

A Seller's Guide to Residential Property

Highlighting the key
considerations to help you
understand the process and
avoid the pitfalls

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INTRODUCTION

Selling a residential property can be a daunting experience. Not only is it a very significant financial transaction, but the process is also subject to change and it is therefore important that, from the very beginning, you seek proper legal advice.

Blake Morgan's Residential Property team has compiled this guide to highlight some of the key considerations to help you understand the process better and to avoid the pitfalls.

For more information about any of the issues raised here or to find out more about how we can help you if you are considering buying or selling a residential property, please contact the team in the office most convenient to you.

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IDENTITY PROCEDURES

Prior to accepting instructions, your solicitor will need to meet with you and make certified copies of:

- a photographic form of ID (passport, driving licence plus counterpart) and
- a bank or building society statement or credit card statement in your name, or
- a utility bill confirming your address.

In addition to paper checks, we will also undertake a search with a Credit Reference Agency for the purposes of verifying your identity. The Credit Reference Agency may check the details you supply against any particulars on any database (public or otherwise) to which they have access. They may also use your details in the future to assist other companies for verification purposes. A record of the search and the reason for it will be retained by the Credit Reference Agency and by us.

These are compulsory checks that we have to carry out with every client of the firm. This is in accordance with our legal obligation to follow procedures designed to make it more difficult for criminals to profit from their crimes through money laundering transactions.

However, this does not mean that you are under suspicion.

WHAT IS MONEY LAUNDERING?

Most organised crime is directly or indirectly aimed at making money.

Money laundering is a term used to describe transactions which are designed to 'wash away' any criminal association with amounts of cash. A popular transaction for money launderers is the purchase of assets, such as property.

PRACTICAL IMPLICATIONS FOR YOU

You will need to bring the documentation to one of our offices and we will make certified copies.

Alternatively, if you are unable to visit one of our offices, you can visit a local solicitor and ask them to make certified copies. It is important that the correct procedure is followed by that solicitor as otherwise there may be a delay later in the transaction.

A final option is to use the Post Office 'veri-fy' scheme. We will provide you with the appropriate form and you can take this along with your documentation to your local Post Office and ask them to 'verify' your identity using your documentation.

HOW LONG DOES IT TAKE?

The length of time a transaction can take depends on a variety of factors. The first consideration is whether the transaction is part of a chain of transactions or not. If a transaction forms part of a chain, it is important to remember that the entire chain will only move at the speed of the slowest 'link.' There can be any number of links in the chain, and a delay at any stage of the chain will impact upon all participants.

Where there is no chain of transactions, a transaction can in theory be completed within eight weeks.

From the point of exchange, a binding contract has been entered into by both parties and any failure to complete will have heavy penalties.

The following is a timeline setting out a simple freehold purchase:

Seller	Seller's solicitor	Buyer	Buyer's solicitor
Weeks 1-4	Pre Exchange		Pre Exchange
Instruct Solicitors	Carry out ID checks on Seller and send out engagement letter with Property Information Forms	Instruct Solicitors Arrange Survey of the Property and arrange Mortgage Finance	Carry out ID checks on Buyer and send out engagement letter requesting monies on account for search fees
Complete and return Property Information Forms together with documentation relating to the property	Obtain evidence of Seller's legal title to the Property and draft the Contract. Send documentation to the Buyer's Solicitor Obtain redemption statement for any existing mortgage	Pay monies on account for searches	Receive contract papers from the Seller's Solicitor. Request usual conveyancing searches Review contract papers and raise and send to the Seller's Solicitors any enquiries arising from the documentation received
If required answer additional enquiries raised by the Buyer's Solicitor as requested by the Seller's Solicitor	Answer any additional enquiries received from the Buyer's Solicitor (where necessary with some input from the Seller)	Confirm to Buyer's Solicitor that survey results and terms of mortgage offer are acceptable	Receive search results and raise further enquiries if necessary Receive Buyer's Mortgage Offer Prepare and send full report on the contract papers, searches and mortgage offer to the Buyer Approve contract with Seller's Solicitor and prepare draft Transfer and SDLT return
Sign Contract and Transfer and any other documentation required Agree completion date	Receive approved contract from Buyer's solicitor and arrange for Seller to sign Contract and Transfer and any other documentation required	Receive report and confirm that findings are acceptable and happy to proceed Sign Contract and Transfer and any other documentation required	Arrange for client to sign Contract, Transfer, Mortgage Deed, SDLT return and any other documentation required

