any rights which the occupier may have in the property are given up on Completion and that they will vacate the property on or before the day of Completion.

### **The Transfer**

As well as the Contract, we will send you the Transfer to sign and return. This is the document which is sent to the Buyer's Conveyancer on Completion, and acts as a receipt for the sale monies.

This needs to be signed in front of a witness and we will include full instructions on how to do this with the document.

### **Mortgage Repayment**

When you sell a property, you have to repay any money secured against the property. We will review your title and ask you to provide us with details of any loans which you have taken out against the property.

Even if you are intending to buy and sell at the same time and take a new mortgage on the new property with your existing lender, the same process of repaying the mortgage will take place.

To help you organise your finances, and for us to be able to confirm that all financial charges against the property can be repaid, we will request a repayment figure from all lenders at the earliest possible opportunity. We will send a copy of the information to you as soon as we receive it from your lender.

Prior to Completion of the sale, we will have to obtain an up to date figure. We will request this final figure as soon as we know the Completion date.



It is unusual, but sometimes the lenders make a mistake and provide an inaccurate figure. Unfortunately, you will still be responsible for any monies owing, even where it is their mistake.

We try to reduce the likelihood of there being a mistake by requiring that the lender confirms in writing the amount required but if they do not get this to us in time for Completion we may have to retain monies from the proceeds of sale to ensure that we have enough money to pay off your loan. We will always notify you first. This is for your protection because you are under a contractual obligation to the Buyer to repay any monies owned to your lender in full.

## ***Leasehold Property***

If the title to your property is Leasehold, extra information will be required. The amount of information will depend upon the type of Lease and property.

Some Leasehold properties are simply two properties in one building, with each owner responsible for contributing toward the maintenance and insurance of the building.

Other schemes are much more complicated and may involve a Landlord, Management Company, Managing Agents, Residents Associations and all sorts of paperwork in respect of the maintenance and insurance of the grounds and building.

To establish the type of scheme in operation if your property is Leasehold, we will need to send a standard questionnaire to the scheme administrator and they will charge you for providing the required information. Usually we will collect the monies from you upfront, to pay their charges.

The Buyer's Conveyancer will need the information to advise your buyer and their Lender, and they will not be able to exchange contracts without it. We will ask you to help us liaise with the Lease scheme administrator to ensure that we can obtain this information as soon as possible.

## ***Leasehold Apportionments***



If your Lease requires you to pay ground rent and maintenance charges, you will only have to pay the amount which is your responsibility up to the date of Completion.

Usually we will simply use money from the proceeds of sale to settle any payments due, and will provide you with a full financial breakdown as soon as we have the figures.

## ***Freehold Management Companies***

It's not just Leasehold Properties which have Management Companies, Managing Agents and Residents Associations! There are also Freehold Houses where there are shared facilities, maintained through Management Companies and paid for by the home owners who have the rights to use the shared facilities.

If you know of this sort of arrangement in relation to your property, please let us know as soon as possible so that we can gather all the information required and prevent any delays to your transaction.

## **4. The Purchase Transaction**

When you buy a property you need to be sure that:-

1. You can afford it,
2. That it is structurally sound,
3. That you can use it in the way you intend to; and
4. That you will be able to sell or mortgage the property in the future.

To help you, you need professional advisers. We are only qualified to advise you on the title to the property and whether it is good and mortgageable. We can also highlight to you anything which we discover which might affect your use and enjoyment of the property as you have described it to us.



We are not qualified to advise you on your financial or tax arrangements nor on the physical aspects of the property and you should instruct a financial adviser, tax adviser and surveyor to help you with these elements as early as possible in the transaction.

## Valuations and Surveys

We would always recommend that you speak to a Surveyor to establish whether you need a survey. There are a variety of options available and they can advise you as to which is most suitable depending upon the type and age of the property which you are buying.

The Sellers are under no duty to reveal any physical defects in the property to you and it is your responsibility to discover them prior to exchange of Contracts.



If you are getting a mortgage, then your lender may instruct a valuer or a surveyor to inspect the property on their behalf. **You should not rely on the Lender's valuation or survey** as it has not been prepared for you and therefore you could not claim for any loss you might suffer if there was an issue with the property. Often valuers will not even inspect the physical aspects of the property, just advise the lender as to what the value of the property is on the open market. Issues which might affect the Lender's decision to lend will be very different from what would affect your decision to buy a property.

## The Contract Pack

We will receive from the Seller's Conveyancer a set of papers with details of the ownership (title) of the property and including the contract for you to sign.

