

Frequently Asked Questions

Q) What is Conveyancing?

Conveyancing is the term utilised to describe the transference of ownership of land from one person to another and the role of your Solicitor/Conveyancer is to safeguard your interest. For example, when transferring ownership of your property you may not be aware that there are certain rights or obligations over the land in question. A neighbour might have the right to enter upon your property and dig up the drains in order to enable the clearing of his/her drains or the public may have a right to cross the property if there is a public footpath. Consider also the question of whether you as the Seller actually owns the land and whether the proper transfer of legal ownership has been effected if you say inherited the property. These are just some examples of situations that your Solicitor would be obliged to investigate upon your behalf.

A typical Conveyancing transaction contains two major elements:

- Exchange of contracts (whereby Equitable Title passes)
- Completion (whereby Legal Title passes)

Conveyancing occurs in three stages: pre- contract, pre-completion and post- completion

Q) Who does my conveyancing?

A) You can hire a Solicitor, Licensed Conveyancer or Legal Executive to do your conveyancing for you.

Q) Can I do my own conveyancing?

A) It is not advisable to carry out DIY conveyancing due to the complicated and legal nature of the work to be carried out. Your Legal Representative is best equipped to handle for example any boundary disputes which may arise and is in the best position to safeguard your interests throughout the transaction.

Mortgage lenders will usually insist on employing a Solicitor/Legal Executive or Licenced Conveyancer in order to protect their interests.

In order to avoid any risk/cost of owning two houses, people usually opt to buy and sell a property contemporaneously. A number of linked transactions therefore arise, each dependent on the other and exchange of contracts must take place simultaneously in the chain of transaction. The speed of progress will be dictated by the “slowest” link in the chain.

Q) What time do I have to leave my property and what do I do with the keys?

A) The Contract usually states that you must vacate your property by 2pm but the principle is to endeavour to be vacated by 1pm.

Unless otherwise arranged via your Solicitor, please leave your keys with your Estate Agents who will be instructed by your Solicitor to release them to your buyer once the purchase monies have been received.

Q) Who is responsible for buildings insurance now we have exchanged?

A) If you buy a house you should take out buildings insurance when you exchange contracts. If you sell a house you are responsible for looking after it until the sale is completed so you should keep your insurance cover until then.

The Standard Conditions of Sale (5th Edition) places the responsibility to arrange buildings insurance between exchange and completion of contracts on the purchaser of the property.

Q) What is the difference between Leasehold and Freehold property?

A) The freehold interest in land is the most overall interest that can be held in England and Wales. Essentially it means the outright ownership of land or property for an unlimited period and applies to the majority of houses.

A leasehold interest on the other hand is a temporary right to occupy land or property. Someone who owns a freehold interest in a property may grant a lease on that property to another person which in effect will form a relationship between Landlord and Tenant. The lease is a legal document based on Property and Contractual Law which defines the rights and obligations of both the Landlord and Tenant. Most flats in England and Wales are held in the form of leases.

Q) What are Searches?

A) Searches are made with your Local Authority upon your behalf by your Solicitor to establish :-

- information about sewer connections and water supply to a property
- whether any past use is likely to have led to environmental contamination
- whether the property is in a former coal mining area and whether past mining activities may reveal the property as being at risk of being on unstable ground sometimes called 'subsidence'.

Note: All of the Local Authority Search results usually come in within two weeks.

The other Searches that your Solicitor will carry out during the transaction are Land Registry Searches and Land Charges Registry Searches to determine any bankruptcy status or outstanding Charges registered against the property.

Q) How long will it take to complete my transaction?

A) Generally speaking, a conveyancing transaction from beginning to end should typically take approximately eight (8) to twelve (12) weeks although a smaller “window” can be achieved given favourable circumstances. One must allow flexibility when considering how many people are involved in the “chain”, take into account that funding for the transaction by way of mortgage or otherwise has been secured by the purchaser, all replies to enquiries raised against the Title are satisfactory as well as the results of all Searches and all necessary documentation is in place together with mutually agreed dates for completion. A point to bear in mind is to ensure that all documentation requested from you by your Solicitor should be furnished as soon as possible to avoid delays. For example, if you are a prospective Buyer and are having a survey carried out at the property either by your Mortgage Lender or in the alternative an independent survey in the case of you being a cash buyer, make sure to have a copy furnished to your Solicitor as soon as possible as there may be points revealed within the survey which could be identified and to which questions may be raised by your Solicitor upon your behalf of the Seller’s Solicitor. The survey will reveal aspects such as the state of structure and the connection and running of all services.

