

## INFORMATION FOR CLIENTS ON BUYING A PROPERTY

### 1. Introduction

- 1.1 This is intended as a general guide only but it does contain points of advice which are relevant to your purchase. If you are in any doubt about any specific issue please ask your Lawyer for further advice.
- 1.2 If you own an existing property but have not yet advised us please do so as soon as possible as it is important that we have full instructions on all matters affecting your move.
- 1.3 Our job is to ensure that your interests are protected and that the agreements that you make, in relation to what is likely to be your biggest financial commitment, are in your favour so far as can be achieved.

### 2. Initial Steps

- 2.1 Please complete and return the documentation referred to in the covering correspondence. We will not be able to start work on your behalf until we have those documents back with us together with any funds requested to cover initial expenditure.
- 2.2 Do not agree to pay any deposits direct nor enter into any written agreement with your Seller or anyone seeking to represent the Seller without having discussed the matter with us first. You could be putting yourself into the position of being bound by a contract that may be contrary to your interests.
- 2.3 If you need finance to assist in the purchase you should take steps to obtain your mortgage offer as soon as possible. We will be glad to point you in the right direction, if you wish. As solicitors we are duty bound to always provide independent advice in such matters.

### 3. Money

- 3.1.1 Mortgage Advance
  - 3.1.1.1 In managing the collection of the purchase money we will be involved directly with your lender and you do not need to concern yourselves over that aspect.
- 3.1.2 Money from your own resources
  - 3.1.2.1 Where you are providing money for the deposit and possibly the balance of the purchase money on completion we will need to see copies of your bank statement to show the money has been in your possession for a period before being used. We have no wish to pry but the need for such evidence is required on two fronts. Firstly your lender will require us to confirm the balance is coming from your own resources. And secondly the Anti Money Laundering laws again require us to check. Please therefore gather all this information well in advance so that there is no delay later on.
- 3.1.3 Money borrowed from others
  - 3.1.3.1 If you are borrowing money from others e.g. parents, to help with the purchase we will need to do two things.
  - 3.1.3.2 Firstly we will need to establish whether the payment is a loan or a gift and thus whether the lender is expecting any interest in the property. Such a position may require obtaining the consent of your mortgage lender.

3.1.3.3 Secondly we will need to ask for the similar evidence of where the money has been held.

3.1.4 These checks are needed even though you may have gone through similar procedures with your bank. Your understanding and patience on these matters is therefore asked for. Thank you.

### 4. Caveat Emptor (i.e. let the buyer beware)

4.1.1 If you do not have a survey carried out and do not find out about any problems with the property until after exchange of contracts it is too late to do anything about it and any expenses incurred as a result thereof are your sole responsibility.

### 5. Estate Agents Details

5.1 If an estate agent is involved in the sale of the property you will have received a copy of the agent's details. Please check the details very carefully to ensure that they are accurate and represent the agreed terms of purchase. If there are any discrepancies please let us know straight away.

### 6. Legal Work Prior to Contracting to buy

6.1 Before you can contract (exchange) the following steps must be completed:-

- 6.1.1 Receipt of satisfactory draft contract from sellers solicitors
- 6.1.2 Receipt of satisfactory replies to all enquiries on the property.
- 6.1.3 Receipt of satisfactory results of searches; this will cover

a) Development, Planning, Building Regulations, Road Schemes and Charges, Grant Conditions, Compulsory Purchase Orders and Public Rights of Way

b) Drainage and sewerage connections and water supply. Most of the above will be covered by the HIP information but we may need to undertake:-

c) Additional searches such as an Environmental Search or otherwise as required depending on the nature and location of the property.

Please note that the Local Authority Search does not give information on any proposed development, nor disclose the use or purpose of neighbouring land. If you have any queries on this aspect we suggest you visit the appropriate departments of the local authority and perhaps inspect their plans.

6.1.4 Receipt from you of acknowledgement that your survey is acceptable -or otherwise.

6.1.5 Receipt of your mortgage offer and the lenders mortgage instructions.

6.2 Any one of the items in 5.1. above may give rise to the need to ask for more information which will need to be dealt with before you sign the contract.

6.3 Once we are satisfied on all matters under 5.1 we will be report to you concerning the transaction.

- 6.4 At this stage we will go through all the financial aspects of your move in detail and a deposit will be requested from you to enable exchange of contracts to take place (see 11 below).
- 6.5 The amount of work that is required involves dealing with a number of different people or institutions. We estimate the time usually taken from initial instructions to exchange of contracts to be between four to six weeks.
- 6.6 If you are buying a property which forms part of a chain of property transactions it will not be possible to exchange contracts for you until the last link in the chain is able to exchange. This could therefore affect your timescale.

