

## **MWB's Guide to Buying a Property**

### **Introduction**

This guide is intended to give you an overview of the legal processes involved in buying a property. Although it is quite common for a purchase to be linked to a sale, this guide is only concerned with the processes of buying a property and not with selling one. We have produced a separate guide for selling a property and if you are also selling a property, you should read through that guide as well. If you have not received a copy, please contact us and request a copy or download a copy from our website [www.mwbsolicitors.co.uk](http://www.mwbsolicitors.co.uk).

### **Stage One – Pre-exchange**

#### **(a) Check the Estate Agent's Particulars**

Most house purchases are arranged through an estate agent. The estate agent will send both you and us a summary of the agreed terms for your purchase. It is important that you check these carefully and let us and the estate agent know if there are any mistakes.

In the event that this a private purchase and there is no estate agent involved, you will need to supply us with details of the agreed terms yourself, together with the name and address of the seller and their conveyancer.

Do not pay a deposit or sign a contract without speaking to us first.

#### **(b) Apply for your mortgage**

If you need a mortgage to buy the property you should apply for this as soon as your offer has been accepted. We cannot advise on which mortgage you should take but we can put you in touch with a Financial Adviser who will be able to advise you, should you wish us to do so.

#### **(c) Surveys**

Property is sold as seen. This means that if the property needs repairing or has structural defects, you will purchase the property in that condition whether or not you were aware of the outstanding repairs or defects. It could prove very expensive for you to carry out these repairs. For this reason you should have a survey of the property.

There are 3 types of survey, namely: (1) a Valuation, (2) a Homebuyers Report and Valuation and (3) a Building Survey.

##### **(1) A Valuation**

This is a very simple and limited inspection of the property. This is the type of survey your lender will carry out and it is really just to establish that the property exists and that the property is acceptable security for the loan the lender will be making to you.

##### **(2) Homebuyers Report**

This is a more detailed report on the condition and state of repair of the property. It will also advise on the value of the property.

### **(3) A Building Survey**

This is a very comprehensive and detailed survey. This is the most expensive type of survey but also the most thorough type of survey.

If you need a mortgage your lender will carry out a Valuation of the property. However, this is for their benefit and if the surveyor has negligently surveyed the property, you will probably not be able to sue the surveyor.

Whether or not you need a mortgage, we strongly recommend that you have a Homebuyers Survey carried out at the very least. Some mortgage lenders will upgrade their basic survey to a Homebuyers Survey or Building Survey if you pay the difference in cost. However, you may prefer to instruct your own independent surveyor which will mean that they work for you and you can sue them directly if they are negligent.

The older the property, the more likely it is to need repairing or have defects. However, even relatively new houses can have defects which can be expensive to repair.

Surveyors do not check that central heating systems are working or test the electrical systems or plumbing systems etc. Their reports often recommend that these are separately tested by experts before you exchange contracts. It is entirely up to you whether you do this but again, if you discover defects after exchange of contracts, you will have to pay for the defects to be repaired.

If you want to instruct an independent surveyor, we can put you in touch with one, should you wish us to do so.

If your survey reveals anything of a legal concern, please give us a copy of your survey.

### **(d) Identity**

Before we can start work on your purchase we will need you to provide us with evidence of your identity and address. Full details will be included in our initial letter to you.

### **(e) Cash and Source of your money**

Please note that we cannot accept more than £250 in cash in total from you throughout the transaction.

Any money that you give to us must come from your own resources and bank account. We cannot accept money from anyone else, i.e. a parent or relative. If someone is giving you money to use on your purchase, it must be paid to you first and then paid to us out of your bank account. This is because we have carried out our money laundering checks against you and not against the person giving you the money.

### **(f) Joint Tenants and Tenants in Common**

If the property is to be owned by two or more people, it is necessary to choose whether the property will be owned as "Joint Tenants" or "Tenants in Common". We will send you our notes on the differences and implications of each of these options, with our initial letter to you.

### **(g) Receiving the purchase contract**

The seller's solicitor will prepare the contract and send this to us together with a copy of the legal title and standard forms completed by the seller. Until we receive this bundle we cannot initiate our searches or start work.

## **(h) Searches**

If you need a mortgage we have to make the searches listed below. Other searches may be required depending on the location of the property. If you do not need a mortgage, we do not need to make any or all of the searches but we strongly recommend that the usual searches are made. If you instruct us not to make any of the normal searches, you will need to sign a Disclaimer Form.