## Enquiries

We will review the information provided by the Seller's Conveyancer and, if there is any missing information, we will ask them to clarify or rectify the issues. We will only raise enquiries on information relating to the title of the property and not about your day to day use of it. If there is a particular question about the property which you would like us to ask then please let us know. If your question is about practical issues, for example what day to put the bins out, then refer these to the estate agent who can ask the seller directly or put you in touch with the seller.

## Signing the Contract



When we have reviewed the contract pack we will send the contract to you to sign.

You can sign and return it immediately as we will then hold it on your behalf until you, and everyone else, are in a position to exchange contracts.

By signing the contract, you are confirming that, on exchange of contracts, you will commit to buying the property from the Seller at the sale price as listed in the contract. **We will not exchange contracts on your behalf without your authority.**

The contract contains all the terms and conditions under which you are buying the property. These are either set out in full in the document which we send you or by reference to the 5<sup>th</sup> Edition of the Law Society Standard Conditions of sale which you can view online at [www.lawsociety.org.uk/advice/documents/standard-conditions-of-sale-\(5th-edition\)-\(pdf,-122kb\)/](http://www.lawsociety.org.uk/advice/documents/standard-conditions-of-sale-(5th-edition)-(pdf,-122kb)/)

Included in the sale contract are any items which have been marked as included in the sale price in the fixtures and fittings list.

## Deposit

On exchange of Contracts a down payment (deposit) amounting to 10% of the purchase price is required. This is held on behalf of the Seller by their Conveyancer under instructions that they cannot release it until Completion. If there is a chain of transactions then the deposit from the buyer at the bottom of the chain may be passed all the way along to the Seller at the end of the chain.

Occasionally the deposit will be held by the Seller's Conveyancer as agent for the Seller. This means that the Seller can ask for the deposit monies to be released to them before completion. This would normally only be agreed if the Seller was a reputable Building Company as it would be considered unsafe to release a Deposit to a private individual because of the risk of fraud.



Do not pay any monies direct to the Seller without checking with us first. This can cause problems with the Anti Money Laundering requirements and you also run the risk of losing the money, if the seller does not proceed.



Before we receive the Deposit monies from you we will need to complete our investigations as to the Source of the Funds. We cannot exchange contracts without the Deposit clearing in our account, so you will need to send it to us electronically as soon as we request it from you. If the transaction does not proceed to exchange then we will refund the Deposit to you. Please note that we will account to you for interest if the interest accrued whilst the money is held in our account for you is greater than £20.

## Exchange of Contracts



We would strongly recommend that you re-inspect the property shortly before exchange of contracts, to ensure it is in the same physical state and condition as when you first viewed the property. We would also recommend that you have the Central Heating System tested by a suitably qualified engineer, to ensure it is in working order prior to exchange of contracts.

This is because you buy the property in the state and condition it is in when you exchange contracts, and not the state and condition when you first viewed the property.

On exchange of contracts, we will complete the details in the contract and set the Completion Date, which is the date on which you get the keys to the property.

## Completion

Generally, the actual time that Completion takes place will be around 2pm, be aware though, if there is a delay in the monies changing hands you may not get the keys until later in the day so we would recommend that if you are planning to have any work done to the property before you move in, you don't book this to start until the day after Completion.



It is essential that we have all the monies which we request from you, cleared in our account the day before Completion so that we can set up the bank transfer to the Seller's Conveyancers to arrive in time on the Completion Day. If the monies do not arrive in time, or you fail to Complete at all, you will be liable for interest at 4% over base rate on the outstanding monies, as well as any costs involved in the service of Notice to Complete and for any loss which the Seller and the rest of the chain experience as a result of your delay. This can quickly mount up to thousands of pounds!



We send the monies to the Seller's Conveyancer electronically to the Seller's Solicitors. Because the system is automated we have no control over the length of time it takes to arrive and cannot be held liable for any delay once the Bank has been instructed to send the money to the Seller's Conveyancer.

If you were unable to Complete on the Completion Date then you could lose 10% of the Sale Price in damages to the Seller as well as any additional losses which the Seller incurred.

On the other hand, if the Seller has not vacated the property on the day of Completion then you may have a claim for damages against them e.g. lost removal expenses.

## The Plan of the Property



We do not visit the Property so will send you a copy of the title plan of the property showing the extent of the property you are buying edged in red. You will need to check the plan carefully and then confirm to us that this plan is correct by signing and returning one copy.

## Energy Performance Certificate (EPC)

The estate agent should provide you with a copy of the EPC. We are not qualified to give advice on the EPC and you should refer any queries to your surveyor.



