

Gregg  
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Solicitors & Notaries

# Conveyancing

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Fact sheet



## Introduction

Buying or selling property is likely to be a significant event in most people's lives. For some, it may happen just once or twice. For others, it can happen on a regular basis.

Buying a home or property for investment is exciting but it is also a major financial commitment, so working with a legal team experienced in residential property issues is essential to help make your sale or purchase as smooth and stress-free as possible.

This guide explains "conveyancing" and some of the other issues involved in buying or selling property. It can only provide general guidance, so if you have more detailed queries, please contact us.

## For buyers...

Things can happen quickly when you are house-hunting, so it strengthens your position if you have mortgage approval in principle. This shows that a lender is willing to provide your mortgage and will tell the seller and their estate agent that you are serious about buying.

It is also a good idea to have instructed the solicitor who will carry out the necessary legal work as early as possible in the process and to have them in place as soon as you know you are likely to make an offer on a property.

That way, they can step into action as soon as your offer is accepted. Speed can be an important issue in property transactions so it makes sense for you and your solicitor to move fast if necessary.

## Your solicitor's role

Your solicitor's role is to carry out the conveyancing and associated legal work when you buy a property.

According to the dictionary definition, conveyancing is "the process of moving the legal ownership of property or land from one person to another".

Transferring ownership of bricks and mortar or land is more complex than when property like furniture or a car changes hands.

Because land is permanent, over time various rights and obligations, which are not immediately obvious can become attached to it and need to be identified and clarified to protect your interests. A number of steps are involved.

**Step 1:** Your solicitor asks the seller's solicitor or licensed conveyancer for:

- **a draft contract:** drawn up by the seller's solicitor, this sets out the main terms of the proposed sale agreement;
- **a copy of the title deeds or land registry entries:** these show that the seller owns the property and set out any rights obligations or restrictions affecting it;
- **the property information form:** completed by the seller, this contains details of boundaries, guarantees, disputes, building works and other practical information about the property; and
- **the fixtures, fittings and contents form:** this tells you what is and is not included with the sale of the house, such as carpets, curtains or light fittings, to prevent disputes at a later date.

You should also receive an Energy Performance Certificate, which rates the property's current energy use (in a similar way to a fridge or freezer) and sets out how certain improvements would affect its rating and its impact on the environment.

**Step 2:** Your solicitor will carry out various searches. These include a local authority search, which will reveal planning matters relating to the property, road proposals, area designations and past breaches of legislation.

The searches will also identify if there is contaminated land in the area or if the property is likely to be affected by flooding, or subsidence. If the property is in a mining area, the solicitor will carry out a mining search. It is also worth having a chancel check or search, to find out if the property you want to buy carries a liability to contribute to the repair of the local Church of England church, so that you can take out insurance against this.

Other checks will be made with the local water and drainage authorities and with Land Registry, to establish that the seller owns the property. Further checks may be made at the Land Registry in relation to other matters affecting the property, such as legal rights, obligations and restrictions.

**Step 3:** The contract is negotiated and finalised, based on the results of the searches and the survey on the property. Your lender will require a survey if you are buying the property with a mortgage. A survey is recommended in any property transaction to identify problems that may not be immediately obvious, for example with a damp course, brickwork, guttering or roofing.

**Step 4:** Your solicitor will send you a mortgage deed to sign and will check the conditions of your mortgage offer.

**Step 5:** You can now agree a completion date, when the house will become yours, and then exchange contracts. A non-refundable deposit must be paid to the seller at this stage. Once contracts are exchanged, you are legally bound to buy and the seller to sell.

**Step 6:** Your solicitor draws up a transfer deed that transfers ownership from the seller to the buyer. Once agreed it must be signed by both parties. This deed will be sent to the Land Registry following completion.

**Step 7:** Your solicitor requests mortgage funds from your lender, along with any extra money you are contributing, ready for transfer to the buyer on completion. In addition, Land Registry fees and stamp duty land tax must be paid to your solicitor prior to completion.

**Step 8:** On the completion date, your solicitor transfers the funds for the purchase of the property and the sale is completed. The seller must have moved out at an agreed time so that you can receive the keys on completion and move in. You also receive the transfer deed to enable your solicitor to register you as the new owner at the Land Registry.

## For sellers...

The process for sellers is more straightforward. The key steps are:

**Step 1:** You work with your solicitor to prepare an information pack, including:

- **the property information form:** your solicitor will provide this standard questionnaire, which will ask for key property information including details of boundaries, disputes, guarantees and building work;
- **the fittings and contents form:** you decide what items are and are not included in the sale of the property. You can change these items before the contract is exchanged;
- **the title deeds:** these documents show that you own the property and set out any rights or obligations attached to it. If your title is registered, there will be no deeds as such but your solicitor will obtain confirmation of your ownership from the Land Registry. If your title is unregistered and you have a mortgage on the property, it is likely that your mortgage provider will hold the deeds; and
- **the contract:** once you have accepted an offer, your solicitor will draw up a draft contract specifying the names of the seller and buyer and the agreed price.

You will also need to provide an Energy Performance Certificate, which gives your home energy ratings based on its current energy use and on its impact on the environment, as well as how its rating could be improved in certain measures were taken. You need to have commissioned this before putting the property up for sale but don't need to have received it before you do so.

**Step 2:** The buyer's searches and survey may raise queries, which your solicitor will work on with you to answer. There may also be negotiation over the contents of the fittings and contents form.

**Step 3:** Once any queries have been satisfactorily dealt with, you must agree a completion date with your buyer and then exchange contracts. Once contracts are exchanged you will be legally obliged to sell and cannot withdraw at this stage without the possibility of substantial financial penalties.

**Step 4:** Your solicitor will ask you to sign the transfer deed in readiness for completion.

**Step 5:** Once the buyer's money has been received, your solicitor will send the transfer deed to the buyer's solicitor in order to pass ownership of the property to the buyer. The funds received on completion will be used to repay your mortgage and the fees involved in selling your property before you receive the surplus.

## Choosing a solicitor...

Moving home may be the only time in your life that you use a solicitor but a property transaction is a huge investment – both financially and emotionally – so working with experienced property professionals, with whom you can build a real relationship, is a wise move.

Cost is likely to be a factor but going for the cheapest option may be a false economy. A personal recommendation is usually a good way to choose a solicitor. If you are asking friends or family to recommend a firm, two key areas that can make a big difference to a successful transaction are:

- **communication:** most problems in property matters are caused by poor communication. Nothing will drive up your stress levels like being kept in the dark, chasing people who don't return your calls or having to check on progress with someone who has no personal knowledge of your transaction. Solicitors that are proactive in keeping in touch and make it easy for you to speak to the person who is handling your work will make a big difference; and
- **speed:** this can be essential in property matters, so look out for solicitors that will make the most of IT to keep things moving, such as email or text.