

michelmores



Guide to buying
your home

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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 Contract:** 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 Seller 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.

Therefore, whilst it is helpful to have an idea of when you would ideally like completion to take place, the exact date will not be agreed until exchange of contracts.

To become too focused on one particular date at an early stage often leads to uncertainty and stress and should be avoided if at all possible.



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, 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 know 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 that 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.





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 provide you with a link via “Legl” which will take you through our online verification checks, please let us know if you would rather verify your ID in person or via a video call. We will also make our Source of Funds and Wealth checks via a link sent via “Legl”. You will be asked to provide a form of photo and address ID along with completing our Source of Funds and Wealth Questionnaires and provide supporting evidence.

The Estate Agent notifies the Solicitors for both the Seller and the Buyer of the proposed transaction.

The Solicitor for the Seller obtains the title deeds and other relevant documentation and prepares a Contract for Sale. The Contract, together with copies of the title deeds and other relevant information, are sent to us.

Upon receipt we will:

1. Check to ensure that the terms of the Contract are reasonable and that they reflect the proposed transaction. We will check the title to 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).
2. The Transfer of the property is normally 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.

Making enquiries

Unless a specific request is made to your Surveyor to assist, this exercise is your responsibility.

3. Submit our applications for searches (see below). 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 risk

and 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.

4. 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.

5. Review the Information Forms completed by the Seller to see whether there are any disputes about the property, who owns the boundaries, whether recent alterations have been carried out which might have needed planning consents, what contents are included in the purchase price, 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.

6. Raise “additional enquiries” of the Seller. These questions are designed to establish a number of general matters, for example, whether the Seller has made any contributions towards maintenance of shared items, if they have had any issues with exercising rights of entry to neighbouring properties and solar panel or septic tank information.

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 application is one of the longer process 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.

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.

Home Insurance

If you are not having a mortgage, taking out buildings insurance through your mortgage lender or buying a leasehold property, you will need to put buildings insurance in place from exchange of contracts.

In the event that the property becomes damaged between exchange of contracts and completion, it is highly likely that the Contract will still require you to complete the purchase. The money received from insurance will then need to be applied to reinstate the property. While it is extremely unusual for a property to be damaged between exchange of contracts and completion, the matter of insurance is one that must not be overlooked.

We also recommend that contents insurance is effected no later than the completion date.

Making enquiries

Survey

It is the responsibility of the Buyer to ensure that the physical state of the property being purchased does not hold any surprises. The Seller is not under any duty to disclose any problems that may exist. It is for this reason that a survey is recommended.

There are three types of survey that may be arranged:

Valuation

This is the cheapest option and, as might be expected, gives the least information and protection. The brief inspection is designed to indicate whether the price being paid for the property is reasonable on the assumption that there are no defects other than those which may be obvious.

Home Buyer's Report

A considerably more detailed report which is based on a thorough visual inspection of the property. Tests for damp are also likely to be carried out. If the visual inspection reveals matters that require further specialist investigation then this will be drawn to your attention

Structural Survey

Expensive! This will involve very detailed inspections and may include exposing foundations, lifting carpets and floor boards, or exposing wall structures. It is unusual for such a survey to be carried out unless there are known to be structural problems.

If a Bank or Building Society are lending money on a mortgage they will usually insist on a valuation being carried out on their behalf. That valuation is given to the Bank and affords the Buyer very little protection. Consideration should be given at the outset to arranging for the same surveyor to effect a Home Buyer's Report on your behalf at the same time as the valuation for the bank. This will usually result in a saving of fees because only one visit to the property will be required.

Spending money on a survey can be a little bit like spending money on insurance. There may be nothing to show for it at the end of the day but it might save you spending considerable sums of money that can be ill afforded. The tighter the budget the more carefully you should consider a proper survey.

If you would like Michelmores to recommend a Surveyor we shall be pleased to assist.

Please note that we do not advise on the potential for development of any land or property to be purchased, the prospects of obtaining planning permission or any other necessary consents for any development

or on any planning policies or restrictions which may apply. 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 the contracts. It is at this moment that we will finally agree the completion date with the Seller. Upon exchange of contracts you will be expected to pay a 10% deposit.

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.

It must be appreciated that when agreeing a day for completion there may be a number of transactions that have 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!

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 Seller have signed their contracts, a date for completion has been agreed and the Buyer has provided the deposit to their Solicitors, 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 Seller.

Following exchange of contracts we will need to attend to the following:

1. Apply to the lender 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.
2. Submit Land Registry searches to ensure there have been no changes to the title.
3. Prepare a Transfer Deed, obtain the approval of the Seller's Solicitors to its terms and arrange for it to be signed by the Seller and, if necessary, by you.
4. Prepare a Completion Statement to let you know the exact balance required from you (if any) to enable the purchase to be completed. Again any cheque will need to have cleared before the day of completion.

Following exchange of contracts you should attend to such of the following as are appropriate:

- put your Buildings Insurance Policy on risk
- book/confirm your removers
- contact the utility providers to arrange to take over the utility accounts
- contact the Local Authority in relation to the payment of Council Tax
- arrange redirection of mail by the Post Office
- send out details of your change of address to everyone including your Bank, Doctor, credit card companies, DVLA, TV Licence, etc.
- exchange contracts.



Next steps

Completion

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

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 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.

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