Please advise us of any reference to “Green Deal” in the EPC as this may indicate that the property is effected by an energy efficiency loan and we will need to agree with you how you wish to deal with this. You can find out more about Green Deal at [www.gov.uk/greendeal](http://www.gov.uk/greendeal).

## Fixtures and Fittings

With the contract pack we will receive a list of the items which are included or excluded from the sale. We will send you a copy of the list to check and let us know if there are any items missing or that you would like to offer to buy from the Seller. If you do want to buy anything then you should negotiate the price through the Selling Agents who can speak direct to the Sellers. Make sure you let us know what is agreed so we can include this in the contract.



*The sellers are not required to ensure that on Completion, any items left will be in working order and you must check this yourself.*

Occasionally, particularly with vacant properties, there will be no Fixtures and Fitting List as the property will be ‘sold as seen’. This means that all of the items in the property on exchange will remain there on Completion. If you want anything in particular removed then please advise us and we will make this a condition of the contract.

## Sellers Property Information Form

This form is completed by the Seller based upon their personal knowledge of the property. The information in the form is self-explanatory but remember that the Seller, whilst they cannot lie on the form, is not obliged to tell you about defects in the property which is sold to you on the basis of "caveat emptor" – let the buyer beware!.



You must rely on your own inspection and survey of the property if you are unsure of any matter, or if a matter is of importance to you, and you should not rely on the replies of the sellers.

## Services

The property has the benefit of the mains services referred to in the Sellers Property Information Form.



You should take meter readings on the day of Completion and ask the service companies to read the meters as soon as they can after this.



The Contract states that you are buying the property as it stands, so ensure that you are satisfied that the installations regarding gas, electric, plumbing etc are in good working order prior to exchange of contracts. Remember, once contracts have been exchanged you are buying the property warts and all!

## Title

When we get the Contract Pack we will check to see that you have all the rights which you will need to be able to use the property as you have advised us that you intend to use it.

We will send you a report outlining anything revealed which might affect your intended use and enjoyment of the property as well as the information which you will need to know to ensure that you comply with any requirements contained in the title.

In our Report, we will tell you any rights which benefit the property as well as any rights over the property which benefit other people. There may also be Covenants or Restrictions affecting the use of the property and we will highlight these to you. Covenants are promises, generally to do something, and Restrictions are promises that you will not do something. These will be very important to you if they would prevent you from using and enjoying the property in the way you intend to.



Make sure you tell us immediately if you have particular plans for the property, so that we can highlight to you anything which might affect your plans e.g. if you are buying the property because you plan to extend it, use it for a business or maybe because you love the view.

## Searches

As well as the enquiries which we raise with the Seller's Conveyancer, we will also arrange for standard sets of enquiries to be answered by all relevant authorities, in the form of searches.



If you are not getting a mortgage then you have the choice whether you wish to have these searches carried out on your behalf. We would strongly recommend that you do instruct us to carry out searches as if you do not, then you will not know about any issues which they contain and which might affect your ability to use, mortgage or sell the property. Even if you are familiar with the area, there is information contained in the search which is specific to the property. For example, the searches may reveal financial payments required from the owner of the property which will become your responsibility on Exchange of contracts even if you were not aware of them.

Please note that not all of the searches listed below will be carried out on your behalf, some are optional and will only be requested if you specifically ask us to, and others are not always required.

We will make it clear in our reports to you which Searches have been requested. If you would like us to carry out additional searches then please let us know.

## Local Authority Search

A local authority search reveals general policy statements of the council applying to the area you are buying in and specific details of registers and land charges. It does *not* reveal any information about planning or other proposals for neighbouring properties or areas and you should ask us to obtain a Plan Search Plus if you are worried about development on neighbouring land.

There are two types which we use:-

- A regulated personal local authority search.
  - These are undertaken by search agents who attend at the council offices and collect information from the council records.
  - The personal search result is backed by an insurance policy in the event that any incorrect information is given by the search agent and also against incorrect information being given to them by the council.
  - The search agents which we use have signed up to a professional search code through CoPSO. You can find out more about the code at [www.copso.org.uk](http://www.copso.org.uk)
- A local authority search
  - These are undertaken by council staff and contain full information and carry an indemnity for incorrect information from the local authority.

The type of search selected for your transaction will be on the basis of value for money, the time it will take for the result to be returned and the level of insurance available with the search result.

In our Report to you on the Search result we will advise you of any matters which have been revealed which might affect your intended use and enjoyment of the property as you have described it to us.

A search is comprised of a list of all of the relevant entries in the Local Land Charges Register, information on, amongst other things, details on planning applications relevant to the property (whether granted or refused), building control history, any enforcement action, restrictions on permitted development, nearby road schemes, contaminated land and radon gas; in all a total of 13 subject areas.

