Checking the title

Once we are in receipt of your initial documents, ID, source of funds information, etc. The next stage in the process is for us to check the title to the property. For us to do this, we need to receive what is known as the "Contract Pack" from the Seller's Solicitor. This pack should contain:

- A draft contract for our approval
- A copy of the title deeds showing the seller's ownership of the property and their right to sell
- Copies of any relevant documents referred to in the title deeds
- Questionnaires providing details of the property and what is included in the sale

We will check these documents together with any relevant search results and raise any enquiries we have in relation to the property, the documents provided and/or the results of the searches. The Seller's solicitors need to provide answers to any questions raised by us before we can move onto the exchange of contracts.

When we investigate the title to the Property in connection with your purchase, we may discover that the property has a defect in the title. A title defect is an error or omission in the title deeds or associated documentation and may have an adverse effect on your ability to sell or re-mortgage the property and, if the issue is not resolved, it may have a negative impact on the value of the property.

We may recommend that an Indemnity Insurance Policy is obtained. Further details on indemnity insurance can be found here (link to insurance page)

The Contract

The Contract is a written agreement between the parties and, amongst other things, contains the most important agreed terms, the purchase price, and the Completion Date. There are, however, other elements to the Contract which are not contained in the main written agreement but still form part of the contract: -

Seller's Information Questionnaires

The seller should complete a Property Information Form and a Leasehold Information Form (if applicable). The answers to these questionnaires provided by the sellers are classed as being part of the Contract and can be relied on by you.

Fittings and Contents

The Fittings and Contents Form completed by the seller will indicate which items are being left at the property and are included in the sale, which items are being taken and which items are available for purchase, should you wish to buy them separately.

However please note as follows: -

a. Should you agree to purchase anything extra please let us know as, subject to your instructions, this should properly be dealt with through the Contract. In addition, there may be a nominal Stamp Duty Land Tax implication.

b. If you make an agreement to purchase any item separately and directly with the seller, and do not have this included in the Contract, you may have great difficulty showing that you made an agreement in this regard.

In addition, we would inform you that whilst we have no reason to believe that the fixtures and contents form has been inaccurately filled in, in the event of, on completion, an item or items being missing from the Property (that have been listed on the fixtures and contents form as being included) - whilst the Seller may be in technical breach of contract it may cost you a lot more to take legal action against the Seller for breach of contract than to simply replace the missing item yourself.

Written Replies to Pre-Contract Enquiries

As mentioned, the title will be checked, and enquiries raised. Any written response to these enquiries from the seller's solicitors can be relied upon and will be deemed to be included in the Contract.

Other Representations

Apart from the above, generally you cannot rely on any statement made to you either verbally or in writing by the seller, the estate agents or any third party.

Exchange of Contracts

A contract cannot be "exchanged" without your signature upon it. As a result, we will either need to run through the contract, title, and mortgage documents and to advise accordingly at a face-to-face meeting, or you may wish to take advantage of our Contract Report service, which means we can do all the above but in written form through the postal system.

The actual signing of the contract itself does not constitute exchange. It does however put us in a position to exchange Contracts on your behalf, having obtained your express authority to do so; but without the need for you to be present at our offices when the exchange takes place.

Exchange of contracts is a straightforward procedure carried out by your legal representative with the representatives of the other party in the transaction.

When Contracts are exchanged you will pay over a deposit and enter into a legally binding agreement to purchase the Property in accordance with the terms of the contract on a fixed completion date. If you fail to complete on the agreed date, the seller can claim his losses (or interest) from you and ultimately forfeit the 10% deposit from you and remarket the Property.

Getting Ready for Exchange of Contracts

Before exchange of contracts can take place, the bulk of the legal work will need to be carried out.

In our experience, there are two common causes of delays in reaching the point at which the parties are ready to exchange contracts.

(a) Receipt of a Satisfactory Mortgage Offer

Increasingly the mortgage application process is a long one. Mortgage lenders now have more stringent criteria than ever before which in turn can make the applications process drawn-out and frustrating.

The point at which we as your solicitors will get involved in the formal mortgage process is the point at which we receive, directly from the mortgage lender, the formal offer of mortgage. At that point we have a fair amount of legal work to do to ensure that the mortgage is "satisfactory", please see "Mortgages" section.

(b) A Chain of Transactions

If a delay occurs elsewhere in a chain, the progress of the entire chain is affected; a chain only moves as quickly as its slowest party. If you have a dependent sale, please pay particular attention to the section below.

Of course, if any legal problems arise on that sale transaction, exchange of Contracts will be delayed until they are resolved.

Completion Date

Please note that until Contracts have been exchanged any proposed Completion Date is not definite and it may well be altered to suit the parties in the chain before the agreement is finalised at exchange. Therefore, any removal booking, or any costs incurred should not be confirmed until Contracts have been exchanged. If you make the necessary removal arrangements prior to exchange of Contracts, we cannot accept responsibility for any cancellation fee you may be required to pay.

DO NOT BE TEMPTED TO AGREE A COMPLETION DATE DIRECTLY WITH YOUR SELLER OR PURCHASER WITHOUT CONSULTING WITH US FIRST. THIS SHOULD ALWAYS BE CONFIRMED BY THE LEGAL REPRESENTATIVES IN WRITING.

Property Insurance

We would recommend that you put buildings insurance in place upon exchange of contracts as this when the risk in the Property passes to you.

If you are obtaining a mortgage and the lender is also insuring the property, no further action will be required.