## **7. Reporting to you up to Exchange of Contracts**

- 7.1 As you will now appreciate there are a large number of matters that need to be investigated to ensure that your interests are fully protected. We will keep you advised of progress on a regular basis either by letter or by telephone call.
- 7.2 Should you have any queries on any matter at any point please contact your Lawyer as soon as possible.
- 7.3 If your instructions change at any stage we will ask you to confirm those instructions in writing so that we can all be clear on what further steps are to be taken.

## **8. Insurance**

- 8.1 Buildings insurance cover on the property, and its cost usually becomes your responsibility when you contract to buy the property. If this is not dealt with via your lender or Landlord (in the case of a Leasehold flat), then you will require your own policy. We can provide this for you through our own agency arrangements but please check the position carefully and ensure that you let us have full instructions on this point. It is your responsibility to provide us with the appropriate instruction or confirmation that you have arranged your own Buildings Insurance **prior to exchange**.
- 8.2 Contents insurance is a separate issue, though it may be offered as an extension of the buildings insurance policy. It must be for you to determine the amount of cover required and to ensure that the policy has commenced.
- 8.3 If you require any advice on these points then as independent advisers we will be glad to assist.

## **9. Optional Matters**

### **9.1 Survey**

- 9.1.1 We strongly advise you to obtain an independent Surveyors report and valuation on the property you are to buy, whether or not you are to obtain a Mortgage. Only an independent Surveyor will be personally responsible to you and take your particular requirements into account. An independent Surveyor will cost you a little more, but when compared with the investment being made and the potential risk involved this extra expenditure is extremely worthwhile.
- 9.1.2 It is surprising how even on a survey of a comparatively modern property a report can highlight defects and potential expenses you may not otherwise be aware of. Once you become aware of any such potential problems or defects then you can negotiate further with the seller.

### **9.2 Environmental Issues**

- 9.2.1 All local authorities are now obligated to inspect their areas for contaminated land. Within their search they are required to list any entries revealing contaminants and confirm whether they have served any notice on the appropriate person or owner of the land to take remedial action. If so, then the search must disclose whether the authority has consulted with that appropriate person and/or served notice on any adjoining land that may also have been contaminated by that person.
- 9.2.2 Please note that their replies are limited because the entries can only build up slowly as authorities begin to discover and formally identify individual sites that meet the definition of contaminated land.
- 9.2.3 This optional search may contain information on contaminating processes past and present, landfill, waste treatment sites, nearby toxic or explosive substances, areas of ground that may have been filled in the past, the probability of radon gas and the risk of subsidence and flooding, if affecting the property or surrounding area.
- 9.2.4 Should you purchase land that is responsible for the contamination of other areas or is itself contaminated to the extent that it is causing significant harm, then liability will fall to that person who caused or knowingly permitted the contamination. If the local authority is not able to identify that person, then the liability may rest on you as the owner.

## **10. Our Responsibility to Your Lender**

- 10.1 If we are instructed by your lender to complete a mortgage to you, then we are also acting for your lender independently of you. Your lender is also our client and as explained in their terms and conditions you are responsible for their costs.
- 10.2 We have to ensure that the lenders interests are properly looked after. Also we have to advise the lender if there are any problems with the property, with the title to the property, and the terms agreed for the property purchase. If we become aware of an inconsistency in instructions received from you and your lender on any issue we will endeavour to resolve it as it is important that your lender is fully aware of all matters that affect you in relation to the purchase and that could conceivably also affect the lender. As a measure of last resort only, and in accordance with Law Society practice guidelines, we would have to decline to act for both you and your lender if differences in instructions were irreconcilable.
- 10.3 One matter which will concern your lender is whether there are to be any persons living in the property who will be over 17 of age on the date you move in and who will not be a joint owner with you. If there are to be any such persons it is essential that we are notified of their names, ages and addresses, if currently different to your own. There is a section on the instructions questionnaire for this information to be given.

Since such persons could be treated in law as being eligible to claim an interest in the property, possibly in preference to your lender, your lender will require such persons to sign a form postponing any such rights until the lender has first been paid back all that has been borrowed. Therefore all such persons should be advised to seek independent legal advice on their position before actually signing such a form and we would need to write to them to this effect. It would be helpful if, as well as advising us of who such persons are, you could also show them this section so that they are aware of the steps that they will