If you are the Seller you should ensure that all relevant documentation i.e. your completed Property Information Form and Fixtures and Fittings Form, Planning Permissions, Building Regulations Completion Certificates, Warranties, Guarantees, FENSA Certificates etc. are handed over to the acting Solicitor at the infancy of the transaction as these documents form part of the Contract Pack which will be issued to the Buyer’s Solicitor for inspection. Absence or delay in providing such documentation at an early stage could possibly hold up the entire transaction however your Solicitor will explain to you a provision for the absence of documentation by way of an Indemnity Policy/Policies.

Q) What are the procedures for buying a property at Auction?

A) Buying a property at Auction will differ from the standard conveyancing process and the possible risks need to be measured equally predominantly as you will be contractually bound to buy the property at Auction after you have won the bid.

You will be provided with information about the property to be sold before the actual Auction day. The Auctioneers will have compiled a Legal Pack which should include the following:

- Official Copy of the Register of Title plan
- Property Information Form (TA6) Fixtures & Fittings Form (TA10)
- Leasehold Information Form / Management Information (TA7) - if a Leasehold property) Local Authority Search (may be included)

With standard conveyancing, whereby you can take time for consideration before you confirm that you are in agreement for Contracts to be exchanged, an Auction property is legally binding at the point at which the hammer is brought down. At this stage you will have to pay your Auction fees which are 10% deposit and then you will be required to complete the purchase in 28 days which is the usual agreed time period.

Q) What is the 3% Stamp Duty Land Tax (SDLT) surcharge?

A) This surcharge is payable on “second home” transactions.

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

E.g. If you are buying a second home with a purchase price of say £200,000, just the extra 3% Stamp Duty would equate to £7,500. If you dispose of your previous main residence within 3 years you may be eligible for a refund of £6,000. If you compare this with the standard SDLT rate based on one dwelling house with no additional home then the SDLT fee would be £1,500. This is worth bearing in mind if you are considering carrying out a “Buy to Let” transaction.

Q) What does Joint Tenants mean?

A) In the case of more than one person buying a property e.g. married couple, your Solicitor may ask if you wish to purchase the property together as Joint Tenants or as Tenants in Common. Property in England and Wales can be held by joint owners as Joint Tenants or as Tenants in Common. In the absence of your preferred request the property will automatically be held as Joint Tenants in equal shares. Where the property is held as Joint Tenants the implication is that the property automatically passes to the survivor upon the death of either one of the Joint Tenants. In the case of a Tenancy in Common, the property may be held say by business partners who for obvious reasons do not wish for the property to automatically pass to the survivor upon death of either of the partners. If the parties have contributed towards the purchase price in equal shares they might wish to own the property in equal shares but if one party has contributed a significantly higher amount towards the purchase price the partners may wish to agree that one person should own say two thirds of the interest in the property and the other party just one third. This preference should be specified within the Transfer Deed.

Q) Why do I need an Energy Performance Certificate (EPC) when selling my property?

A) Typically your Estate Agent will arrange to obtain an EPC which will be forwarded to your Solicitor at the early stages of the conveyancing process. EPC's are obtained from an accredited Domestic Energy Assessor who will carry out the assessment and produce the EPC. The EPC reveals information regarding the energy efficiency of the property and there is an obligation where a property is to be sold to provide such a Certificate. The EPC will form part of the Contract Pack to be issued to the Buyer's Solicitor.

Q) What is the difference between "Exchange" and "Completion"?

A) The completion date is the date upon which you move into your new property and vacate your previous one. The agreed completion date is of course mutually agreed between buyer and seller via their Solicitors and is written into the Contract. The Exchange of Contracts is the point at which the seller and buyer agree to commit themselves unconditionally to the property transaction.

Why do I have to prove where my money is coming from to finance my purchase?

Your Solicitor should ensure that you have sufficient monies available to meet the cost of your proposed purchase together with related expenses.

The key sources of mortgage finance available for a purchase of land in England and Wales are :-

- banks, building societies
- finance houses employer
- private mortgage (e.g. a loan from either a trust fund or a relative)

If you are however funding your transaction without the need of a loan/mortgage and are planning a “cash purchase”, your Solicitor will insist on you providing evidence of the source of funds that you propose to use to fund the transaction. Typically your Solicitor will request copies of banks statements. This is to safeguard against Money Laundering Practices that are prevalent in today’s society and to ensure that your Solicitor adheres to a specific Code of Conduct.

