



Buying & Selling Your Home – a Guide

Introduction

Buying or selling your house is likely to be the most important financial transaction you will ever enter into.

Our practice covers all areas of the law and we operate from one office in Aylesbury.

We have made a substantial investment in technology and all legal staff have external e-mail direct to their P.C.

Parrott & Coales are the only firm in Buckinghamshire to hold the ISO9002 Quality Standard.

The following notes set out some of the essential elements of the conveyancing process.

Initial steps - sale

a) Deeds and Enquiries

You will receive from us an initial letter requesting details as to the whereabouts of your title deeds and enclosing some questionnaires. Please ensure that these requests are dealt with as quickly as possible so that your sale can be underway without delay. We will then prepare and send a draft sale contract and supporting documents to your buyer's solicitors.

Please make sure that you give accurate replies to these questionnaires and also complete the fixtures and fittings list carefully as the Buyer will be relying on this information.

There is no binding contract at this stage; the transaction is still "subject to contract" and the sale will only become binding once contracts are formally exchanged and a completion date (or moving date) set.

If an estate agent is involved in the sale you will have received a copy of their particulars. Please check these carefully to ensure that they are



accurate since your purchaser may be relying on these. Please advise us of any discrepancies straightaway.

Once a contract package has been supplied to your buyer's solicitors we may be asked further questions concerning your property. We may need to revert to you on some matters which are not of a legal nature.

(b) Mortgage repayment

We will obtain estimates of the amount required to repay any mortgage on the property. However, you should take steps yourselves to ensure that the transaction is financially viable. Please ensure that we are aware of all loans secured against the property since all of them must be repaid upon completion of your sale.

Please note that your lender will make an administration charge when the loan is repaid. A minority of lenders may instruct their own solicitors to act on repayment of the mortgage and in this case you will be responsible for their solicitors' fees also.

Initial steps – purchase

The seller's solicitors should supply a contract package taking the same steps as above. Please remember that we cannot undertake any searches

or enquiries on your behalf until we have received the contract package.

(a) Searches

We will request from you in advance the local authority search fee and provision for drainage and environmental searches. The exact amount depends upon the local authority involved and this will be confirmed in our initial correspondence. It is our standard practice that searches will not be put in hand until we receive funds. Any delay in our receiving search fees could delay your purchase.

There are a number of additional searches that are available to us through our search provider but that we do not undertake as part of our standard conveyancing practice. However, it may be that you would like these extra searches undertaken and we are therefore enclosing some literature regarding additional options which are available to you should you wish to take them up. These extra searches will mean that search costs will increase and therefore it will be necessary for you to increase your payment on account and complete the authorisation form enclosed so we are aware of which searches you would like carried out. We may not be permitted to advise on the contents of the results as this could fall outside our expertise as lawyers.

(b) Condition of the property/surveys

When you purchase a property the maxim “Caveat Emptor” applies (*let the buyer beware*). This means that you must ensure that you are happy with the condition of the property or any items included in the sale before you commit yourself to exchange of contracts. Once you have exchanged contracts a buyer is deemed to have inspected the property and accepted the actual condition in which it is in. This includes any fixtures and fittings included in the sale. Please check the questionnaire prepared by the sellers carefully since this will form part of the contract.

We strongly recommend that you arrange for a survey to be carried out; remember that your

building society or bank will merely carry out a valuation and are not under a duty to you to point out any defects in the property. There are three main types of survey: valuation, home buyers survey and structural survey depending on your needs. Only an independent surveyor will be responsible to you and highlight any defects and potential expenses.

(c) General

If an estate agent is involved in the sale you will have received a copy of their particulars. Please check these through carefully to ensure that they are accurate. Although these do not form part of the sale contract, you should inform us straightaway of any discrepancies between these and any information we may have.

Our enquiries will deal with matters such as planning, drainage and water supply, access etc. **Please remember that we do not actually see the property and therefore will rely on the documentation we receive from the seller’s solicitors and any information you may give us.** In addition, the local search in particular gives only limited information about the property you are purchasing and will not reveal proposals for neighbouring land, etc.

(d) Our role and responsibilities

We will be checking the legal title to the property and ensuring that both you and your lender obtain a good clear title to the property. We shall advise you fully on the implications of any issues affecting the property.

We recommend that you do not make any definite booking for your removals until we inform you that contracts have been exchanged, as it is only then that you have a firm moving date and a binding agreement. Likewise, do not give notice on temporary accommodation.



Exchange of contracts

This occurs when the whole chain is in a position to proceed. All solicitors in the chain must be in receipt of search results and replies to all of their enquiries and a written mortgage offer. The completion date can then be agreed.

Although a moving date may be agreed in principle beforehand, please do not try to arrange your completion date too early and certainly not on the first day you view your house! You cannot sensibly consider a completion date until all the legal work has been carried out. If you attempt to fix an unrealistic date before this, any unexpected delay or technical difficulty on either your transaction or somewhere else in the chain could lead to disappointment and the need to rearrange any arrangements you have made.

Try to allow an interval of 10-14 days or so between exchange and completion. This will give you more time to pack up and make other moving arrangements. It will also allow us to obtain mortgage funds and carry out final searches.

