Mortgage

In the build up to exchange of contracts, the receipt of a satisfactory mortgage offer is probably the most important step. However, simply receiving the offer from the mortgage lender does not of itself make it satisfactory.

For the mortgage offer to be deemed satisfactory, the following needs to take place: -

- You must also receive the formal offer and its terms must be acceptable to you, including the expiry date of the mortgage offer compared with the anticipated timescales for legal completion.
- We must receive the mortgage offer directly from the lender along with all necessary legal documentation.
- We will check the details of the mortgage offer to ensure that they are correct; We will report to you on the terms of the mortgage.
- We must report in writing (where necessary) to the mortgage lender to let them know the financial structure of the transaction, particularly where there are discounts or incentives as part of the deal. We must also report if there are any inaccuracies or inconsistencies in the offer to ensure that the lender is aware of them.
- We must report to the mortgage lender any issues that arise from our investigations which may affect their decision to lend.
- We may be required to report to the lender on the source of the deposit funds.
- We must have a written response to any report we make to the lender, from the lender, to confirm that they are happy for the matter to proceed.

Generally, where your purchase is dependent upon a mortgage, we strongly advise you not to exchange contracts without first having a satisfactory formal mortgage offer in place. If you do wish to proceed without having a formal mortgage offer in place, we require your specific written instructions that this is how you wish to proceed and to give us an opportunity to advise you fully on the risks involved.

In addition to making sure that this is in place you should also consider the following: -

(a) Representation

Please note that it is highly likely that we will represent your mortgage lender who will also be our client for the purposes of the transaction. This is perfectly normal for a conveyancing transaction as your basic requirements are the same, unless of course a conflict of interest is identified or the potential for such a conflict to arise exists. This is not something we would expect to come across in the normal course of the transaction.

As we are also representing the mortgage lender in addition to you, we will be under a duty to disclose to the mortgage lender all details with reference to the transaction that may be relevant to the mortgage lender's security.

(b) Source of Deposit Funds

As part of the instructions from our lender client, we are obliged to report to them in instances where the balance of your deposit funds are not coming from your own resources. This would include gifts or loans from parents or third parties.

(c) Occupiers

If you are obtaining a residential mortgage (as opposed to a “buy to let” mortgage), we need to know if any person who is not named on the mortgage and is over the age of 17 will be occupying the property. Please therefore let us know the full name, address and age of any non-owning occupiers who will be residing at the property with you following completion.

Consent to Disclose

As a result of our professional duty of confidentiality we cannot make any of the required reports to your lender without your consent. You will see from the client care paperwork that by signing and returning the client care letter your consent is being provided to us in relation to those matters referred to in that letter.

With regards to any other matters which arise during the transaction, we will contact you first before making any disclosure to the lender on any matter of which the lender requires notification. You can refuse to provide that consent to us, but should you choose to do so we will need to write to the lender, returning the paperwork and confirming that we are unable to act for them due to a conflict of interest, though we will not disclose the reason for this. We will then need to consider whether we are able to act for you any further.

MORTGAGE CREDIT DIRECTIVE AUTHORITY

If you are using a mortgage to purchase your property, you should be advised by your mortgage broker of changes to the law which relate to your mortgage offer. If you have not, then please refer to your broker and ask for information on how the Mortgage Credit Directive may affect the issue and acceptance of your mortgage offer.

Under these changes your lender is required to provide you with at least 7 days to reflect on the offer before deciding whether you wish to accept it. Your lender or broker are required to advise you on how long this period is and whether they require you to formally accept the offer before it will become a live offer. It is therefore very important to consider this information carefully.

It is also important for you to keep in mind that when we apply to your lender for the release of mortgage funds you will be providing us with your authority to accept the mortgage offer on your behalf and to dispense with the reflection period if this is still active. In other words, by signing these terms and conditions you will be providing us with authority to bind you to the offer of the mortgage. **IF THEREFORE YOU DO NOT WISH FOR THIS TO HAPPEN IT IS IMPORTANT TO LET US KNOW IN WRITING STRAIGHT AWAY**.

Please also keep in mind that if your offer of mortgage is allowed to expire you will be required to apply for a new mortgage. Extensions to your existing offer may not be allowed. Responsibility for checking and monitoring the expiry date rests with you and we will not accept any liability for loss which may arise from the expiry of the offer.

Seller’s Incentives & Source of Deposit (Our Reporting Obligations)

If you are purchasing with the aid of a mortgage, it is likely that we will also be representing the mortgage lender in the transaction. As the lender will also be our client in those circumstances, we will be instructed to report certain information to the lender: -

- *Sellers Incentives*

If the seller is providing you with any sort of financial incentive to purchase the property you must let us know straight away.

- *Source of Deposit Funds*

Additionally, we may be required to report to the lender the source of any deposit funds which do not form part of your own personal resources, including (but not limited to) gifts from parents or other third parties, or loans from parents or other third parties.

In both instances, we are unable to report this information to the lender, however, without your consent. I would therefore ask you to note that by signing and returning the client care letter you will be deemed to have provided the necessary consent. If you do not wish to provide this consent, please let me know immediately as this may have an impact on my ability to act not only for the mortgage lender but also for you.