

Buying a property



Note: Please see the following information sheets are attached:

- Survey or not to survey
- The Deposit
- What is a mortgage guarantee premium (MGP)?
- Land and environmental searches
- Buying property jointly
- Stress Reducing Information!
- About the House

The Information set out below is a brief summary of the three stages that are usually relevant to a property purchase.

Stage 1 – Information Gathering

The first thing that we do is to take all the details that we need from you about the property, and about your financial arrangements. We will contact the estate agents dealing with the property, the solicitors acting for the seller and usually your financial advisor or the mortgage lender. Our job is to obtain all the technical and non-technical information about the property as soon as possible. This always includes the contract, Property Information Forms, title information and searches. In some cases other information needs to be gathered such as leasehold information, details of planning permissions, guarantees, by-law consents.

We will usually copy most of this information to you when it is received since it will help you when we get to Stage 2.

It would be unusual for us not to have received all the information that we need by the time your lender has made a mortgage offer. Generally we will be sent a copy of that offer when it is sent to you. We will check to ensure that there are no conditions that you or your financial advisor were not expecting. For example, there are frequently conditions relating to repair works or conditions that we as solicitors need to check. Usually we will be acting for you as well as the lender in relation to the purchase of the property.

Stage 2 – Exchanging Contracts

Once the mortgage offer is available, we will report to you upon this as well as the other aspects of the legal papers in connection with your purchase. You will be asked to sign the contract and pay us your deposit. We can either arrange a meeting for you to come in or we can deal by correspondence with you. Ideally the deposit should be paid to us electronically but if this is not convenient, please let us know.

We will explain any points that have arisen and give you practical guidance on how we hope to proceed to meet your expectations as to completion (i.e. the date that you move in).

We will run through the mortgage offer and explain any special provisions referred to. There will be some things that you will need to confirm to us such as the accuracy of the site plan of the property, the accuracy of the list of fixtures and fittings and contents, i.e. you will be left with the items you were expecting. There are often minor points but these are usually resolvable by means of a quick telephone call or fax to the sellers solicitors.

The contract will be signed and a completion date agreed in principle. You are not exchanging by signing the contract – you are putting us into a position whereby we can exchange the contracts with the sellers solicitor.

It is when we exchange contracts that you are bound to proceed, as are the sellers.

Since at that point in time you have agreed to pay a very large sum of money for a property, we need to be sure that:

- you are absolutely satisfied with the property and it's condition
- you understand and are happy with the information that we have given to you
- your finances are in place
- you agree the moving date.



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Generally “exchanging contracts” is achieved over the telephone using certain agreed procedures. We will always try to telephone you as soon as we have exchanged, or if we cannot contact you by phone we will write that day.

Stage 3 – Completion

You can see that the critical step is exchange of contracts and the moving date is fixed at that time. There is usually a period of at least 7 days between exchange of contracts and completion but it can be up to one month or more.

During this time we will get the mortgage monies from your lender, make final searches (which have a limited life span) prepare the mortgage and transfer document and finalise a financial statement showing the monies required to complete.

The above is only a general guide and therefore please feel free to ask us if you have any queries on the above. Our aim is to make the process of moving as hassle free as possible. It is after all a very stressful time, and paying attention to your concerns is one way of us helping to reduce that stress.



Survey or not to survey?



If you are borrowing money from a bank or building society to buy a property then you will have to pay for a valuation. Your lender will not want to part with its money without knowing that the property is in reasonable condition. There is usually a choice of three types of valuation or survey:

- **Basic valuation** – This is the minimum type of property survey that any lender will insist upon. A surveyor will give his opinion on the value or price in relation to the offer that you have made. Generally if there are any problems with the structure or condition of the property, the surveyor will note them in his report eg damp penetration, woodworm infestation, wall tie failure etc. It is a limited inspection and the main purpose is to ensure the value of the property is sufficient to repay the mortgage. If you are therefore borrowing a relatively small sum compared to the value of the property, you may want to consider a more comprehensive report.
- **Report on condition and valuation** – As the name suggests this covers more than the basic valuation. The surveyor in this case will complete a standard RICS questionnaire which is designed to gather information about all the main parts of the property. The information provided is usually straightforward and easy to follow using the traffic light system i.e. green indicates no repairs needed whereas red would indicate a serious problem.
- **Full structural survey** – This type of survey is more expensive. It will cover a full and comprehensive inspection of the property. They are often used for particularly old, unusual or high value properties.