		Arrange to send cleared funds to Buyer's Solicitor to cover deposit due on exchange of contracts Agree completion date	
Week 5	Exchange Contracts		Exchange Contracts
Seller legally bound to sell the Property to the Buyer		Buyer legally bound to buy the Property from the Seller Buyer to arrange buildings insurance from exchange of contracts	
Complete and return completion information form to Buyer's Solicitor		Arrange to send cleared funds to Buyer's Solicitors in time for completion	Send certificate of title and request funds to the Buyer's lender and request any balance due from the Buyer Send completion information form to Seller's Solicitor
Obtain final redemption statement from existing lender			Carry out pre-completion searches
Week 7	Completion		Completion
Discharge existing mortgage and send signed Transfer to Buyer's Solicitor with any other title documentation Pay Selling Agent's Fees			Submit SDLT return and pay SDLT Submit application to the Land Registry to register the Buyer as proprietor of the Property Deal with miscellaneous post completion matters

However, there are a number of factors that may cause a delay. Some of the most common causes of delay are:

MISSING PAPERS

Copies of planning permission for any works of alteration or extension that have been carried out at a property within ten years will need to be supplied to the buyer's solicitor. If the original papers have been mislaid, the seller's solicitor will have to apply to the local authority to obtain copies, and it can take a number of weeks for a local authority to process this request.

SEARCHES

Prior to exchange of contracts, the buyer's solicitor will need to carry out a number of different searches in order to provide the buyer with as much information as possible about the property. This can take anything from one day to a number of weeks.

COMPLICATIONS WITH A MORTGAGE

A buyer cannot safely exchange contracts without first receiving a written mortgage offer. Most lenders take three to four weeks to issue an offer once an application has been submitted. This can be delayed for a number of reasons:

- if a buyer decides to make their own insurance arrangements rather than using the lender's block cover
- if a buyer has outstanding balances on credit cards or a personal loan, a lender may require these accounts to be cleared
- if a buyer is required to apply for a life insurance policy or pension plan as part of their mortgage.

COMPLETION DATE

Agreeing a suitable completion date for all parties in a chain can be a cause of considerable delay.

DEPOSITS

It has become standard practice for a contract relating to a property transaction to incorporate the 'standard conditions of sale.' A copy of the conditions will be supplied to you at the same time as the contract.

The contract provides that a buyer must pay to a seller a deposit of 10% of the purchase price on exchange of contracts as part payment towards the purchase price.

The seller then has two options:

- to require his solicitor to hold the deposit until completion as a 'stakeholder', or
- to use the funds as a deposit in a separate purchase transaction.

From the buyer's perspective, this second option carries a certain risk, as they may feel that their deposit monies are not sufficiently protected.

In these circumstances, a buyer may:

- negotiate with the seller to agree that the deposit shall be held by the stakeholder
- offer to contribute to the cost of taking out bridging finance, or
- use a deposit indemnity scheme whereby the buyer pays an insurance premium which secures to the seller a cash sum of money in the event that the buyer defaults.

If you do not require the deposit to be used in a separate transaction, you should advise your solicitor who will inform the buyer's solicitors that they will hold the money as a stakeholder.

RELEASE OF KEYS

When purchasing an empty property, a buyer may ask to be given access to the property prior to completion. This may be for a variety of reasons, particularly a desire to carry out alterations or painting or to move in furniture.

However, giving a key to the buyer gives rise to a number of potential dangers. A seller has no effective way to retain control of the situation.

