

Guide to Residential Conveyancing

Moving house can be one of the most stressful times in your life. At Howells, we take pride in the quality of our work and want to take away some of the pressure that you may be feeling by providing you with a guide as to what the conveyancing process involves.

The aim of this guide is to explain the “behind the scenes” of residential conveyancing, why the process can appear to take long time to complete and offer some practical advice on buying and/or selling a house

“Conveyancing” is the process of transferring the legal ownership of one property from one name into another. On paper, the process appears to be quite simple but as with anything, there can be complications along the way. Making an offer and having an offer accepted is the easy part of the process.

We’ are conscious that this is one of the most important and usually, most expensive transactions you will make in your life, so it is important that we ensure that all the legal formalities have been dealt with.

Buying a Property

1. Making an offer and preliminary issues.

Before you start looking for a property to purchase, we suggest that you make enquiries with various lenders to ascertain how much each mortgage company would be willing to lend you and obtain an offer in principle.

This will tell you how much money you have to spend on a property and can also help to speed up the process once you have found a property and are ready to make an offer.

It is important to remember to budget for all of the various costs involved in buying a property including solicitor’s fees, Stamp Duty Land Tax, mortgage costs, insurance costs, removal costs and survey costs.

Once you have found your dream property, it is usual practice to make a verbal offer through the estate agent handling the sale of the property. The role of an estate agent is to act as a negotiator between you and the seller of the property but please remember that the estate agent is employed by the seller and therefore, they will usually act in the seller’s best interests.

Once you have had a verbal offer accepted, the purchase of the property becomes “subject to contract” which means that it is not a legally binding contract until formal exchange of contracts has been agreed between the solicitors (see step 4)

Once your offer has been accepted, you will also need to instruct a surveyor to assess the structure of the house, its condition and any remedial work required. There are various types of survey available including the following:

a. Valuation.

This type of survey is carried out by your mortgage lender. It is the most basic survey and is carried out only for the purposes of ensuring that the property is suitable for the mortgage lender to loan money against.

b. Home-buyer's survey.

This is the most common type of survey and should pick up most faults in relation to most properties.

c. Building survey.

This is usually known as a full structural survey and is the most complex and expensive survey..

We would recommend that this type of survey is used when purchasing very old properties, properties that have some sort of listing or any properties that are in need of significant work.

You will then need to instruct a solicitor to handle the purchase of the property on your behalf. Please also inform the estate agent who is selling the house that you are intending to buy. Once you instruct Howells, we will send you a client care letter and ask that you sign this and return it to us.

We will also check and verify proof of your identity and address at this stage. We usually ask that this is carried out in person at one of our offices. We also carry out an online identity verification check.

We then contact the seller's solicitors to ask them for an information pack about the property that you are buying. This is sometimes known as the "contract pack". The contract pack usually contains the following information:

- Property information form
- Fixtures, fittings and contents form
- Copy of the energy performance certificate
- Copies of any building work guarantees etc.

After this has been received, we also may need to request additional information or new searches. The searches can be a list of questions about the property. These will almost definitely be required if you are purchasing the property with the aid of a mortgage. It is important to note that we are usually instructed to act on behalf of the mortgage company as well as you.

During this time, you will need to make sure that you take steps to ensure that your mortgage offer is in place.

2. Receipt of information

This means that we usually have the following information:

- Property information form
- Fixtures, fittings and contents form
- Any other relevant searches that we have ordered
- A copy of your mortgage offer
- Deposit from you

A deposit is typically 10% of the purchase price. It is important to note that the deposit is non-refundable once exchange of contracts has taken place. We will usually need you to send us the deposit monies a few days before we are due to exchange contracts.

3. Enquiries

This is the most crucial part of the process from a legal point of view and it is one that can take some time.

It is important for us to ensure that we have checked all of the documents and identified and dealt with any areas that cause us any concern. This usually involves asking a lot of questions of the seller's solicitors to either answer specific questions or to provide us with additional information, copies of guarantees, building work certificates etc.

Once we have received satisfactory replies to enquiries, we will then discuss these with you and advise you on the replies we have received. If you have any other concerns, then we can deal with these on your behalf.

We will then ask you to sign your contract. At this stage, there is still no legally binding contract to purchase the property until exchange of contracts (see step 4) has taken place.

4. Exchange of contracts

This simply means that we have agreed with the seller's solicitors that the contract is now legally binding. This is usually done over the telephone. If you are in a long chain of property transactions, the process can become quite complicated and dates often change at very short notice during this element of the transaction.

Once exchange of contracts has taken place, we receive the contract signed by the seller and we then send the seller's solicitors the contract that has been signed by you together with your deposit. It is also at this stage that the parties agree when the completion of the property will take place. Completion is another term for the moving date.

Once exchange of contracts has taken place, both you and the seller are bound by the terms of the contract and the deposit is non-refundable. Should you subsequently decide to pull out of the purchase, you will forfeit your deposit and the seller may sue you for any other losses that they have incurred. You will have similar compensation rights should the seller pull out.

You should ensure that you have adequate buildings insurance in place from the date of exchange of contracts as you will become legally responsible for the property from this date.

5. Completion

As stated above, this is another term for the moving date.

In order to prepare for completion, we will need to request mortgage funds from your lender. These can sometimes take up to 10 days to be sent to us. You will also need to provide us with any other money that is being used to purchase the property.

On the day of completion, the remainder of the money will be transferred to the seller's solicitors and in return, they will send us the title deeds. You will know that completion has taken place because we will inform you of this and you will also be able to arrange to collect the keys for the property and move your belongings in.

6. After Completion

Although the physical act of moving into the property has taken place, there are still some legal formalities to deal with. In particular, we need to send details of the purchase of the property to HM Revenue and Customs and arrange payment of any Stamp Duty Land Tax that is due.

We also need to register your ownership of the property at HM Land Registry. Your property will be allocated a title number. Should you change address but still retain ownership of the property, it is important that you let the Land Registry know. The majority of mortgage lenders no longer retain title deeds. However, we will retain your deeds for safekeeping should you wish.