The above surveys will not cover such things as central heating systems, wiring, plumbing etc. If you have been unable to check these things, you need to arrange specialist reports if you want to be satisfied these are in proper working order and/or safe.

It is important to know that you can renegotiate the price or even withdraw at any time up to exchange of contracts. The estate agent will usually be very happy to help you with this. We are always happy to advise in general terms and help you renegotiate if you are having difficulty. We always try to co-operate with the selling agent since he will be advising the seller on any offer that is made.



The deposit



This is a sum of money which is paid to your seller's solicitors on exchange of contracts. It is intended to be a financial commitment to ensure that you will complete the purchase of the property on the day set for completion. If you do not complete the purchase then you will lose the deposit.

Although the contract allows for a 10% deposit, the seller will usually accept 5% or less if you are obtaining a large mortgage.

In practice, the payment is made to us and we will pass it to the seller's solicitors on exchange of contracts. If you are obtaining a large mortgage, the amount will usually be the difference between your mortgage advance and the price of the property.

If you are getting a 100% mortgage, the seller will nearly always accept the amount that you will need to find to meet our fees and disbursements, eg. stamp duty, etc. These funds can act as the deposit.

When we receive the mortgage monies we can then recover these monies from the mortgage advance. If you require any further information with regard to this, please do not hesitate to let me know.

We will let you know when we need the deposit from you. It is helpful to receive a building society cheque since we do not have to wait for such cheques to clear and electronic transfer of your deposit to us is even more preferable.



What is a mortgage guarantee premium (MGP)?



If you are buying a property with the aid of a mortgage then you may need to know about mortgage guarantee premiums.

Where the loan is a high proportion of the value of the property, the lender will need to arrange this insurance to protect themselves. If the value of the property was to fall below the amount of the mortgage (which has happened quite often in recent years) the insurance company will pay the lender the difference. The sum of money originally lent in this way is guaranteed.

You do not become involved in this insurance which is arranged by the lender with the insurers direct – but unfortunately you have to pay the premium. The premium is only payable once at the outset and each lender tends to deal with the payment in a slightly different way. Very often it is deducted from the loan at completion.



Land and environmental searches



There are a number of technical matters affecting all property. This information sheet briefly outlines the purpose of our searches.

We need to check government and other statutory records to ensure that the property is not subject to:

- any specific existing technical restrictions – such as planning, public health, highway, improvement grants, tree preservation orders are covered by the land search.
- general environmental risks – such as flooding, radon gas, natural land subsidence, contaminated land are covered by an environmental search
- location and route of the public sewers and drains near the property are covered by a water search.

The searches are quite detailed and will highlight anything unusual. In many cases, particularly with older established properties there is little chance of anything adversely affecting the property to be revealed. On the whole, therefore, much of the information simply confirms our expectations.

Over the years, the number of identifiable potential hazards has increased significantly as a result of research. Therefore we must carry out these searches on your behalf for your safety and security. They only take a few days to process, but we like to request them as soon as possible.

The searches are limited and there are some things they do not deal with and the searches only relate to the property you are intending to buy. We are not advised if, for example, there is a planning application relating to the construction of a multi-storey car park next door. If you need more information, you will need to speak direct to the planning department. The environmental search does not constitute a survey of the land.

