

The Conveyancing Procedure

What checks should you be doing yourself?

There are a few 'common sense' steps that you can take. Those recommended by the Legal Ombudsman include:

- Going back to the property a few times to look for any practical issues which might not be apparent from the paperwork; such as a shared drive or a right of way/footpath passing through the garden;
- Look out for any obvious signs of problems with walls, roofs or windows, which you may want to discuss with your surveyor;
- It can be a good idea to have a look at the street at different times and on different days. What looks like a nice quiet street on a Sunday afternoon might be very busy with the parked cars of local workers at 9am on a Monday morning.



General Information for Buyers

A Conveyancer's Role

A conveyancer's role is to look into the legal aspects of a house purchase and to ensure that the Buyer gets a good and marketable title to the property. The conveyancer is not responsible, for example, for the following matters:

- Building/structural issues with the house – a surveyor could advise on this;
- Working order of plumbing and/or electrics – a surveyor and/or a gas engineer could advise on this;
- Working order of plumbing and/or electrics – a surveyor could advise on this and recommend further specialist reports if necessary, which the buyer should arrange;
- The feasibility of future building projects such as a loft conversion or conservatory – the conveyancer can advise on any legal restrictions that may apply, but a surveyor or builder would be needed to advise on building practicalities;
- Establishing details of the chain of transactions – the estate agent would advise on this.

Survey

It is prudent to obtain a survey on the structural condition of the property you are buying. Conveyancers aren't responsible for surveys. The Royal Institute of Chartered Surveyors (RICS) website contains a wealth of useful information about the different types of survey. The most common surveys are:

- A Lender's Valuation Report. This is for the benefit of the lender and is fairly narrow in scope. It is in fact not a survey. Its purpose is to satisfy the lender that the value of the house covers the mortgage loan. Sometimes the valuer doesn't even enter the house; instead doing what is known as a 'drive by valuation'. Although the cost of this survey is usually paid for by the potential borrower it is only for the benefit of the lender and the buyer cannot rely on it;
- A Homebuyers Report – This goes into more detail and provides buyers with key information on core aspects of the house, highlighting any urgent/major issues that the buyer needs to be aware of;
- A full Building Survey – This goes into greater detail still, and the report can be tailored to meet the bespoke needs of a buyer. A Building Survey is the most expensive option however, and is often the most suitable for older houses or houses built using non-traditional construction methods.



Bury St Edmunds

01284 727 290



Cambridge

01223 236 555



Clacton

01255 442 660



Colchester

01206 710 717



Diss

01379 646 040



Ipswich

01473 234 730

Most sales and purchases of residential property follow a similar process but please remember that every transaction is different so the summary below is just a generalisation and your transaction might have its own unique circumstances and issues.

1 Once the Buyer has chosen the property he/she would like to buy and agreed the purchase price (usually via an estate agent) then the Buyer and Seller will each instruct a conveyancer to represent them in the process. The estate agent will write to the conveyancers acting for the Seller and for the Buyer setting out the details of the transaction which they have negotiated.

2 The Buyer's conveyancer and the Seller's conveyancer will both provide their respective clients with an estimate of costs and disbursements and their terms of business. The conveyancers will ask their clients to provide evidence of their identity. The Buyer's conveyancer will also need their client to provide evidence of source of funds for the purchase. Proof of identity and source of funds are required by anti-money laundering regulations and the transaction will not proceed much further until these elements of the process have been dealt with. It helps to speed up the process if the Seller and Buyer provide this information promptly.

3 The Seller's conveyancer will ask the Seller to complete some general information forms known as property information forms. The Seller's conveyancer will obtain information relating to the property from the Land Registry and based on this will prepare a draft contract and send it to the Buyer's conveyancer together with any other relevant documents and the property information forms.

4 The Buyer's conveyancer will check the draft contract, the property title and the property information forms. They will also apply for searches against the property. The main search is a search of the registers held by the Local Authority. The length of time that it takes to process the search depends on which Local Authority is involved - most take between two and three weeks but some can take much longer. Once the searches have been submitted the conveyancer can usually get an indication of how long the searches will take to be returned. Any issues revealed by the searches will have to be reviewed by the Buyer's conveyancer which may involve raising further questions (known as enquiries) with the Seller's conveyancer.