Signing a contract does not bind you to proceed; this only occurs when all parties are ready. Once you have exchanged the seller is legally bound to sell and the buyer is legally bound to buy. If either party backs out from this point, then this results in a breach of contract and the innocent party can claim compensation.

Deposits

A buyer will be expected to put down a deposit of 10% on exchange to show his commitment to purchase. If he then defaults, the deposit can be forfeited and retained by the seller. If a buyer breaks his contract having paid a lower deposit most contracts provide that the balance of the 10% deposit will remain due and payable.

Please note in particular the situation if you are buying for more than you are selling; 10% of your sale price will be less than the 10% of your purchase price. Should your buyer default then you may find yourself out of pocket. Your buyer's deposit will be insufficient to pay the full 10% deposit on your own purchase which your sellers would then be entitled to claim.

Insurance

Buildings insurance on a property must generally be taken out by a buyer from exchange of contracts. If this is not being dealt with by your lender or a landlord then you must make your own arrangements.

Our in-house insurance advisor can arrange competitively priced buildings insurance and will look after all the paperwork for you. Please ask us for details and an immediate quotation.

Contents insurance need not be in place until completion.

Completion

Vacant possession of the property must generally be given by 2.00 pm at the latest. Normally completion takes place around 12.00 noon. If completion takes place after 2.00 pm then it is deemed to take place the next working day. In such a situation there will be provision in the contract for penalty interest to be payable on a daily basis by the defaulting party.

As soon as completion has taken place, we will account to you for any balance due to you, after payment of all mortgages, agents' commission and our costs and disbursements, such as stamp duty and Land Registry fees.



Ownership of property/taxation

In legal terms a property can be purchased in joint names in two different ways :-

'Joint Tenants'

If you are buying jointly as husband and wife, then the usual method of ownership is as "joint tenants". This means that in the event of a death the property automatically passes to the survivor without further documentation.

'Tenants in Common'

The alternative is to hold the property as "tenants in common". This means that the property can be owned in specific shares to allow for any different proportions which each buyer may have contributed or will contribute towards the purchase and future upkeep of the home. It also means that your share in the property is your own asset and can be left under the terms of your own Will or that if you decide to sell the property the sale proceeds are divided correctly between you. This option is usual for unmarried persons.

Tax issues may also need to be considered especially in relation to investment or higher value properties.

If you require advice on any of these matters please let us know - we can also prepare any additional documentation needed to record your own particular situation.

Stamp duty land tax

You must pay Stamp Duty Land Tax (SDLT) if you buy a property or land over a certain price in England, Wales and Northern Ireland.

The current SDLT threshold is £125,000 for residential properties and £150,000 for non-residential land and properties.

In November 2015 the Government announced its intention to introduce higher Stamp Duty Land Tax (SDLT) rates which will affect tax-payers who are buying additional residential properties.

Does this apply to my purchase?

No:-

- If you are buying your first residential property you will not be affected by these changes.
- If you are moving from your current, main residence to a new property as part of a linked sale and purchase, you will not be affected by these changes.

Yes:-

- If you are buying a second or further residential property to add to your portfolio, this does affect you. This applies even if your first residential property is located outside the UK.
- Also, if you are buying a new property as your main residence **before** you sell your existing main residence, you must pay the additional tax if you complete your purchase on or after 1st April. You can reclaim the tax later if you sell your previous main residence within 18 months.

What are the rates?

Band	Existing residential SDLT rate	New additional property SDLT rate
£0-£125,000	0%	3%
£125,000 - £250,000	2%	5%
£250,000 - £925,000	5%	8%
£925,000 - £1.5m	10%	13%
£1.5m +	12%	15%

What if I buy with a partner?

- Married couples and civil partners can only own one residential property between them. So if your partner already owns a residential property, you will be caught by the higher SDLT rates even if you don't own property in your name.
- In the case of unmarried couples, the current guidance seems to suggest that each partner will be entitled to own one property although this is yet to be confirmed.



As part of the completion process, we will be submitting a Land Transaction Return to the Inland Revenue acting as your agent. The form will be provided to you prior to completion to check and sign to confirm that you are in agreement with what has been completed on your behalf. By signing this form, you are declaring that the information contained within it is true

and as such if any information contained within it is incorrect or misleading, this is your liability and the Inland Revenue will pursue a claim with you. It is important to be aware that they have 21 years from completion to investigate.

Finally - practical points on completion

- Do not forget to inform suppliers of services (e.g. gas, electricity etc.) of your move.
- Advise the local authority responsible for your Council Tax.
- Do not forget to cancel any standing orders/direct debits to lenders and others
- Ensure that changes of address are notified or appropriate arrangements made with Royal Mail for the forwarding of mail.
- Properties are sold with vacant possession and must be left free of rubbish and in the condition you would expect to find a property.
- Make sure you make clear arrangements for the transfer of keys; these are usually left with the estate agents. These must not be handed to a buyer until monies have changed hands.

This summary is designed to provide you with an insight into what is involved in the house buying process from a legal point of view. Whilst we hope these notes are useful they are not conclusive and do not deal with the particular circumstances of your move. Please contact us if there is anything you would like to discuss in more detail.