Once the results of the searches are received, we will refer them to you. On the whole these tend to be matters that should not cause concern, such as tree preservation orders, planning matters, improvement grants and drains. If any matters are raised where we are not qualified to comment, it may be necessary to consult a surveyor.



Buying property jointly



People's lives and relationships change and it is imperative that where monies are being provided in unequal shares, you read this note carefully.

The most common financial arrangements when people buy property are:

1. One party provides the whole or a substantial part of the purchase money and the other party provides either no money or a smaller share
2. The same as above save that the person providing the smaller share intends to invest more money in the property at some point in the future
3. A gift is being made to one of the parties by a relative or friend
4. A combination of all of the above

If any of these situations apply to you, it is vital that you read and understand the options below.

When two or more people purchase a property together there are two methods by which they can own it; either as "joint tenants" or as "tenants in common". In either case, when you legally own the property, you are Trustees. The information on this sheet relates to the way in which you hold the property as Trustees.

■ **Joint Tenants** – this is the most common form of joint ownership. It means that if one of the parties dies, the survivor or survivors automatically own the whole of the property irrespective of the Will of the person who has died. All that needs to be produced in future is a death certificate, showing the death of the joint owner concerned. The survivor or survivors can then deal with the property absolutely in their own right. It is an administratively simple procedure and does not involve any further legal documentation.

■ **Tenants in Common** – this is where each owner has a specified share in the property. That share may be a half or any other division may be agreed before the property is purchased. The share can be expressed as a specific sum or as a percentage and linked to the value of the property. The specified share can be

transferred or otherwise dealt with by its owner at any time by Will or sale for example. The share does not necessarily have to be passed to the other joint owner. There are significant advantages where people purchasing together might wish to leave their share in the property to immediate family as opposed to the other joint owner or owners.

The above principles apply where co-owners separate.

You will see that buyers of property must fully consider their intentions in relation to the money that they may be providing for the purchase. If couples split up and there is no written agreement to reflect those wishes, it may be very difficult to show what was intended at the time. If a dispute should arise, the Court may be asked to decide what the intentions of the parties were. This can be a lengthy and costly exercise to resolve and the determination may not be what was intended at the time.

Important

If you are providing money towards a purchase in unequal shares, we would strongly advise that you ask us to prepare a separate agreement to reflect your wishes.

If one party received a gift, there is no agreement and the parties split up and sell the property, that gift could be deemed to have been for the benefit of both parties. This can produce a very undesirable outcome if that was not the true intention. In these cases we strongly advise that the party who is providing the deposit through relatives have a deed prepared to clarify the intentions and preserve that gift if applicable. The person making the gift must seek independent advice since we cannot act for them.

There are many types of agreement that will cover any arrangements you require. The key message is to give us clear instructions at the earliest opportunity and the small additional cost involved now may save a considerable amount of upset and much greater cost later.



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Stress reducing information



Things you may like to know about buying your property:

- Once your offer has been accepted, the estate agent will send the details to us. We will then know the names and addresses of all the parties and their solicitors.
- The sellers solicitors send to us a “pack” of information about the property. The information covers a range of points some of which are technical e.g. details of the sellers’ ownership.

We will give you this information in due course and will include the Property Information Form and what fixtures and fittings are included in the purchase price.

- During this time your mortgage application will be processed by your lender. In our experience, it will take between 3 and 4 weeks for the offer to be made.
- It is very important that you are completely satisfied with the structural condition of the property you are buying. Once contracts are exchanged, if any faults are then found, it will be too late to change the price or withdraw from the purchase. The seller is not usually under a duty to disclose faults in his property.
- Once the mortgage offer is available, we will report to you upon this as well as the other aspects of the legal papers in connection with your purchase. You will be asked to sign the contract and pay us your deposit. Providing all is in order, we will then be in a position to exchange contracts.
- Once contracts are exchanged, you are bound to complete your purchase on a date which you will have agreed i.e. the completion date. This is the date when you become the owner and you can move in.
- On the completion date, you should be able collect the keys from the estate agents by no later than lunchtime, all being well. Exceptionally we encounter unforeseen problems and if you experience any problems at all, please let us know.



