

# michelmores

An aerial photograph of a new residential development. The houses are built with red brick and have dark grey or brown roofs. They are arranged in a grid-like pattern with a central road. In the background, there are green hills and some construction sites. The sky is blue with some clouds.

**Guide to buying your home**  
**New build**



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# Introduction

This is intended to be a simple guide to the procedures that are involved in the sale and purchase of a property. Being aware of the steps that need to be taken will help you to understand all that must be done before the proposed sale and purchase may be completed.

The process can be divided into four basic stages:

1. **Finding a suitable property** and agreeing the purchase price in principle with the Seller or Estate Agent.
2. **Making enquiries about the property** so as to ensure you are actually buying what you thought you were buying (for example that the garden belongs exclusively with the house and is not subject to rights for others to use it), and ensuring your financial arrangements are in place.
3. **Exchange contracts:** only when contracts have formally been exchanged, and a deposit paid by the Buyer to the Seller, will the proposal become a binding agreement on both parties. Until that time either party may withdraw from the transaction or seek to re-negotiate the terms without liability to the other.
4. **Completion:** on the day of completion the balance of the purchase price is paid by the Buyer to the Developer and the Buyer can move into the property.

It should be noted at the outset that there are a considerable number of enquiries, searches and arrangements to be made between first finding a property and being able to complete the purchase.

This should be taken into account when agreeing a Reservation Date with the Developer.



# Finding a suitable property

This is not a stage at which your solicitor will usually be involved.

**There are however two points that should be borne in mind:**

1. If you have a property to sell or you are hoping to agree a part-exchange of your existing property with the Developer, let us know so that we may obtain your title deeds. If your mortgage was taken out some time ago, the deeds may be held by the bank or building society and it may take up to two weeks for the deeds to be delivered.

For a more recent mortgage, we can obtain most of what we need from the Land Registry, though we may also need to approach the solicitors who acted when you purchased to check whether they are holding any documents such as indemnity policies. Requesting all this information before the sale is finally agreed will avoid unnecessary delay.

2. If you need a mortgage for the purchase you may agree this with a bank or building society in principle before the exact property is chosen. This will enable you to ascertain at the outset how much you can afford to borrow (and what the bank is prepared to lend) and will help to reduce the length of time taken for the formal mortgage offer to be issued. Evidence of income is usually required and the necessary confirmation from employers or the checking of accounts can all be attended to at this stage.

At the beginning of the transaction, the Developer will specify a date by which all parties are to exchange contracts, usually between 4-6 weeks after documentation is provided to us. Whilst this is usually easily achievable, on occasions this may not be possible due to matters beyond our control (for example the Developer's Solicitor may be slow in providing us with information or there may be a delay in the issue of your mortgage offer). You can rest assured that, should this be the case, we will be proactive in doing everything possible to expedite matters.

## Part exchange

if you have agreed a part-exchange of your existing property with the Developer, this is effectively a sale of the property to the Developer and, therefore, a separate contract and transfer will be prepared in this respect. We will supply you with forms to answer concerning your existing property, being a property information questionnaire and a form enabling you to specify which fittings and contents are included in the sale and which are excluded. If your existing property is leasehold, you will also need to fill in a leasehold information questionnaire.

The Developer may require that your existing property is shown to prospective purchasers whilst the transaction is proceeding and, if a sale is agreed, you may be required to convey our property directly to the buyer who is purchasing it from the Developer.

Contracts for the sale of your own property will be exchanged on the same date as those relating to the purchase of the new property and usually you will be required to pay a deposit of 10% of the difference between the value of your existing property and the one you are buying. Completion of your sale will take place simultaneously with Completion of your purchase.



# Making enquiries

You have agreed in principle to buy a property and it is now that we will usually become involved. This is the stage when you seek to ensure that you know exactly what it is you are buying and whether there are any significant facts about the property of which you were not previously aware.

**This is the beginning of the “Conveyancing” process which takes the following form:**

We will email you two links to Legl, our client onboarding system, and ask you to follow these links and upload your ID and source of funds information to the system. Legl will electronically check the documents and information in order to satisfy Money Laundering Regulations.