We can also ask them to provide information on other optional questions around things like public rights of way, areas of outstanding natural beauty, pipeline, pollution notices, town and village greens etc. Let us know if you have any concerns about any restrictions on your ability to use the property and we can advise you whether there is information which we could obtain to reassure you. The Council or Search agents do make additional charges for these optional questions and we would confirm the extra cost beforehand.

## Roads

The search will confirm whether the road fronting the property is adopted or not. An adopted road is maintained by the Council, paid for by your taxes. We will advise you if the search result shows that the road is unadopted; and we will check whether there are rights of way granted to you in the title to the property and how the maintenance of the roads is arranged and paid for.

## Alterations to the Property

The Search result will reveal any alterations which the Council has approved or refused. We will not normally obtain copies of these documents unless we need further details to establish exactly which alterations are covered and any conditions attached to a consent.

The result will also show if there are any Council restrictions on your ability to alter the property. For example you would normally have a permitted development right to extend the property within certain limits, however in some areas this right is removed.



Please ensure that you tell us about all additions or alterations to the property which you are aware of and send us a copy of your surveyor's report.

If you intend to alter or extend the property yourself please ensure that you speak to the Council to establish what consents will be required and if your reason for buying the property is the potential to alter it then we would recommend that you check with the Council before exchange of contracts.

If the required consents were not obtained for alterations previously made to the property then it may be possible to obtain an insurance policy to protect you against the cost of dealing with an action by the Council to enforce the law.



The insurance will not cover the cost of rectifying any structural issues with the alterations. If you intend to alter the property yourself then the insurance would not cover you for the cost of the work required to bring the property up to standard, before the Council will issue you with consent for the new alteration.

The alternative to insurance is to ask the Seller to apply for retrospective consent. Often though they will refuse to do this as it can be costly and will delay the transaction whilst the Council inspect, outline any breaches requiring remedial action, and then the remedial action is carried out and re-inspected to obtain the consent. There is of course, no guarantee that the Council will consent at all to an existing alteration if it is unsafe or breaches planning law.

If the issue arises we will of course ask you how you would like to proceed and, if you are obtaining a mortgage, your lender may also need to consent to your preferred course of action.

## Listed Buildings

We will advise you if the Local Search reveals that the property is a Listed Building. A listed building is a building that has been placed on the Statutory List of Buildings of Special Architectural or Historic Interest and applies to approximately half a million properties in the UK.

A listed building may not be demolished, extended, or altered without special permission from the local planning authority (which typically consults the relevant central government agency, particularly for significant alterations to the more notable listed buildings). The works do not have to be major, even insignificant works might need consent.



Owners of listed buildings are, in some circumstances, compelled to repair and maintain them and can face criminal prosecution if they fail to do so or if they perform unauthorised alterations. You can find out more at [www.english-heritage.org.uk](http://www.english-heritage.org.uk).

## Greenbelt, Conservation Areas and Areas of Special Interest

We will advise you if the Search reveals that the property falls into one of these categories. As such there are special criteria relating to the upkeep of the property and its gardens to ensure that the property and any works to it are harmonious with its surroundings. It is generally more difficult to extend a property in a greenbelt or conservation area.



If the property is in a conservation area you must notify the Council 6 weeks before cutting or pruning a tree to give the Council time to assess the contribution the tree makes to the character of the conservation area and decide whether to make a Tree Preservation Order. You can find out more at [www.english-heritage.org.uk](http://www.english-heritage.org.uk).

## Tree Preservation Orders

If the property is affected by a Tree Preservation Order then it is a *criminal offence* to top, lop or prune a tree (even if only for minor works) without consent of the planning department of the council and this relates to trees within the gardens and that overhang the garden.

## Radon Gas

We will advise whether the search has revealed that the property is in an area susceptible to the presence of Radon Gas. Radon is a naturally occurring gas which in certain areas of the country is emitted by the bedrock. Normally, this gas would dissipate safely into the atmosphere but it is possible that high volumes may build up in properties built on this bedrock. The Local Search will reveal the percentage of properties within a 25 kilometer are of the property are likely to be effected. You can find out more at [www.ukradon.org](http://www.ukradon.org).

## Drainage and Water search

The drainage and water search reveals whether the property is connected to a mains sewerage system, whether there is mains surface water drainage and where the nearest public water pipes are positioned. The Search providers cannot say for sure whether the property is connected for water and sewerage, just that there is a drain or water supply in close enough proximity for the search provider to assume that it is connected. For this reason we also ask the seller to confirm the situation.

