

## **SO WHAT'S CONVEYANCING ALL ABOUT THEN?**

Conveyancing by solicitors or licensed conveyancers is thought by many people to be a bit of a mystery.

What do they do?

Why does it take so long?

Why is it more complicated than buying a car?

Why does it cost so much?

The following notes are designed to remove a little of the mystery and perhaps explain just what your solicitor or licensed conveyancer is doing for you and also suggest a few ways in which you can help them to speed through your conveyancing transactions.

For a conveyancing matter to go through smoothly input is needed from the buyer; the seller, the estate agent as well as the solicitor.

The majority of transactions involve both a sale and a purchase which unless you are prepared to vacate your existing property and move into temporary accommodation or you have facilities to purchase your new property without selling your existing one, have to take place on the same day and this will involve a chain of transactions in which each party has their own aspirations and agenda and it is in this area where many of the delays can arise as quite clearly each party's arrangements will not run to identical time scales.

You of course have no control over other links in the chain and keeping track of progress made by other parties is an important aspect of the transaction which your estate agent handles.

Set out below are the steps involved in a sale and a purchase transaction. In practice of course these two run together and need to meet both at the exchange and contract date and the completion date to achieve a simultaneous sale and purchase.

It is important that you contact your solicitor/licensed conveyancer at the earliest possible stage of the transaction. There are things he has to do which involve lead times and he cannot go on to the next step until these have been achieved.

## SELLING YOUR HOUSE

- 1 Your solicitor first of all needs to obtain your title deeds. If you have a mortgage on the property this will involve writing to your lender and requesting the deeds. With most lenders this takes a week or ten days and it is important as well as giving the name and address of your lender to your solicitor you provide him with your mortgage account number to enable the lender to identify the deeds.
- 2 Your solicitor will provide you with a number of enquiry forms. There will be a questionnaire about general matters affecting the property and you living there, a fixtures and fittings form on which you indicate whether the sale will include carpets, curtains, kitchen fittings etc and if the property is leasehold, a leasehold questionnaire form asking for details of such things as the name and address of the landlord, any managing agent, and details of maintenance and service charges that you pay. These forms should be completed and returned to your solicitor as soon as possible as they need to be sent to your buyers solicitor at a very early stage of the transaction.
- 3 When your solicitor receives your title deeds he will obtain up to date official copies of your title from the Land Registry. These are known as "office copy entries".

On receipt of the office copy entries and information forms and having received details of the transaction i.e. the price and buyers solicitors from the estate agent he is then in a position to prepare and issue a contract to the buyers solicitor for approval.

- 4 The buyers solicitor may then have enquiries relating to the particular property which are dealt with by your solicitor although he may need to refer to you to enable him to respond to certain of these.
- 5 It is important if you have had any work done at the property which would have required planning permission or building regulation approval or fabric treatment such as timber or damp work which carry guarantees that you supply all appropriate documentation relating to these so that copies can be passed on to your buyers.
- 6 When all enquiries have been satisfactory dealt with the buyers solicitor then confirms his approval to your solicitors contract and indicates whether he is ready to exchange contracts.
- 7 Your solicitor will then ask you to sign the contract and exchange and completion dates are then agreed. Again this is a situation where each party in the chain may have their own agenda and it can involve a certain amount of negotiation and "horse trading" as all parties in the chain may have different views on when they wish to move. This can often be affected by work commitments holidays etc. and a degree of flexibility may be required from you.