If you are unable to use this electronic system, please let us know and we will send you a Client Questionnaire and a New Client Form, which authorises us to make electronic checks of your details. Sometimes client details do not match the systems which are electronically checked, in which case we will need to ask you to provide originals or certified copies of two forms of identification, being a photocard driving licence or passport together with a utility bill, bank/credit card statement or council tax bill addressed to you at your current address. The driving licence or passport will need to be current and the other paperwork will need to be dated within the last three months (other than a council tax bill which must be for the current year).

The Estate Agent or Developer’s Site Agent notifies the Solicitors of the proposed transaction.

The Solicitor acting for the Developer will prepare a Contract and Transfer Deed for the property that you have agreed to purchase. These, together with copies of the title deeds and other relevant information, are sent to us. Please note that the Developer’s Solicitor will charge you a fee for providing the documentation, typically in the region of £150 plus VAT.



# Making enquiries

## Upon receipt we will:

1. Check to ensure that the terms of the Contract and Transfer Deed are reasonable and that they reflect the proposed transaction.
2. Check the title. We will ensure not only that the Seller is able to sell the property to you but also whether there are any restrictions imposed upon the property, whether there are rights reserved to others (for example rights of way) or whether the property has any necessary rights over adjoining land (for example rights for services).
3. The Transfer of the property will be made with reference to a Plan. When you receive this from Michelmores you should carefully check to ensure the Plan correctly corresponds with the boundaries of the land you have agreed to purchase. If there is a discrepancy you must notify Michelmores prior to contracts being exchanged. Unless a specific request is made to your surveyor to assist, this exercise is your responsibility.
4. Submit our applications for searches (see page 9). The results will provide information about the property and surrounding area, for example, whether:
  - roads/pathways are publicly maintained
  - planning requirements have been complied with
  - the property benefits from mains drainage
  - the property falls within a conservation area
  - there are any recorded industrial landfill or waste sites in the vicinity
  - there is a general flood riskand so forth.

It should be noted that the standard searches relate to the specific property searched against and, other than the environmental search, do not give detailed information about adjoining properties or the neighbourhood.

If you have particular concerns, please discuss these with us as soon as possible, as one of the optional searches set out below may provide the information you need for an additional fee.

5. Submit our application for a Chancel Repair Liability Indemnity Policy (if the property does not already benefit from one). Legislation was changed in October 2013 and now the Parochial Church Council must register a potential liability with the Land Registry before the property is sold to a new owner. If this is not done, the new owner will not be liable to contribute to any repairs. This change has resulted in a reduction in the insurance premiums, so that it is now less expensive for you if we take out the insurance rather than conduct the search to find out whether the property could be liable.
6. Review the planning documentation to check that the Developer has complied with the conditions, ascertain which conditions will continue to bind you in the future and confirm that building regulations requirements have been complied with.
7. Raise "Additional Enquiries" of the Developer. These questions are designed to clarify title matters and establish general information such as details of the maintenance charge for shared areas, solar panel/ septic tank information, etc. Please note that these questions will not establish the physical condition of the property nor the state of the appliances which is a matter for your surveyor.

## While we are making the searches and enquiries outlined above you should arrange:-

### Mortgage Application

Most properties are purchased with the benefit of money borrowed from a bank or building society. If a mortgage is required you will need to complete an application and this should be done as soon as reasonably possible. Dealing with the mortgage application is one of the longer processes and may therefore cause delay. The lender will need to be satisfied both as to your ability to repay the money and the value of the property which will form their security.

# Making enquiries

If you are also receiving a gift of money from a third party, you must tell the mortgage lender and us about this, as there are certain procedures which need to be followed in such instances.

It should be noted that the mortgage money will be paid direct to us immediately before completion. It will not be available for use for the deposit.

The Developer will be able to give you an estimate of the completion date.

If this is close to or after your mortgage offer expires, we will need to exercise caution and ensure that the offer is able to be extended before we exchange contracts.