In the past, drains that run between properties and which are connected to and shared between properties have been private drains and the responsibility of the respective property owners up to the point at which the drainage pipes connect to the public sewer system.

Now, where a number of properties share a common sewer or drainage pipe system, the pipe work will generally be the responsibility of the sewerage authority in your area. This is a fundamental change and will be of importance to you if you are considering extending the property over or close to the drainage pipes, as you will now need to agree a legal build-over agreement with the sewerage authority in addition to obtaining building regulation approval and planning permission, where necessary.

The sewerage authority do not assume responsibility for private drains where a detached house does not share pipes with another property, or where the property is the first property draining into the shared pipe system i.e. the first terraced or semi-detached property to empty into the drain.

For further information please contact the appropriate sewerage authority for your area or visit their website to view a diagram.



Please note that if you extend or add to the property and you need to build over or up to a public sewer or water main you will first need to obtain legal consent from the sewerage authority before starting the building operations.

If you build over private sewers, you need to obtain the consent of the Building Regulations department of the Council.

### **Septic Tanks and Cesspits**

Where a property is drained by a septic tank system or cesspit which has an overflow run off of surplus water, you should register for a Discharge License with the Environmental Agency <http://www.environment-agency.gov.uk/>. We suggest that you visit their website for details of their requirements prior to exchange of contracts.

You are also recommended to ask the seller, via the estate agent, what the costs and frequency of emptying or cleaning the same before proceeding to an exchange of contracts.

We will check with the seller, via their Conveyancer, where the tank or cesspit is located and that there are sufficient rights for you to use it.

### **Environmental Search**

The Environmental Search has two parts to it. The first part is a Certificate of Professional Opinion which identifies whether there is a potential risk of the land or surrounding area being contaminated, due to the use, in-fill or geology of the land.

The Local Authority has the right to demand the clear up of contamination, or to clear it up themselves and charge for the cost of the work. They would normally enforce this right against the person, or company, who created the contamination but where they no longer exist, the Local Authority can enforce against the property owner. This can be extremely expensive.

The Certificate will confirm whether, in the opinion of an Environmental Consultant, there is a risk of contamination.

The second part of the search result will reveal any other hazards within the vicinity, e.g. flooding, Radon Gas, ground stability, which should be investigated further with a specialist report.



The fact that the Professional Opinion in the first section is a Pass, does not mean that the property is clear of all hazards and you should check the subsequent sections to see if you would like us to carry out any other reports. Ultimately, it is up to you whether you are happy to accept the risks posed by any hazards revealed.

We are not qualified to comment on the search result. However, where additional investigation is required, we will discuss the next steps with you.

### **Flood Risk Search**

A flood search reveals whether the property is likely to be affected by flood. This is especially important because some insurers may not insure properties at high risk of flood or may charge larger premiums to provide flood cover. More information on the effect of flood risk on insurance can be found at <http://www.abi.org.uk/Information/Consumers/General/Floods/Flooding.aspx>

### **Chancel Repair Insurance**

It has been established in a recent court case that on rare occasions there may be a liability on a parish or individual parishioners to pay for the upkeep and repair to the chancel of a medieval church

Because the Church can register their right up to and including the first time a new owner is registered after 12<sup>th</sup> October 2013, it is impossible to know whether the property will be affected.

Whilst there are Searches which can indicate whether there is a potential risk, there is no search which can say for sure. We therefore recommend Chancel Liability Indemnity Insurance which costs the same cost as the search and will protect you against potential liability duration of your ownership of the property. A copy of the policy will be supplied for your information and retention.

### ***Bankruptcy searches***

These are undertaken against your name if you are obtaining a mortgage. Generally you are not advised of the results if they are clear. However sometimes a bankruptcy search may reveal entries relating to persons with similar or the same names as yourself in which case we may need to request further information to clear the entries from you and will have to report the entry to your lender, which might affect their decision to lend.



If you think that anything will be revealed by such a search, please let us know as soon as possible so that we can advise you.



Whilst we do not do bankruptcy searches against you if you are not obtaining a mortgage, you should not buy property if you are, or are likely to become, bankrupt as the contract could be invalidated and a subsequent trustee in bankruptcy could claim your interest in the property.

### ***Land Registry Search***

This search will reveal whether the seller's title has changed since the contract pack was issued, and will prevent any other changes to the title for 30 days. We therefore complete the search just before exchange and may need to update it if we cannot submit the registration of your title within the 30 day period. We would not normally report to you on the search result, unless there is a problem which would delay exchange.

### ***Locality Dependant Searches***

Whether these additional searches are required will depend upon where the property is situated. If we are advised by our search company and/or your Lender then we shall advise you of the cost and carry out the necessary searches as a matter of course.