Q) How much will it all cost?

A) If you are selling a property you will need to budget for Estate Agent’s fees, Legal costs, Identity Check fees and Bankers telegraphic transfer fees. If you are buying a property you should budget for Legal costs and disbursements. Disbursements are payments made by your Solicitor to others such as HMRC for Stamp Duty Land Tax, Land Registry fees for registering the property into your name and Search fees (Local Authority and e.g. Bankruptcy Searches). You will additionally need to account for Survey fees if you are having a Survey.

Completion Statement – sample (Sale)

CS123

1st July 2015

Mr and Mrs J Smith

Sale Price		200,000.00
Mortgage Redemption	55,000.00	
Estate Agent’s Fees	2,000.00	
Identity Check Fees	10.00	
VAT at 20%	2.00	
Conveyancing Fees	500.00	
VAT at 20%	100.00	
Bank Transfer Fees	40.00	
VAT@20%	8.00	
Balance due to you by BACS payment	142,340.00	
	200,000.00	200,000.00

Completion Statement – sample (Purchase)

CS124

1st July 2015

Mr and Mrs J Smith

Purchase Price	150,000.00	
Mortgage Advance from Korina Bank		115,000.00
Payment on account – Search Fees		300.00
Estate Agent’s Fees	1,500.00	
Smart Search Fees	10.00	
VAT at 20%	2.00	
Search Fees	213.00	
Conveyancing Fees	450.00	
VAT @ 20%	90.00	
Bank Transfer Fees	40.00	
VAT@ 20%	8.00	
Balance due from you on completion		37,013.00
	152,313.00	152,313.00

A) If you are a homeowner you will need both Buildings and Contents insurance cover in place. If, like most people you require a mortgage to buy your home obtaining Buildings insurance cover will be a strict condition of your Mortgage Lender.

There are two parts to Home insurance - Buildings and Contents.

The Buildings insurance cover element will cover things such as structural parts of the building i.e. walls plus permanent fixtures and fittings such as fitted kitchens, baths etc. The Policy will also usually include outbuildings e.g. garages.

Contents insurance would cover your possessions e.g. furniture, carpets, clothing etc.

A claim for Buildings insurance can be made if the structure of your home is damaged e.g. fire, storm damage or flood. A claim under Contents insurance can also be made for your belongings in any of these circumstances as well as instances of theft or loss. There will be Terms and conditions within each Policy as to the limit against which you can claim which of course will vary between Insurers.

In rented accommodation, the Landlord would be responsible for insuring his or her own “bricks and mortar” whilst the Tenant would need to insure their own belongings within the property.

Q) Will I need a survey?

A) Upon your offer to purchase being accepted you will now need to tell your Lender if you are taking out a mortgage who will then in turn run through valuation/survey options with you although even if you are a “cash” buyer you should still consider getting a survey carried out.

The cost will depend on whether you choose a basic survey known as a Homebuyer’s Report or a full structural survey. The full structural survey will obviously be more expensive than a basic survey but is strongly recommended for older properties or listed buildings.

Q) Who qualifies under the Help to Buy Scheme

A) Help to Buy Schemes are a great way to help people striving to save a deposit for their first home or indeed persons wishing to move up the property ladder but have limited equity. A Help to Buy Mortgage is typically open to both first-time buyers and those moving home but is however restricted to “New Build” homes. The buyer is required to raise 5% of the value of the property as a deposit and the Government will contribute a further loan of up to 20%. The buyer can then choose to repay the Mortgage Equity Loan at any time and if it is not repaid whilst the buyer is still in occupation of the property, when coming to sell that property, the Government will reclaim its 20% stake in the home at the property’s current value.

Criteria

The property must be a New Build home
The property must be your only residence

You cannot use a Help to Buy Scheme to purchase a Buy to Let property
No maximum income requirement

You must be able to cover the monthly repayments

Q) What is a help to buy ISA?

A) If you are saving to buy your first home, it is wise to save money into a Help to Buy ISA which is a government scheme to help first time buyers. The government will boost your savings by 25% so for every £200.00 you save you will receive a government bonus of £50.00. The maximum government bonus you can receive is £3,000.00.