- need to take in order that you are able to complete your purchase of your new home.
- 10.4 It may well be a condition of your mortgage offer that a life policy or policies are made available for assignment or deposit with the lender upon completion. If so the policies, or acceptance terms, must be in place before proceeding to Contract. This is because we will have to put any new policies on risk from the date of the Contract. We may also have the responsibility of obtaining the original policies for placing with the deeds after completion if required by your lender.
- 11. Signing your Contract**
- 11.1 We will provide a full report to you and when you are satisfied we will obtain your signature to the contract.
- 11.2 Signing a contract and paying a deposit to us does **not** bind you to buy. However, once you are satisfied then we will proceed to exchange contracts on your behalf.
- 12. Exchange of Contracts**
- 12.1 Exchange means swapping the contract signed by you for the other contract signed by the seller and paying over to the seller the deposit. At this stage a completion date i.e. your moving date, is fixed and neither party can back out of the transaction or delay completion without suffering loss.
- 12.2 Such loss could include; (a) interest for late completion, (b) the deposit that you paid, (c) a claim for the balance of 10% of the purchase price if the deposit you paid was less than that, and (d) damages to compensate the seller and any other parties suffering loss involved in the chain of transactions.
- 12.3 **It is vital that you are satisfied that you can meet the completion date before you instruct us to exchange Contracts. Our advice is for you NOT to agree a completion timescale of less than 10 working days between exchange of contracts and completion due to risks and penalty clauses in contracts which could incur significant additional costs to you.**
- 13. Between Exchange and Completion**
- 13.1 During this period completion searches are made and the deeds signed to transfer ownership to you and create any mortgage you require.
- 13.2 Completion is usually two to four weeks from exchange. However, if you are buying a new plot from a builder, this is subject to the builder's time scales.
- 13.3 Our fees estimate is based upon a minimum period of 10 working days between exchange and completion. If there is a requirement to proceed more quickly to completion than that period it will entail additional work on your file, particularly by way of chasing all third parties to comply with pre completion requirements and dealing with the risk issues referred to in clause 11.3 above. Accordingly we will need to charge an additional fee of £100 plus VAT if you instruct us to exchange for a completion in under 10 working days or £200 plus VAT if the period is 5 working days or less.
- 13.4 We must make sure that all mortgages taken out by the seller on the property, as well as local authority grants etc, will be repaid at completion.
- 13.5 Any monies that may be due from you must be paid to us at least five working days before completion to allow for clearance of cheques. We will send you a detailed statement of all monies required, which will include our charges and all outgoings for the purchase and any mortgage and additional work that you may have instructed us to do.
- 14. Your Ownership of the Property**
- 14.1 If you are buying a property on your own there is no real matter to be discussed. You will be the sole owner.
- 14.2 If you are buying jointly as husband and wife then the usual method of ownership is as joint tenants. This means that in the event of a death the property is passed directly to the survivor without further documentation.
- 14.3 If two or more people are buying, then purchase as tenants in common is an alternative that should be looked at. This means that the property can be owned in specific shares to allow for the different proportions that each may have contributed or will contribute to the purchase and future upkeep of the home. It also means that your share in the property is your own asset and can be left under the terms of your will, or to any one that you wish to benefit in the event of your death. It also means that if you decide to sell the property the sale proceeds are divided correctly between you.
- 14.4 We will give you full advice on this matter if you require it and will prepare the additional documentation to protect your interests wherever needed, but you should now be aware of the differences in manner of ownership from the notes above.
- 15. Practical Points at Completion**
- 15.1 Make sure that you have clear arrangements for the transfer of keys. Check with us if you have not been able to deal with this either through the agents or the seller direct.
- 15.2 Make sure that you arrange for the Water, Gas, Electricity and Telephone services suppliers to read meters, transfer accounts etc. on the right day.
- 15.3 Book your removals in plenty of time.
- 15.4 Check your property and life insurance cover is adequate.
- 16. Completion**
- 16.1 Provided you have let us have your contribution to the purchase price and purchase costs in good time before completion and preferably by bank transfer, we will make sure the money is paid and that the keys are released by the sellers Solicitors
- 16.2 We will confirm to you in writing that completion has taken place and send you complete financial accounts for the transaction.
- 16.3 We will deal with payment of Stamp Duty Land Tax, and complete the tax return as your agent if applicable, and apply for registration of your ownership of the property and registration of any lenders mortgage with H M Land Registry.
- 16.4 Once registration has been completed we will send you a copy of your registered deeds for you to keep. The originals will be sent to your lender as security for your loan

or, if no such loan applies, to you or your Bank/Building Society for safe keeping as you may direct.

**17. Miscellaneous Points**

17.1 If your property is mortgaged you must observe the rules and conditions of the lender, which will include keeping the property in good repair, making no structural alterations without consent, not allowing anyone else to obtain rights of occupation without their consent and keeping mortgage payments up to date.

17.2 Properties under ten years old will, most likely, have the benefit of an NHBC or similar guarantee. Older properties

may benefit from other guarantees affecting the structure or condition of the property. Available guarantees will be filed with the original deeds, but copies will be given to you with the copy deeds so that you have a point of reference should any works be required under the terms of such guarantees.

**18. Conclusion**

18.1 We will do all in our power to comply with your reasonable requirements and timescale. Should there be any points you wish to discuss as matters proceed please contact us. We will be pleased to help.