



Residential Conveyancing

What Are The Various Stages In Buying a House?

1. Searches to be carried out against the property
2. Investigate title owned by Seller
3. Raise any enquiries necessary regarding the property with Seller's solicitors
4. Exchange of contracts
5. Completion
6. Pay any Stamp Duty due on the transaction
7. Register the Buyer as the owner of the property at HM Land Registry

Searches

The following searches are usually carried out on a standard purchase transaction :

Local Authority Search – this would reveal for example whether any planning permission or building regulation approval applications have been made in respect of the property, whether the roads surrounding the property have been adopted by the Council, whether there are any road schemes in place by the local authority which would affect the property and the surrounding area and whether or not the local authority have issued notices in respect of the property (e.g. Compulsory Purchase or Enforcement).

Drainage Search – this reveals whether surface water and foul water drain from the property to the public sewerage system, whether there are any public sewers within the boundary of the property and also whether the property is connected to the mains water supply.

Mining Search – this would show whether the property is likely to be influenced by past present or future underground or opencast mining, whether there are any shafts close to the property and also whether or not any subsidence claims have been noted against the property.

Environmental Search – this provides information on the area surrounding the property and in particular provides details of any firms or industries in the area which are subject to environmental controls, any in-filled land or landfill sites within the area and also whether there have been any incidents of pollution or other environmental damage in the area.

In most cases these searches can now be applied for on-line which effectively means that the results are processed quicker than with applications submitted through the post. The fees for the searches vary depending on the area of the country in which the property is located but typically total search fees amount to approximately £250.



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Investigation Of Title & Enquiries

During the early stages of the transaction the solicitors acting on behalf of the Seller will supply a draft contract for approval, certain forms which have been completed by the Seller relating to the Fixtures and Fittings to be included or excluded from the sale and general matters relating to the property (e.g. maintenance of boundaries, details of any disputes with neighbours and work carried out to the property) and also copies of the relevant title deeds and documents relating to the property. The majority of properties now have title registered at HM Land Registry and the Land Registry title will confirm the description of the property, the registered owner, whether there are any mortgages registered against the property and also will provide details of rights granted for the property (e.g. rights of way and rights of drainage) and also covenants affecting the property (i.e. do's and don'ts). It is important that all of the documents are checked thoroughly by the Buyer's solicitor to ensure that everything is as it should be in relation to the property and that the Buyer will not face any difficulties following completion. If there are certain problems with the paperwork supplied by the Seller's solicitors the Buyer's solicitors will raise the appropriate enquiries with the Seller's solicitors.

Exchange of Contracts

Provided that all matters regarding the contract and title documentation and search results are satisfactory and also provided the Buyer has funds in place in order to cover the purchase price either by way of a mortgage or by personal funds or both, the parties can proceed to an exchange of contracts. Exchange of contracts is carried out by the respective solicitors involved over the telephone and from that point onwards the transaction is binding on all parties. The completion date is set and none of the terms of the transaction can be varied. It is usual for the Buyer to pay to the Seller on exchange of contracts a sum equivalent to 5% or 10% of the purchase price as a gesture of goodwill. The Buyer should also at that stage put in place their buildings insurance on the property.

Completion

If there are a number of linked transactions (i.e. a chain) usually exchange of contracts must take place simultaneously throughout the chain and the same completion date set. This is the date upon which the balance of the purchase price is paid across to the Seller's solicitors and in return the Buyer receives the keys to the property and vacant possession.

Stamp Duty

Stamp Duty is currently payable on purchase transactions at the following rates:

£ 0 to £125,000	Nil
£125,001 to £250,000	1%
£250,001 to £500,000	3%
£500,001 plus	4%

There are certain areas in the country which have been designated as exempt from Stamp Duty and therefore if you purchase a property situated within such an area no Stamp Duty will be payable provided that the purchase price is less than £175,000.



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Stamp Duty (Cont'd)

Stamp Duty is payable within 30 days of completion.

For residential purchases where the completion date is on or after 25th March 2010 and before the 25th March 2012 there will be no stamp duty payable for first time buyers provided the purchase price is below £250,000.

Please see the HMRC Budget 2010 'Stamp Duty' information for the definition of a [first time buyer](#).

Land Registry Applications

Following completion and also payment of the relevant Stamp Duty (if appropriate) the Buyer's solicitor will need to put in place an application to the Land Registry to register the Buyer as the owner and also to register the mortgage against the property, if there is one. This application should be put in hand within two months from completion. Once the Land Registry application has been completed a copy of the computerised Land Registry Title will be produced. If there is a mortgage in place on the property a copy of this Title will be sent to the mortgage lender but usually the lender will not accept any other deeds and documents for storage.

Joint Ownership Of Property

If you are buying or acquiring property jointly with somebody else it is important that everyone understand the basis of the joint ownership from the beginning. There are two kinds of joint ownership, as follows:

In neither case does the word 'tenant' have its usual meaning of somebody paying a rent.

1) Joint Tenants

This is the form of joint ownership where two or more people together own property on the basis that :

- a) On any sale of the property the proceeds of sale are automatically divided equally between the parties regardless of the contributions they may have made to the original purchase price, subsequent improvements etc.
- b) If the joint owner dies his or her share automatically passes to the surviving owners without payment. The transfer of the deceased owner's interest to the other joint owners is automatic and is not affected by any Will the deceased owner may have made.

2) Tenants in Common

This is a form of joint ownership where two or more people together own property and the shares in the property are specified e.g. A & B may own property jointly as tenants in common in equal shares or unequal shares, for example a 3/4 share for A and a 1/4 share for B.



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2) Tenants in Common (Cont'd)

This form of ownership can therefore record differing shares e.g. where one party has contributed more of the purchase money than the other. The effect of owning property as beneficial tenants in common is as follows:

- a) On any sale the proceeds of sale are distributed between the owners in accordance with their stated shares.
- b) If any owner dies his or her share does not automatically pass to the other owner but will form part of his or her estate and will therefore pass to either the beneficiaries under the deceased owner's Will or if no Will has been made to his or her next of kin.

If two or more people own property as beneficial joint tenants it is possible for any one owner to 'sever' the joint tenancy and change it into a tenancy in common where the shares would automatically be equal shares. It is not necessary to have the agreement of the other owners for this to happen.

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