Please advise us if you are buying a property in areas affected by Coal Mining, Tin Mining (e.g. Cornwall), China Clay (e.g. Cornwall and Devon), Brine Pumping (e.g. Cheshire), Limestone (e.g. West Midlands, Dudley to Telford areas), Williamsons Tunnel (e.g. the East of Liverpool), a Common or Village Green or property located on the edge of a canal or waterway or in or near the Forrest of Dean, Epping Forest or the New Forest.

### ***Mortgages***

When you are taking a mortgage, your Lender will need to receive legal advice, as well as you. Usually, they will instruct us to act on their behalf also which will substantially cut down on cost. If your Lender requires separate legal representation then they will advise you of this on application. Even though it is the Lender which receives the advice, they will expect you to pay for the cost involved.

The amount which you borrow will be secured against the property on Completion so that you cannot sell, remortgage or change the ownership of the property without the consent of the lender.

Once the Lender has completed your application they will issue a Mortgage Offer and Conditions to you and Mortgage Instructions to us. The mortgage instructions will outline the work which we need to do before the mortgage monies can be released.



Your mortgage offer will only be valid for a certain period so it is important that we Complete your purchase before your mortgage offer expires or the mortgage monies will not be released. It is your responsibility to ensure that your mortgage offer is updated if the expiry date is passed.

We will need to arrange for you to sign a Mortgage Deed, prior to exchange of contracts. This document will bind you to the mortgage conditions:-

### **WARNING**

These notes have been prepared to help you but do not avoid the need for you to read ALL mortgage terms and conditions contained within the mortgage offer. Failure to follow strictly the Lenders terms and conditions may result in your property being repossessed. If in doubt, ask the Lender or ourselves for assistance and advice.

### **YOU MUST:**

- Make all monthly mortgage payments on time in full. If you have difficulty in making a payment immediately contact the Lender.
- Pay premiums on Buildings insurance on time and if your mortgage offer requires, send a copy of the policy to the Lender.
- Not let anyone live in the property on a permanent basis without notifying the Lender, unless the occupants are your children under the age of 17 years. The Lender will require any one who takes up occupancy who is 18 years old at the date of the mortgage or is 18 years or over when they come into the property to sign a Form of Consent to Mortgage.
- Not let out the property without obtaining the consent in writing of the Lender
- Not alter or extend the property without :-
  - ✓ obtaining permission in writing from the Lender
  - ✓ obtaining full Planning Permission & Buildings Regulations Consent where necessary
  - ✓ obtaining any consents required in your Title Deeds
  - ✓ and sending copies of all such documents to the Lender to place with the Deeds
- Keep your property in good repair
- Pay all premiums or contributions to any life insurance or repayments plans which support the mortgage.
- If your property is Leasehold, you must pay all ground rents and service charges when due.
- When redeeming your loan, pay all charges and penalties( if any) stated in your mortgage offer.



A Valuation undertaken on behalf of a mortgage lender does not give you any legal rights or protection. It merely provides the mortgage lender with information to assess whether the lender should grant a loan. **WE STRONGLY RECOMMEND THAT YOU APPOINT A QUALIFIED SURVEYOR** to give you detailed information about the property and take advice from other experts as recommended by your surveyor.



The mortgage lender has rights given to them in the contract contained within the mortgage conditions which include: -

- The right of repossession if you fail to comply with the mortgage conditions
- The right to insure your property at your cost if you fail to adequately insure it
- The right to recover all costs and losses that they incur from any breach of the mortgage conditions



Your Lender has the right to withdraw their offer to you at any time, even after you have exchanged contracts. To minimise this risk provide them with the correct information in your mortgage application.

Your Mortgage Broker or Financial Adviser is responsible for advising you on the type of mortgage that appropriate for your needs.

Whatever product you chose, please ensure that you will be able to afford it through the whole of the term of the mortgage as the Lender can take your property from you if you do not maintain your payments or



breach a condition of your mortgage. This is known as repossession and once a lender has repossessed the property they can sell it and use the proceeds to pay off any monies due under the mortgage. If there are insufficient proceeds of sale then they can still come after you for the outstanding amount.

## Repaying your Mortgage

When it comes to how the mortgage repayments are calculated there are two methods:-

### Repayment Mortgage

Under a repayment mortgage you will make monthly payments consisting of a payment towards the lump sum, known as the capital, you have borrowed and the interest charged on the capital. Under a repayment mortgage the amount you owe to the lender will gradually decrease over the term of the mortgage, so that at the end of the term the whole sum is repaid.