## **Closure of your Help to Buy ISA**

Please liaise with us regarding the best time to close your ISA. Upon closing your ISA, you must ensure that you obtain an official ISA Closing Document from the provider. You should then pass this document to us in order that we may arrange to claim your bonus.

## **Withdrawing funds from your Lifetime ISA (LISA)**

If you intend to withdraw funds from your LISA, please let us know as early as possible in the transaction, contact your LISA provider and pass our details onto them, LISA providers can take 2-4 weeks to release funds and so it is important we make arrangements for withdrawal as early as possible. This will ensure the appropriate forms

are provided and completed in good time. If you intend to use the funds towards your exchange deposit, it is particularly important that you let us know at the earliest opportunity as the LISA scheme is better suited for funds to be used towards completion due to the timescales imposed by the scheme. We will then be able to advise you on the best way forward.

## **Home Insurance**

A Developer will normally continue to insure a property in the course of construction until Completion takes place. Unless you are buying a leasehold property, you will need to put buildings insurance in place from Completion. We also recommend that contents insurance is effected no later than the Completion date.

## **Structural Condition/Final Inspection/Survey**

As the property is to be newly constructed the Developer will offer a form of guarantee/warranty by way of confirmation that it has been constructed in accordance with Planning and Building Regulation Approvals.

The most recognised form of Warranty is probably that offered by the National Housebuilding Council's Scheme (NHBC) providing a 10 year Warranty and Insurance cover. Other Warranty Schemes are available and recognised by most high street mortgage lenders.

Our Legal Report will provide full details as to what Scheme applies to your particular property. As with all

guarantees, there are limitations and exceptions and full details will be available with the contract pack issued by the Developer's solicitors.

It is your responsibility as the Buyer to ensure that the physical state of the property being purchased does not hold any surprises. The Developer is not under any duty to disclose any problems that may exist.

Once a completion date is fixed you will be invited to inspect the property and to provide a 'snagging list' of any minor defects you require to be fixed which will be done in conjunction with the Developer/their agents.

Your lender may require that its valuer make a final inspection also. The mortgage monies will not be released until the valuer has confirmed to the lender that they are happy and you may consider expanding your instructions to the valuer to include checking as to the structural condition of the property at that time.

Alternatives are obtaining a Home Buyers Report or full structural survey which would need to be organised as soon as the completion date has been set.

You will not be able to withhold paying over the balance of the purchase monies due at completion on account of minor defects.



# Making enquiries

## Extras

You need to be clear as to what is included in the price and what the Developer will charge for as an extra. Once the extras and their price have been agreed with the Developer, please let us have a note of these.

Please note that we do not advise on the potential for development of any land or property to be purchased, on the prospects of obtaining planning permission or any other necessary consents for any development, or on any planning policies or restrictions which may apply to it. You should therefore take care to satisfy yourself, as soon as possible and certainly prior to exchange of contracts, that any proposed development will be permitted and, if so, subject to what conditions.

You should also consider engaging an appropriately qualified Architect, Surveyor or Planning Consultant to advise on and assist with any enquiries you propose to make for this purpose. Our retainer does not extend to making such enquiries on your behalf.

When all points have been satisfactorily dealt with we will provide a full Report on Title to you. Only when you are satisfied that you understand the information provided should you sign the contract and authorise us to exchange contracts.

It must be appreciated that, when agreeing a date to exchange contracts, there may be a number of transactions that need to be co-ordinated. This is often referred to as a "chain". It is an irritating fact of life that the chain will only proceed as quickly as the slowest party. Patience and flexibility at this stage is often required!

On exchange of contracts you will usually be expected to pay a 10% deposit, though sometimes the Developer may agree that you may pass less. This should be provided to us either by bank transfer or, if by cheque, 10 working days in advance to allow time for the cheque to clear. If a 10% deposit is not available please notify us as soon as possible.

If the Property is ready for occupation, the Completion Date will be set when contracts are exchanged, otherwise, the Completion Date will be said to be "on notice", whereby your purchase (and sale if applicable) will complete a minimum of ten working days after notice from the Developer that the Property is ready.





