

Conveyancing Fact Sheet

Woodland properties

Conveyancing is the word for the legal process of transferring ownership of land. This fact sheet describes that process, first from the buyer's perspective and secondly from the seller's standpoint. If you are selling and buying, these transactions are usually undertaken simultaneously.

Buying a Property

Legal title (or ownership)

We will check that the seller has the legal ability to sell what he says he is selling and to ensure that there is nothing on the title that would affect the value of the property, your proposed use for it or your ability to raise finance on it or to sell it in future, e.g. the property is accessed down a private road and if so we will ensure that there are adequate rights of way down that road and a scheme for its maintenance; with a flat, we will make a study of the arrangements for the carrying out and financing of the repair and maintenance of common areas and gardens etc.

Searches and Enquiries

Enquiries can be made with various statutory and other authorities to ensure that there is nothing that will be of detriment to the property or your enjoyment of it. These are:-

- a "Local Search"; this is a questionnaire which is sent to the local authority in whose area the property is situated. The local authority usually has responsibility for road maintenance, planning and building control, road building or alteration and a register of the existence of any environmental conditions that might affect the property. The purpose of this is to get information about the property from the local authority records e.g. to establish that the access to the property is over a public road or that any alterations that have been done to the property have planning consent and building control approval.
- a "Drainage and Water Search"; this is an enquiry sent to the water and sewage utility company for the locality. In addition to confirming whether the property has a mains water supply and whether the foul drainage is connected to a public sewer, the search will usually provide plans showing the location of water and sewerage pipes.
- an "Environmental search" is an enquiry of a specialist information company to see whether the property is near to, or affected by, any adverse environmental factors; e.g. proximity to a sewage farm. It will also provide information regarding statutory and other designations affecting the property.

Mortgages

If the purchase is supported by lending, the Lender appoints a conveyancer to represent their interests in taking a mortgage over the property. In the majority of cases, the purchaser's solicitor will act for the Lender as well, although on occasion, the Lender may employ a third party solicitor. The cost of that work for the Lender is paid for by you, the borrower. A mortgage is the term used for a loan secured on property and it is used to describe the loan itself and the document you sign which, in simple terms, secures the lender's loan on the property. The mortgage gives the Lender the right to take possession of and sell the property if you breach the terms of the loan. In acting for the Lender, we have a responsibility to them to provide a report confirming that the title to the property is in order and that there is nothing that would stop a lender making its loan.

Exchange of contracts

Once we are satisfied with the title and the results of the checks and enquiries, we give you a report on the legal aspects of the property. Provided you are happy with that, you sign the contract and, when all parties are ready, contracts are "exchanged". This is the physical exchange of the contract so that the buyer gets the seller's part and vice versa. At that point the completion date is agreed and fixed (the date for paying the balance of the price and

taking possession of the property) and a deposit is paid. The deposit is usually 10% but can be less by agreement. This is usually held by the seller's conveyancer until the completion of the transaction. If you pull out of the transaction after exchange, you will lose your deposit.

Contracts can only be exchanged when all parties are ready.

After exchange of contracts, we: -

- prepare the Transfer Deed, which will transfer ownership, and this is approved by the seller's conveyancer
- conduct final title searches to make sure that nothing has happened to affect the seller's ownership since the contract was prepared (this is very important since, for example, a creditor of a seller may secure his debt on the property)
- send a report on title to your lender (if relevant)
- get the balance of money needed from you to complete the transaction. This will include any stamp duty, land registration fees, legal fees, and all other costs.

Completion

On the completion date, we pay over the balance of the price by a same day bank transfer and the seller's conveyancer sends the Transfer Deed and title deeds to us. You obtain the keys and the property is yours.

You are responsible to pay any stamp duty due on the transaction to the Inland Revenue – currently nil on purchases up to £150,000, 2% on the next £100,000 (£150,001-£250,000) and 5% on the value over £250,000. We will complete a Stamp Duty Land Tax Return for submission to the Inland Revenue with payment of any tax due. You must ensure the money for the tax is available at completion.

Then we register the property in your name at the Land Registry. The Land Registry issues a Title Information Document, which is proof of title.

Selling your Property

Once a buyer is found, and the terms of sale agreed, the legal process begins.

We obtain the Title Information Document from you or the lender with whom you have a mortgage on your property.

We prepare a contract stating what is being sold and the terms of the deal. We send a pack to the buyer's conveyancer comprising the contract and up to date details of title. The buyer's conveyancer then undertakes the work we referred to above. We liaise with you on any enquiries they raise and respond to them.

Once exchange of contracts is reached, a date for completion is fixed. We hold the deposit paid until completion, but it can be used in connection with a related purchase.

After exchange, we deal with any further questions raised by the buyer's conveyancer and approve the Transfer Deed, which you then sign. We seek a loan repayment figure from your lender(s) if you have a mortgage and ask you to check that it's right.

On the completion date, we receive the balance of the sale price, pay off any loans and, after payment of any estate agency and legal fees, account to you for the net proceeds.

We also forward the Transfer and title deeds to the buyer's conveyancer and send a written mortgage release form to your lender by which the mortgage is formally released from the property.