### Interest Only Mortgage

Where you have an interest only mortgage, your monthly payment will only cover the interest and does not include repayment of any of the capital.

This means that, at the end of the mortgage term, you need to have a scheme for the repayment of the whole of the capital. This might be through a savings plan such as an ISA, Pension or Endowment policy or indeed through an inheritance or through the sale of the property.

Whatever way you plan to repay the capital, you must be sure that there will be enough money to repay it. In particular, be aware that the figures indicated by an insurance company or any investment company as the eventual benefit or payment out from the policy or investment are only estimates and cannot be guaranteed.

### Mortgage Indemnity Guarantee



Also known as a Higher Lending Fee, this is a fee that your lender may charge you if you are having a mortgage which is considered by them to be a high loan amount compared to the value of the property.

It is usually a one off charge which the lender will collect from you. This will usually be paid out of the mortgage monies on Completion, so that the amount which the lender will send us to complete your purchase will be net of the charge.

Other than the fact that it means that the lender will lend you the mortgage, this charge has no benefit to you and is entirely for the benefit of the lender who takes it as an insurance against you being repossessed and the property being sold for less than the amount owed to them. For example if the Lender uses the fee to pay the premium for insurance against a shortfall, then the insurance company can still come after you to recover their loss as a result of the property repossession.

### Life Insurance



Please ensure that you have life insurance arranged before exchange of contracts, for the full amount of the mortgage that you are taking.

### Adult Occupier's Consent

Your Lender will require that any person over the age of 17, including your children, who will be occupying the property after Completion, and will not be party to the mortgage must sign a form of consent.

Make sure that you let both us and your lender know of any adult occupiers as soon as possible, together with their full names and age. We can then arrange for them to sign the consent forms to confirm that if the property is repossessed, then they will leave the property.

## **Buy to Let**

Whether you buy a property with the intention of letting it out, or simply decide to let it after you have bought it, you will need to tell your mortgage company. Whilst it is likely that your lender will charge you an increased interest rate on a let property, failure to tell your Lender will be a breach of your mortgage conditions.

To ensure that you have sufficient rights to deal with any issues that arise when you let a property, you should have a written Tenancy Agreement with your tenant. You should obtain professional advice on the content of the Tenancy Agreement to make sure that it protects you and your mortgage lender against the actions of your tenant and enables you to have the tenant move out when you need the property back.

## **Buildings Insurance**



It will normally be your responsibility to insure the property on Exchange of Contracts. You must have buildings insurance ready to put in place on exchange of contracts for the full reinstatement value of the property. The reinstatement value is the amount which it would cost to rebuild the property should it be destroyed. Your Surveyor will advise you of this figure.

If you are getting a mortgage, then you should check your Lender's requirements before making arrangements and provide us with a copy the insurance details.

## **Stamp Duty Land Tax Return**

We will complete the form and submit it to H M Customs and Revenue on your behalf. Even though we will be collecting the Stamp Duty from you and paying it over to the Revenue, you retain personal responsibility for the tax submission and we will not be liable to you for any penalties or fines incurred due to late submission, errors or omissions.

All information supplied to the Inland Revenue must be correct, as the Inland Revenue may review any transaction where they consider the information supplied to be incorrect. If the Inland Revenue find the information supplied is incorrect, they will collect any extra revenue due, interest, late payment fees and could prosecute you for fraud.

The form provides HMRC with the details of the transaction, including the amount paid for the property and any separate payment which you might agree to pay the Seller for fixtures and fittings.

## **5. Joint Ownership**

When you buy a property with someone else, as owners, you will need to agree what share of the property each of you is entitled to; and how you will hold those shares. It is important to get this right so that you can recover your contributions to the cost of the property, and that you can leave your share in your Will.

You have two options:-

### **Joint Tenants**

If you chose this option you will be equally entitled to the property and the proceeds of sale, irrespective of the contributions which you have made. It will also mean that, upon your death, your share will pass to the other owner, irrespective of what your Will says. On death the value of your share will be included in your estate but generally it will be exempt from inheritance tax.

If you do choose to be Joint Tenants, it is possible to change this later by 'severing' the tenancy and becoming 'Tenants in Common'. If do this, then you will need to update your Wills to deal with your shares in the property; and you may need tax planning advice to minimize any inheritance tax liability.

## Tenants in Common

Tenants in Common works well if one of you has contributed more to the cost of the property than the other, or if you want to be able to leave your share of the property in your Will; perhaps if you are not in a relationship with your co-owner or, if you are, and have children from a previous relationship who you want to receive your share of the property on your death.