# Making enquiries: Searches

## Standard searches

### Local Authority

This provides details of the entries on the Local Land Charges Register, planning applications, highways information, notices and restrictions such as conservation areas and Tree Preservation Orders, which are overriding interests.

### Water & Drainage

A report including the location of public sewers within boundaries of the property or in its vicinity, whether foul and surface water from the property drains to a public sewer, whether the sewers are adopted, the location of the public water mains and whether the property is connected and the basis of charging for the sewerage and water supply to the property.

### Environmental

This provides information on the risks of contamination, historical land use, overhead transmission lines, ground stability and radon. It also includes general flood risk, energy and infrastructure information and a professional assessment by environmental consultants on the impact of contaminated land on market value.

## Optional searches

### Energy

This report provides information on existing and potential large scale energy infrastructure or exploration projects in the area including fracking sites (hydraulic fracturing), oil and gas exploration and extraction areas, power stations, wind farms and turbines.

### Flood

This provides more detailed information than is included in the standard Environmental Search. It includes Environment Agency tidal and river flood data, details of areas benefiting from flood defence, pluvial flood risk, likely availability of insurance for flood risk and British Geological Survey groundwater flood risk data.

### Ground Stability Report

This is a risk screening report that provides an overview on the potential for ground instability due to natural hazards or previous mineral extraction in the vicinity of the property.

### HS2 + Crossrail

This combination report provides insight on the location of both existing and planned energy extraction and generation installations whilst also detailing the proximity of the property to the Crossrail network and proposed High Speed 2 route.

### Planning Report

Residential planning report including 10 years' planning history, details of residential and commercial planning applications, major infrastructure project planning applications, planning application decisions/status, mobile phone mast locations, local infrastructure and information, and local education details and results data.

### Coal Mining

Reveals whether the property is in an area where coal mining has or is likely to take place, the existence of underground coal workings and mine entries which may cause problems or subsidence.

### Clay, Gypsum, Limestone or Tin & Metal Minerals

Details the presence of any workings which could cause subsidence damage or whether there may be a risk of subsidence from historic extraction.

If you are not taking out a mortgage and know the area well, you may opt to take out a No Search Insurance Indemnity Policy instead. This will protect you against any financial expense or loss incurred as a result of something which would have been revealed by a search result. Please note, however, that it will not compensate you for any non-monetary loss, e.g. loss of enjoyment or emotional distress.

# Next steps

## Exchanging contracts

When both the Buyer and the Developer have signed their contracts and the Buyer has provided the deposit, it will be possible for contracts to be exchanged. This is done by the Solicitors on behalf of their clients by telephone. This is the moment at which the agreement becomes legally binding on both the Buyer and the Developer.

If the property you are purchasing is built and ready for occupation then the Developer will often agree a fixed date for Completion, i.e., the day you actually complete your purchase and move into your new property. If the Developer can agree a fixed date, this is advised before exchange of contracts and then written into the Contract upon exchange.

If the property you are purchasing is not ready for occupation, which is often the case on a new estate, then the Contract provides that when the property is ready for occupation (which may be some months away) the Developer's Solicitor will serve a notice to complete upon ourselves at least ten working days before Completion.

Once you have a confirmed Completion Date, the following will happen:

1. We notify you in order that you may make your removal arrangements, notify utility suppliers etc. and re-direct your mail. You should also contact the Local Authority in relation to the payment of Council Tax and arrange for your home insurance to come into effect from the date of Completion.
2. We notify your Building Society or Bank, who may then ask their surveyor to re-inspect the property to ensure that it has been completed to the surveyor's satisfaction. The lender will charge for such a re-inspection and this sum will be set out on your Mortgage Offer. If applicable, we will also notify the Help to Buy Equity Loan provider and apply for any Help to Buy Equity Bonus.
3. At the same time we apply to the Building Society or Bank for issue of the mortgage advance. Most mortgage lenders state that they need at least 5 working days' notice before the money can be made available.
4. We submit Bankruptcy (if you are obtaining a mortgage) and Land Registry searches to protect the mortgage lender's interest and ensure there have been no changes to the title.
5. We arrange for the Transfer Deed to be signed by you and the Developer (if not already done).
6. We prepare a completion statement to let you know the exact balance required from you (if any) to enable the purchase to be completed. Funds should be received by the day before completion and, if paid by cheque, this will need to have cleared by that time.
7. You should immediately inspect the property and let the Developer have a list of any defects, and let us know if you are unsatisfied with the property in any way.