About the house



- Bear in mind that where the building society or bank carry out a valuation on the property on your behalf, that valuation is extremely limited. You should not rely on it and you should consider having your own survey carried out.
- If you decide not to have a survey you should examine the state of repair of the property as carefully as possible yourselves and if you know a builder or anyone with experience of properties who could look at the property with you, then this would be advisable. If there are problems, you will be unable to do anything about it after exchange of contracts.
- Check that all appliances at the property, eg gas fires, cookers, central heating systems, etc including main services (gas, water, electricity and sewage) are all working. We will ask for copies of any guarantees and pass on any we receive but we do not investigate the validity or effectiveness of these. You should therefore make your own enquiries of the Company concerned.
- The Local Authority Search may reveal a number of matters which relate to this property. The search does not cover the area generally. If you have any specific questions regarding the use or development of the surrounding area you must let us know. We will make enquiries of Southern Water Services if you wish us to but please let us know since an additional fee is payable.
- If you are aware that recent alterations have been carried out to the property, please let us know. This may not be clear to us from the information sheets we receive.
- Where we are acting for your lender in connection with your mortgage, there are a number of practices and procedures which we need to comply with. When calling to see us we should be grateful if you could be kind enough to bring in with you your Driving Licence or current Passport.
- We would ask you to read all the conditions relating to your mortgage offer since they are often quite detailed. It is your responsibility to ensure that you understand the terms upon which the money is to be lent to you. You should also confirm with the lender, the date when your first mortgage payment will fall due, before deciding upon a completion date.
- We are always happy to try and assist you with your mortgage offer and in particular where there is a retention pending completion of repair works. We must point out that you should always ensure that any estimates that are obtained are carefully checked and approved by your lender before contracts are exchanged.
- If you are arranging your own buildings insurance, you must arrange your insurance to be in place prior to exchange since the legal risk passes to you upon exchange of contracts.



Stamp duty land tax



Stamp Duty Land Tax (SDLT) came into effect on the 1st December 2003 replacing Stamp Duty which had been in place since the 17th century. The definition for SDLT is:

'Stamp duty land tax is a modern self-assessed tax on land transactions involving any estate, interest, right or power in or over land in the United Kingdom.'

As part of the conveyancing process we will complete a SDLT return, giving on your behalf the:

- effective date of the transaction;
- purchase price of the property, and
- a calculation of the SDLT payable.

As part of modernising the Stamp Duty programme, Her Majesty's Revenue and Customs HMRC Stamp Taxes developed an online filing system to streamline the process.

We will send a copy of the SDLT form for you to sign to confirm you are content with the information, before it is submitted on line. You will be liable for the information submitted to HMRC and for the tax due.

You should be aware that we will ask you for any SDLT due prior to completion so that it is available for us to use immediately on completion. You will see this included in your completion statement.

The amount of stamp duty payable is calculated on a percentage of the purchase price. The current stamp duty rates are as follows:

Purchase price	Rate
Up to £125,000	0%
From £125,001 to £250,000	2%
The next £675,000 (i.e. the portion between £250,001 to £925,000)	5%
The next £575,000 (i.e. the portion between £925,001 to £1.5 million)	10%
The remaining amount (i.e. the portion over £1.5 million)	12%

If you already own a property, and this is an additional property, you will usually have to pay an additional 3% stamp duty on the above rates as follows:

Purchase price	Rate
Up to £125,000	3%
From £125,001 to £250,000	5%
The next £675,000 (i.e. the portion between £250,001 to £925,000)	8%
The next £575,000 (i.e. the portion between £925,001 to £1.5 million)	13%
The remaining amount (i.e. the portion over £1.5 million)	15%

Further information can be found at the Government website www.gov.uk/stamp-duty-land-tax/overview