- 8 When agreement on the dates is finally reached and contracts exchanged the buyer pays the seller a deposit representing part of the purchase price. Traditionally this has been 10% of the purchase price but these days a reduced deposit down to perhaps 5% is becoming more generally acceptable. If you are selling and buying at the same time it is often possible to utilise the deposit you receive on your sale towards the deposit on your purchase although if you are trading up to a higher priced property it may often be necessary for you to top up the deposit you pay on your purchase.
- 9 Between exchange and completion your solicitor will request that your lender provide a "redemption statement" for your mortgage if you have one. This is the amount that your lender requires to fully repay all money owing under your mortgage as at the completion date.
- 10 The buyers solicitor prepares a transfer which is the actual document which conveys the ownership of your house from you to the buyers. Provided this is approved your solicitor will then ask you to sign this ready to be handed over to the buyers solicitor on the completion date together with the title documents.
- 11 On the completion day your solicitor will also repay your lender with the amount required to redeem your mortgage and you will be expected to vacate your house by about lunchtime on the completion day.

## **BUYING YOUR NEW HOUSE**

- 1 When you have agreed to purchase your new house your estate agent will pass on all details to your solicitor of the parties, the price etc. You should yourself confirm these details to your solicitor.
- 2 Your sellers solicitor will then obtain the title deeds and information forms as set out above and will forward a contract and supporting papers to your solicitor.
- 3 Your solicitor needs to make a local authority search. This is a list of enquiries of the local authority who keep records of many matters, the principle ones affecting a purchase being any planning proposals, road proposals or other matters which may affect the property you intend to buy. In certain cases a number of other searches may be appropriate such as environmental searches indicating whether there may be any contamination on the land on which the house is built, drainage searches indicating whether the property is connected to main drainage and whether it is liable to flooding etc. and in some areas specialist searches such as mining searches. Your solicitor will advise whether he feels these are necessary in your particular case. The local authority search which is always required can take two to three weeks to be returned and this is a factor which can in some cases delay a chain's ability to exchange.
- 4 Your solicitor will then examine the title to the property and consider matters affecting it such as planning requirements, rights of way, permitted use of the property and many other matters. He may then need to raise enquiries of the sellers solicitors on any matters arising from the title.
- 5 If you need a mortgage to assist with the purchase of your new house an application for this should be made at the earliest possible time. Your solicitor will not allow you to proceed to exchange of contracts until he is entirely satisfied that you have received a satisfactory mortgage offer in writing from your proposed lender.
- 6 When your solicitor is satisfied that the title is in order your local search and any other necessary searches have been returned and are satisfactory and you have the necessary finance arranged, he will then either report to you in writing or invite you into his office to run through all the documentation and if you are happy with this ask you to sign the contract for the purchase.

He will then be in a position to exchange contracts for the purchase on your behalf again, as with the sale, having gone through the process of establishing a mutually agreed completion date with the other parties in the chain.

## **EXCHANGE OF CONTRACTS**

Exchange of contracts is effected by your solicitor on the telephone and does not need you to be present. He will exchange contracts in accordance with your instructions for the agreed completion date. Once this takes place both the Seller and the Buyer are legally committed and cannot withdraw from the transaction.

We would urge you not to make any definite commitments, such as giving notice to your landlord if you are presently renting a property or confirming a removal booking until you hear from your solicitor that contracts have been exchanged. On occasions things can go wrong at the last minute and until exchange of contracts has taken place it is wise not to commit to any of these matters.

On completion day you will be required to vacate the property you are selling by about lunchtime and usually keys are left with the selling agents who will not release them to the buyer until they receive confirmation that the full sale money has been received by your solicitor. Likewise on the house you are buying the keys are usually deposited with the estate agent who acted on that sale to you and again they will not release keys to you until your solicitor has paid all monies due for your purchase.

A factor to bear in mind on a sale and purchase is that you will be using the money received from your sale towards the purchase of the new house and of course your solicitor cannot buy the new house until he has sold your present house. The timing of the purchase is therefore dependent on the timing of your sale.

These notes have been compiled by John Graveson Licenced Conveyancer with Tilley & Company Solicitors who has thirty years experience of St Albans property transactions.

Tilley & Company  
36 Holywell Hill  
St Albans Herts  
AL1 1BT

Tel: 01727 840467  
Fax: 01727 863210  
email: [john.graveson@tilleyandcompany.co.uk](mailto:john.graveson@tilleyandcompany.co.uk)