# Next steps

## Completion

On the day of completion we will send the full balance of the purchase monies to the Developer's solicitors (except where you are obtaining a Help to Buy Equity Loan which will be provided direct to the Developer's solicitors by the Help to Buy Provider).

Upon receipt of the monies, they will release the keys which are normally held by the Site Agents. If you are also selling your existing property (which is not a part exchange with the Developer) and there are several transactions below you in the chain, please bear in mind that it may take some time for the monies for each transaction to move through the banking system.

## After completion

The Developer's Solicitor will send us the Transfer and Warranty documentation (if not provided at the time of exchange of contracts).

We will arrange for payment of Stamp Duty and any Managing Agent Notice Fees on your behalf and, as soon as we are holding all the necessary documents, we will apply to the Land Registry for the transfer of the property into your name. Registrations for new build properties tend to take a few months, but please rest assured that you will legally own the property from the day of Completion, notwithstanding that it may take a while for the paper evidence to be issued by the Land Registry.

We will also ensure that notification is given to the Warranty Provider confirming the date of legal completion and recording you as the first owners of the property.

**When the registration process has been completed, we will send a copy of the Title Document to you and, if required, a copy will also be sent to your lender.**



# Next steps

## Stamp Duty Land Tax

If you are first time buyers, you will not have to pay any Stamp Duty if your purchase price is below the threshold. If your purchase price exceeds the threshold, we will advise you of the amount payable.

If you will own more than one property following completion of your purchase, then you may be subject to paying the higher rate of Stamp Duty, and we will advise you as to whether this will apply to your particular circumstances.

If you are purchasing 'optional extras' from the Developer Seller, additional Stamp Duty will be payable on those extras which are not easily removable from the Property, i.e. tiling, outdoor tap, upgraded kitchen units etc. The amount of Stamp Duty payable will be calculated on the value of the purchase price plus the price of any such extras.

## Joint purchases

If the property is to be purchased in joint names, your instructions are required as to whether you will hold the property as tenants in common (you each have an identifiable share capable of being left under your respective Wills) or joint tenants (you both own the entire property together and the survivor of you will become the sole owner of it automatically). Please see the attached guidance note for further information.

## Have you made a Will?

Having completed the house purchase you should consider making a Will or reviewing your existing Will. If you die without a valid Will there are provisions which will automatically determine to whom your assets will pass. These often cause surprise and it should be noted that only if the deceased leaves no children, parents, brothers, sisters, nephews or nieces will the spouse be entitled to the whole estate.

Tax may also be incurred unnecessarily. Making a Will need not be expensive and we shall be pleased to assist if you so wish.





# About Michelmores

Our residential conveyancing team has particular experience with buying and selling high-end residential properties, large country estates and properties with more complex purchase considerations, both in London and the South West.

Increasingly, these property transactions involve an international element, and we are able to call upon the expertise of our Private Wealth group, to assist in any necessary tax planning.

For clients with a widespread property portfolio or more complex requirements, we work closely with our colleagues in our commercial property, planning, construction and immigration teams, who are on hand to offer the highest standards of professional advice.

## A reputation for exceptional client service

Our Residential Conveyancing team, led by Partner Louise Peters, is renowned for offering the very best client service, with many clients returning to the team for subsequent property purchases.

Our team set themselves apart by offering a personal approach to help you at every stage of the conveyancing process. We are always on hand to give you practical advice and aim to ensure that the process is as stress free as possible. Our clients say that we are responsive, approachable and kept them updated throughout; we put our clients needs at the heart of what we do.

## Key contact

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