When you hold property as Tenants in Common, you state your shares in a Declaration of Trust, this can be as simple as "in equal shares" or as complex as stating how the shares grow or rise depending upon who is paying the mortgage or for renovations. For the more complex arrangements a separate document will need to be drawn up called a Trust Deed. You will also need to make, or update, your Will to include how you want your share of the property dealt with on your death even if it is just to say you would like it to go to your co-owner. The cost of a Trust Deed, or a Will, will vary depending upon the complexity and we will provide you with a quote for the work involved in drawing up the documentation.

### Things to consider:-

1. the split of your contribution towards the purchase price;
2. the split of ongoing contributions towards renovation, mortgage payments etc;
3. whether on sale, your share should be calculated after the repayment of the mortgage and sale costs or before;
4. whether your share should be a fixed amount or a percentage; which will go up and down with the value of the property;
5. what happens if the property is sold for less than the amount of the mortgage, how will the loss be split;
6. who do you want to receive your share when you die;
7. what happens if you die at the same time;
8. how will you get your money back at the end of your relationship, be that through death or separation.

You will find a joint ownership form in your initial Client Care Pack on which to record your decision, but if you need any more information before choosing, please get in touch.

## 6. Capital Gains Tax

If this property is not your main and principle residence at the point of sale, Capital Gains Tax may be payable on any profit that you make on sale. A tax liability may also arise if the property has land of over 0.5 hectares not necessary for the reasonable enjoyment of the property. We are not qualified to give tax advice so you should obtain the advice of a qualified Tax Expert if this is likely to affect you.

## 7. Wills

When you buy or sell property your assets change. It is vital that you update your Will. We have an arrangement with specialist advisers, Trust Inheritance, whereby they will provide you with free advice as to whether you need to make or update your Will. You can only guarantee that your wishes will be carried out if you have an up to date Will. All you need to do is contact us to say that you would like us to arrange a call from Trust Inheritance to discuss your needs.

## 8. Frequently Asked Questions

**Q: What happens if things go wrong prior to exchange of contracts, can I claim reimbursement of my costs from the other party?**

**A:** Until exchange of contracts there is no legally enforceable agreement, you will not be able to claim your costs from the other party

**Q: Can you act for my Buyer /Seller in this transaction?**

A: Because we are Licenced Conveyancers, we are able to act for both sides of a transaction in certain circumstances. There must be no conflict of interest and we must have your written consent to the arrangement. We will always appoint separate Case Handlers to act for you and usually the work will take place in separate offices.

**Q: How long will it take?**

A: Unfortunately there is not a simple answer to this one! Our normal estimate is six to eight weeks; however we have had transactions take from 2 days to several months, it just depends on how quickly everyone in the chain of transactions is able to get themselves ready.

**Q: When can we exchange contracts?**

A: Exchange takes place as soon as both parties have completed the work required. Please see the Conveyancing Procedure for the work involved.

**Q: Does there have to be a gap between exchange and completion?**

A: We would recommend a minimum of 5 working days between Exchange of Contracts and Completion so that everyone involved has time to prepare. It is possible to do it quicker but puts you at risk of a failed Completion which could cause you great inconvenience and, potentially, you could lose money. Exchange of contracts is the first time there is actually a binding contract so if you exchange and complete on the same day there is always the risk that things might fall through at the last minute.

**Q: When I sell my house how soon do we get the money due to us after completion?**

A: So long as all the paperwork is complete, we can send you the money on the day of completion. This does not mean that we can guarantee that you will get it on the same day as it depends upon the banking system, which is outside of our control. We advise that money is sent to you by telegraphic transfer so that it will be transferred directly from our bank account to yours in the quickest time possible. The charge for this is outlined in our Terms of Business.

**Q: When I buy my house when do you need my deposit and how much do you need?**

A: We will need cleared funds to be able to exchange. This means a banker's draft, electronic payment or telegraphic transfer. If you give us a cheque, seven days clearance is required. On exchange the contract requires that you pay 10% of the purchase price. If you cannot do this, please let us know as soon as possible so that we can negotiate with the seller on your behalf.

**Q: Who provides advice on my mortgage offer?**

We will advise you on the effect of the mortgage on your ownership of the property. Any questions which you have about the type of mortgage and suitability to your needs should be addressed to your mortgage broker, financial adviser or to the Lender if you went directly to them for the mortgage.

**Q: Who should I ask about the structure or the property itself?**

You should instruct a Surveyor to advise you on the structure of the property and specialist professionals regarding specific issues such as damp proofing, electrics or plumbing etc. Any questions which you have about living in the property should be addressed to the seller, via the estate agent. E.g. what day is bin day or where is the stop cock (we recommend that everyone asks that one before they even need to know where it is!).