

Usual Steps in Process: Information sheet for the purchase of a property

This Information sheet tells you about how a transaction usually progresses and what important issues you should understand before committing to the purchase

1. The seller's conveyancers send us a contract package which will include
 - a sale agreement (the contract)
 - a property information form giving relevant details about the property
 - a list of fixtures fittings and other contents included in the sale
 - a copy of the title documentation to the property

We have to make a local search with the local authority to check details of any planning/environmental/highway or other matters affecting the property. Depending on the nature of your property we may have to institute various other searches e.g. a drainage search or commons search. This step normally takes 7 to 14 working days from when we receive the contract package.

From the information obtained from the seller's conveyancers and from our separate searches we will check that:

- there are no defects in the title being offered so that as and when you come to sell you are able to offer a good marketable title
- there are no onerous restrictions or covenants adversely affecting your future use and enjoyment of the property
- there are no financial charges against the property
- the local authority has registered no planning, building control or public health infringements
- if the property is a listed building this imposes substantial burdens on the owner from time to time to keep the property strictly in the state in which it is listed in the Register for the property. Rectifying deviations or lack of repair can be hugely expensive and would fall on you as the new owner. See link <http://www.english-heritage.org.uk/professional/advice/hpg/consentandplanningpermission/> for a comprehensive guide to the issues.
- there are no registered developments (such as highways) which may adversely affect the property.

We may need to ask the Seller's representative for more information or documentation if it is not possible to confirm the above from the papers included in the contract package and from the search results. These questions are often referred to as "enquiries" and are the factor that is most likely to slow

down the progress of a transaction as the answers may not always be readily available.

When you inspect the property please check the physical boundaries carefully and if you have any queries or doubts, let us know as it is important for you to approve any title plan by which the property is identified, particularly in rural areas, before we exchange contracts.

2. Following these preliminary checks we can proceed to exchange of contracts once

- you have had a satisfactory survey of the property and are satisfied there are no risks of any structural defects timber infestation or damp penetration
- you have the cash to proceed
- you have signed the contract and accept the plan and any conditions affecting the property
- you have let us have the deposit required by the seller on exchange of contracts (normally 10% although a reduced deposit of 5% is sometimes negotiable)
- you have arranged buildings insurance which is required to be effective from on or before the date of exchange of contracts
- the seller (if he is buying another property) is also in a position to exchange contracts on his related purchase
- you too (if you have a related sale) are in a position to exchange on that transaction

The time it takes to proceed to exchange of contracts therefore depends on a number of variables, the most important of which is the existence and length of any conveyancing chain we find ourselves in; that is the number of related sales and purchases which are linked to your transaction and on which contracts have to be exchanged simultaneously with yours. While it generally takes 4 to 6 weeks to get the legal documentation ready for an exchange of contracts it takes on average between 6 and 10 weeks before contracts are actually exchanged, allowing time for all the transactions in the particular chain to be synchronised.

Or put in table form

Stages	Summary of time scales - actions	Time
A	From offer acceptance via agents to conclusion of contract enquiries	3 to 5 weeks
B	Exchange of contracts	1 to 2 weeks after B

C	Completion after exchange	Usually 2 to 4 weeks after B or as agreed by the parties
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It is important to understand that selling or buying a property is actually a very technical process. If problems are going to arise then they will always arise between the time that the sale is negotiated with the agent and the time when contracts are exchanged. We think hope you appreciate this rounded view of the conveyancing process and in particular alerting you to common problems that arise between negotiation of the sale and exchange of contracts.

There may be technical defects in the paperwork of which the Seller may be totally unaware. Particularly so if the Seller has owned the property for at least the last 7 or 8 years. Examples of these technical are:

- A liability for Chancel Repair.
- No certificated building consent for alterations or additions to the property (and this may relate to your period of ownership or previous periods of ownership).
- No consent from a freeholder or owner of a covenant for such alterations or additions particularly on estate developments since 1960.
- Lack of Planning Permission for certain works which may have been carried out; or for the use to which you wish to put the property.
- Difficulty in obtaining a clear Environmental Search because of some historical use of the land on which the property has been built or because of adjacent property uses.

All these sorts of issues are easily and usually relatively cheaply insured by an Indemnity Insurance Policy (an IIP) and we can arrange this for you. Insurance replaces application to relevant bodies or authorities for missing permissions.

The question of course rises as to who should pay for the IIP. A rule of thumb, all things being equal, is that the buyer makes an offer on the basis that the Title to the property is in good condition. Therefore it may be appropriate to look to the Seller to pay for such policies (this of course ignores any market or any other economic conditions which may be in play).