If you are arranging your own insurance, please ensure that the cover you have obtained is fully compliant with the requirements of your mortgage lender (amongst other requirements the Lender usually will need the insurance to note their interest or be in the joint names of you and the lender) and send a copy of the building's insurance schedule to us prior to the completion date. We will be unable to complete without confirmation that satisfactory insurance is in place.

If you are buying a flat, the landlord will usually arrange buildings insurance, our lease report will confirm whether this is the case.

Related Sale

If you currently own another property, you may be selling this to help finance your purchase. If so, you need to be thinking about this sale in relation to the purchase of your new property.

Unless you instruct us otherwise, we will not exchange Contracts on your purchase without exchanging Contracts on any related sale simultaneously. This ensures that you do not run the risk of not having no property or owning two properties (and potentially being saddled with two mortgages).

If another firm of solicitors is dealing with your related sale you must let us know and provide us with their details if you wish to synchronise the 2 transactions.

Legal Completion

"Legal completion" is the point at which those matters agreed in the contract take place i.e., the sale and purchase of the property – on the contractual completion date the purchase price is paid to the seller and legal ownership in the property transfers to the you.

Expenditure in Preparation for Completion

As previous mentioned until contracts are exchanged and a completion date is set through the contract, we would not recommend committing yourself to any expenditure based on a completion date which you have not verified with us first. To do so would be entirely at your risk. Please therefore speak to us first before making any sort of financial commitment.

Rental Property

A common issue we encounter is clients in rented accommodation who will need to give notice to their landlords and who wish to synchronise this with the completions process under the contract. We often find that clients do so without seeking advice from us first. Unless a completion date is guaranteed, should you give notice on your tenancy and by the time your notice expires your property purchase is not complete you run the risk of being homeless.

Please do not give notice to your landlord (if you are renting) or cancel your current living arrangements unless you know for certain that completion of your property will occur. We cannot advise you to do this until the contract has been exchanged on your purchase. We cannot accept responsibility if you give notice to your landlord prior to exchange of contracts occurring and completion not being within your expected or desired timescales.

If, having taken our advice, you do choose to give notice in any event, please ensure that you have in place a suitable contingency in case the anticipated exchange and completion do not occur.

Deposit

In most cases, when Contracts are exchanged the Seller will require a 10% deposit from you.

If you are both selling and buying at the same time, the deposit we receive from your purchaser will often be acceptable to your Seller, but you may be called upon to find some additional deposit funds if your Seller is not satisfied with the amount of deposit available.

Completion Balance and our invoice

Accounts when rendered should be settled on or before completion of the transaction (we reserve the right to refuse to complete if costs or disbursements remain unpaid). The right is reserved to charge interest on overdue accounts at 4% per month and a fee of £100.00 plus VAT will be added to the account in the event of recovery action being taken.

Please note that once an invoice and completion statement have been sent to you and we have received the balance to complete from you we shall be deducting our costs and disbursements immediately notwithstanding that this may be prior to completion.

If following discharge of our costs the transaction becomes abortive, we shall apply a refund in respect of any specific costs that do not apply.

Solicitors are governed by strict accounting rules. Any balance payable by you to the Seller on completion together with payment of our account must be received by our bank and cleared prior to the completion date, preferably the working day before completion to avoid any risk.

Completion Day

Finally, a few practical points about the completion day, subject to any final balance being received as required above:

1. The completion monies must be with the seller's solicitors before legal completion takes place. If you have a related dependent sale, we must wait for the sale proceeds to arrive in our account before the purchase monies can be sent on to the seller's solicitors. For a straightforward purchase with no related transaction the money should leave our account at the start of the banking business day. Where there is a chain, for obvious reasons this may happen a little later in the day.

2. Because we have no control over the banking system, other than the release of funds from our own account, we cannot give you a precise time for completion to take place on the Completion Date. It commonly can take up to two hours for the transfer to take place, but it could be more or less, the only guarantee given by the banks is that the funds will be with the receiving bank on the same working day.

3. You should therefore ensure that where you are moving out of a property, removals are not booked for too early in the morning as it may well be that you have to wait for the keys to your new property if the money has not been cleared through the banking system and the Seller or their solicitors have not released the keys. The Seller will not release the keys to you until their solicitors have confirmed that the purchase monies have been received. As there is no specific time, we can give you in advance for completion we would not recommend booking removals on an hourly basis.

4. If you are moving out of one property and into another, we would recommend aiming to have your old house emptied by midday and be ready to move into the new property between 1pm and 2pm. This is a rough practical guide only and should not be relied upon.

5. Once the keys have been released you will be able to collect them usually at the estate agent's office.

6. Ensure you have a clear, written reading of the meters at the properties. Make sure that your seller is aware of these readings.

Property Registration

Once legal completion has taken place, your file will be passed to our Post Completions Team. They will arrange for your property to be registered at HM Land Registry. We are unable to provide you with a timescale for registration of your property but please bear in mind that some registrations can take up to 24 months depending upon whether it is a first registration, a new build property, etc. Prior to the pandemic, the Land Registry were experiencing lengthy delays but with the effects of the pandemic coupled with the increase in property purchases due to the Stamp Duty Holiday, the delays have significantly increased.

A delay in the registration of your property is not a cause for concern and we will keep you updated on a regular basis as to the progress. Should you be considering selling the property or arranging a re-mortgage prior to receiving confirmation that your property has been registered, please get in touch with us as the delay in registration may cause some issues in these circumstances.