Some of the problems that arise with some regularity include:

- the buyer moves into the property and then either delays completion, or is unable to complete because of financial difficulties
- the buyer carries out work to the property, which he does not finish or leaves in a dangerous state, and the transaction does not complete. This has a negative effect on the value of the property
- the buyer discovers a defect which he had not previously noted, and seeks to negotiate a reduction in the purchase price.

In some circumstances, risks may be greater or lesser, and the seller may be prepared to take the risk involved. However, it is important to appreciate the implications of releasing a key early, and to only release a key if prepared to take the risks.

If a key is released, it is vital that the seller ensures that the buildings insurance cover for the property will not be affected if a buyer is allowed access prior to completion.

COMPLETION

The date of completion is the day that the purchase monies are released to the seller and the keys are released to the buyer. It is usually 'moving day.'

The day on which the transaction will complete will usually have been agreed prior to exchange of contracts, as this forms part of the binding agreement of the transaction. The date will be a term of the contract, and as such is fixed. Any delay in completion may result in financial consequences for the party at fault.

Standard contract provisions state that you, the seller, must receive the funds by the contract time (usually 2.00 pm) on the day of completion. Any funds received after this time will be deemed to have been received the next working day and the buyer will sometimes have to pay interest on the purchase price* at Law Society's rate.

(*at the time of writing, the Law Society's rate of interest is 4% above the base rate of Barclays Bank PLC)

BEFORE COMPLETION

Your solicitor will complete all of the necessary steps leading to and during completion on your behalf. However your input and cooperation with a number of matters can help to ensure that the process is as smooth as possible.

Please ensure that:

- any money that you are due to pay on completion is sent to your solicitor at least a day prior to completion
- you return any documents that you are requested to sign promptly
- you are ready to vacate the property as early as possible on the day of completion – try and avoid last-minute packing delays.

ON COMPLETION

As the seller, you should:

- cancel the building and contents insurance
- read the meters and notify the various utility suppliers that you no longer own the home
- organise for your post to be redirected to your new address (or alternative).

AFTER COMPLETION

Following completion, your solicitors will attend to the post-completion formalities on your behalf.

ABOUT OUR RESIDENTIAL PROPERTY SERVICES

One of the most stressful times of anyone's life is buying or selling a home. Even seasoned home buyers can find themselves dealing with unexpected and potentially costly problems. Restrictive covenants, rights of way, lease provisions and other apparently straightforward issues can catch out the unwary.

A COMMITMENT TO QUALITY SERVICE

Our Residential Property teams aim to take the stress out of buying, identifying and resolving such issues as early as possible, as quickly as possible. An experienced lawyer, specialising in residential property is assigned to your case and is responsible for liaising with all parties, chasing progress on your behalf and keeping you updated and fully informed throughout your move.

We are also delighted to have been accredited under the Law Society's Conveyancing Quality Scheme, the mark of excellence for the home buying or selling process.

WHAT YOU CAN EXPECT FROM US UNDER THE CONVEYANCING QUALITY SCHEME CLIENT CHARTER

- When you contact us to discuss your sale or purchase, we will explain clearly the steps in the process and what you can expect from your solicitor.
- We will tell you what the costs will be.
- We will keep you informed of progress in your sale or purchase.
- We will work in line with the quality standards of the Law Society's CQS.
- We will:
 - treat you fairly
 - be polite and professional
 - respond promptly to your enquiries
 - tell you about any problems as soon as we are aware of them
 - ask for your feedback on our service.

MORE THAN JUST CONVEYANCING

Property transactions rarely involve just the house move. Our team is also able to offer assistance across a whole range of other related residential property matters and is able to call upon experienced staff from other specialist teams within the firm to deal with, for example, any tax, trusts and planning law issues, as well as construction law and agricultural property matters.

LOCAL KNOWLEDGE





For over 135 years, our Residential Property teams have been serving the local communities in which they operate. It is this local knowledge, combined with our use of modern premises, each with easy access and free parking (with the exception of the London office), that sets us apart and makes us the natural choice.



Offices in:

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Cardiff
Reading
Oxford
Southampton

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