5 The Buyer's conveyancer will also write to the Seller's conveyancer with any further enquiries on the paperwork supplied. The Seller's conveyancer will refer the enquiries to the Seller for their input and then will supply replies to these enquiries to the Buyer's conveyancer. The Buyer's conveyancer will then check the replies, inform his client of the replies, and raise further enquiries if necessary. It is usual for correspondence to pass between the Seller's conveyancer and the Buyer's conveyancer during this process until such time that the Buyers and their conveyancers are satisfied with all the answers they receive.

6 While the searches and enquiries are being dealt with, the Buyer will, if needed, be applying for a mortgage and having a survey carried out.

7 Once the Buyer's offer of mortgage has been issued the lender will instruct a conveyancer to act for them. Commonly this is the same conveyancer as is acting for the Buyer but not always. After the Buyer's conveyancer has received these instructions they will report to the buyer on the mortgage and send the mortgage papers to the Buyer to sign. The conveyancer will also need to report to the lender on the property and comply with the lender's requirements - these can be substantial and this may take some time.

8 Once the Buyer's conveyancer has satisfactory replies to the enquiries, results of searches and the mortgage instructions (if needed) they will then report to the Buyer on the legal aspect of the property. If the Buyer is happy to proceed following this report then the Buyer will sign a copy of the contract and leave this undated with his conveyancer in readiness for exchange of contracts taking place.

9 The Seller's conveyancer will similarly ask the Seller to sign an identical copy of the contract in readiness for exchange of contracts and discuss a completion date with the Seller. The Buyer's conveyancer will be required to hand over a deposit when contracts are exchanged, which is usually 10% of the purchase price. The Buyer will therefore need to transfer this amount to the Buyer's conveyancer's bank account, although if the Buyer is also selling a property then at least some of the deposit can usually be funded by the deposit supplied on the sale.

10 Contracts will be exchanged when both the Seller and the Buyer are ready, and all the buyers and sellers in the rest of the chain (if there is one) are ready. A chain of transactions occurs when the Seller is also buying a property and/or the Buyer is also selling their property and their buyer/sellers might also be buying/selling a property and so on. A chain can often involve many properties. Contracts for all the transactions in the chain must be exchanged on the same day and so delays can occur at this stage of the process. All the parties in the chain must be willing to complete on the same completion day. Estate agents are usually involved at this stage of the process, because they can obtain information about the readiness of the entire chain and the suitability of the completion date, whereas conveyancers are usually only aware of progress regarding their client's sale and purchase.

11 When contracts are exchanged the completion date is set and the Seller and the Buyer are legally committed to the transaction - until contracts have been exchanged either party can withdraw without penalty.

12 After exchange, the Buyer's conveyancer informs the lender of the completion date and requests mortgage funds to arrive in time for completion. The Buyer must also transfer to the Buyer's conveyancer's bank account any balance required in order to complete the transaction. If the Seller has a mortgage on their property, their conveyancer will obtain a redemption statement from the lender, which will state the amount required to pay off the mortgage on the completion day.

13 On the completion day, the Buyer's conveyancer instructs their bank to transfer the purchase monies to the Seller's conveyancer's bank account. The Buyer can collect the keys to the property and move in to the property once the Seller's conveyancers have received the purchase monies. If there is a chain of transactions then it takes time for the money to pass from the party at the bottom of the chain to the party at the top. This is largely in the hands of the banks so the conveyancer cannot say in advance what time of day completion will take place.

14 After completion the Buyer's conveyancer will arrange to submit a Stamp Duty Land Tax return to HM Revenue and Customs to notify them of the transaction and will apply to the Land Registry for the Buyer's new ownership (and any new mortgage) to be registered on the title for the property. This process can take a number of weeks to be completed depending on the capacity of the Land Registry. The Buyer's Conveyancer will send the Buyer a copy of the updated Title Register once they have received this from the Land Registry.