We simply raise and mention these points because we find that these sorts of factors arise in probably 6 or 7 out of 10 conveyancing transactions. Early diagnosis of a problem will usually lead to an early solution and therefore will cut down any delays inherent in the conveyancing process.

3. On exchange of contracts

- you will have to pay a deposit of up to 10% of the purchase price. If you do not have a 10% deposit available please let us know at any early stage so that we can ascertain whether a reduced deposit will be acceptable to the Sellers. Once contracts have been exchanged, if the transaction cannot be completed for any reason other than the Seller's default, you will forfeit this deposit to the Seller
- a legally binding agreement arises which for the first time gives both the buyer and seller rights to impose penalties on the defaulting party if completion does not take place on the date specified for completion in the contract
- a date for completion of the purchase is fixed (which must be observed to avoid penalties) normally 2-4 weeks after the date of exchange.

It is only when contracts are exchanged that you definitely know you have a purchase and until this time no binding commitment should be made to arrange your affairs e.g. removals, telephones, giving notice for accommodation/jobs etc.

4. After exchange of contracts we

- effect various searches against the title and estate owners
- draw up the appropriate transfer documentation and arrange for this to be signed by all relevant parties
- send you a completion statement showing the monies we shall require from you to cover the balance of the purchase price due on completion and our costs and other expenses payable (e.g. stamp duty land tax and registration fees) if this amount is not already covered by the deposit paid; we shall require this sum 5 (five) working days before completion as on that date we need to have cleared funds to transfer to the seller.

In exceptional circumstances it may be necessary to reduce the time between exchange of contracts and completion. This usually results in additional time being spent on the transaction by us and in additional stress for our clients.

5. Joint purchasers

If there are two of you buying the property you can hold the property:-

- either as **joint tenants** which means that you hold the property in equal shares and, when one of you dies, the share of the person dying automatically passes to the survivor
- or as **tenants in common** which means that each of you have the right to dispose of your share by will or lifetime gift.

A joint tenancy is appropriate where each of you is happy for the interest in the property to be held equally and for your partner to become solely entitled on your death. It is the formula often adopted by a married couple and can be easily converted into a tenancy in common at a later stage if required by service of a simple written notice.

A joint tenancy can be converted at any to a tenancy in common (see below) without the need for the other owner's consent.

A tenancy in common is often used where shares in the property are not to be held equally or if you want to pass on your share to someone other than your partner. It may be more appropriate if:-

- you want someone else to inherit your share, or
- you are not contributing equally, either by way of capital or mortgage repayment and you want to divide the interest in the property in unequal shares, or
- you are married for a second time and you want your share to pass ultimately to children from a previous relationship, or
- there are other circumstances where the simplicity of a joint tenancy does not meet your requirements.

If you do have any particular provision for how shares in the property are to be held, or in what circumstances the property is to be sold, it may be advisable to have a separate form of agreement which would regulate rights on a sale of the property or if any dispute arose between you about a sale or division of any net proceeds of sale. In any event it is important that you let us know your requirements as early as possible in the transaction otherwise it may not be possible to properly protect your interests in the property.

6. On the date for completion the seller will clear the property and move out and you will need to liaise with the seller beforehand to ascertain what time the property will be cleared and how the keys will be made available. The seller may not allow you in until notified by his conveyancers that the balance purchase price has been paid. We cannot pay these funds to the seller's conveyancers until we have received the funds you may be due to receive on any related sale and any cleared funds we need from you for completion.
7. After completion we
 - arrange to pay the stamp duty land tax
 - register your title with the Land Registry

8. Insurance

If you are paying cash then you will need to ensure that, **before exchange of contracts**, the property is adequately insured against usual building risks and perils and that the risk commences on or before the date of exchange of contracts. Please note contracts cannot be exchanged until you confirm this is in hand.

If you are arranging your own insurance you will be well advised to shop around **now** for insurance premium quotes as these will vary from company to company and will also depend on where the property may be situated (for example flood risk issues see DEFRA website <http://www.defra.gov.uk/environment/flooding/> if you have concerns).

9. Anti-Fraud Measures

If you buy the property and do not reside there for substantial parts of the year, or, the property is to be left vacant for some time, then we recommend a Restriction be placed on the title in form LRRQ. This, as a precaution, puts any buyer of the property on notice that they cannot buy the property without your conveyancer confirming you are indeed the person entitled to sell it. This will discourage identity theft and fraud especially if you have no mortgage on the property.

Please ask that we do this for you on completion if you require it.

As a general comment, if you have any enquiry relating to your purchase please contact us.

Francis Parffrey Legal Services Limited
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