### **(i) Local Authority Search**

This is a search made with the local authority. It provides details of any matters which are dealt with by the Council, e.g. a summary of the recent planning history, breaches of planning law, tree preservation orders and compulsory purchase orders. It is very important to appreciate that the local searches only relates to the property you are purchasing. It will not tell you about any planning permissions or planning applications relating to any adjoining or nearby properties, even when the application involves building a new road. For this reason we offer to make a "Plansearch" (see below).

### **(ii) Environmental Search**

The company that carries out this search reviews old plans to see what activities have been carried out on the property and the surrounding area. Environmental consultants then review this data and determine whether the property is likely to be classed as potentially contaminated. If the consultants do not consider the property to be at risk they issue a certificate to this effect. The search also looks to see if the property is on a flood plain. If it is, it may mean that you cannot get buildings insurance cover or may have to pay a higher insurance premium.

### **(iii) Water Search**

A Water Search will determine whether the property you are buying is connected to mains water and drainage.

### **(iv) Optional Search**

#### **Plansearch**

This search is optional for all clients and it provides a list of all planning applications made in the last 5 years in respect of properties within 250m of the property you are purchasing. If you identify a planning application or permission which causes you concern, you will need to make your own enquiries with the planning department and possibly visit the planning department to view the plans.

We require some money on account so that we can make these searches.

### **(i) Investigating the legal title**

Once we have received the initial bundle of legal papers from the seller's solicitor, we can start to investigate the legal title. It is quite common for us to have to ask questions about the legal title and request the seller to supply copy documents and planning permissions.

When we have investigated the title we will send you a written report on the legal title. This can be quite long and sometimes, despite our best efforts, complicated. If any part of the report is unclear, you should contact us. The seller will supply us with a list of items that will or will not be included in the sale and a completed standard questionnaire about the property. We will send copies of these to you.

As the search results arrive we will send you a copy of them and, where appropriate, comment on the results. We are unable to provide any detailed advice on the Environmental Search or "Plansearch" as this is a job for a specialist. At the back of the Environmental Search Result is a list of contacts should you need any help although clients rarely need to do this as most properties receive a certificate to say

the property is unlikely to be deemed “contaminated land”. Please note that if the property does not receive a satisfactory Environmental Search result, we will need to disclose this to your mortgage lender who may decide not to make the loan.

If you are buying a flat, we will need to make sure that the Landlord or managing agents are repairing and insuring the block and that the seller has paid the ground rent and service charge. This can sometimes delay the purchase of a leasehold property.

If you have any specific plans for the property after completion, e.g. build an extension or rent it out, you should tell us about these at the start of the transaction so that we can address these issues during our investigation of title.

#### **(j) Alterations to the property**

We do not visit the property you are purchasing so we do not have the opportunity to actually view and compare it to the land registry plan. We will send you a copy of the land registry plan and it is important that you check that this is correct. Sometimes the actual boundaries of the property do not match up with the land registry plan.

It is also important that you tell us about any alterations that have been made to the property. This includes extensions, conservatories and internal alterations. Unless we know about these, we cannot check that the necessary planning and building regulation approvals have been obtained.

#### **(k) Your mortgage offer**

When your mortgage lender issues your mortgage offer, we receive a copy of it as well. We will check the offer to make sure that we can comply with the conditions. You should do the same and also check that the offer is in the correct names and for the right amount. Lenders do sometimes make mistakes due to the huge number of mortgage offers they issue.

As we are not financial advisers we cannot advise on or recommend mortgage related products. You should take specialist advice to ensure that the mortgage product is suitable for your needs.

#### **(l) Life Assurance**

If you need life assurance or any other investment product as a requirement of your mortgage, you will need to arrange this and ensure that it is ready to go on risk at exchange of contracts.

#### **(m) Buildings Insurance**

If you are taking out a mortgage, you will need to take out buildings insurance for at least the amount of cover specified by your mortgage lender. We will need to approve the insurance on behalf of your mortgage lender and will need to see a copy before we can request the mortgage funds from your mortgage lender. It is usually easier to take out insurance through your lender for the first year but this is usually a bit more expensive than organising your own independent insurance.

Most lenders charge a one-off administrative fee for checking the insurance if you organise your own insurance.

#### **(n) The Deposit**

You will need to give us a deposit which we will give to your seller's solicitor on exchange of contracts. The deposit is normally 10% of the purchase price. If you are getting a mortgage in excess of 90%, it will be necessary to notify and agree with the seller that you will be paying less than 10%. If you ask us to we will do this for you through the seller's conveyancer.

If you pay less than 10% on exchange and then fail to complete your purchase, your seller is entitled to the difference between what you have already paid and 10% of the purchase price.

### **(o) Signing the contract and mortgage offer**

We prefer to meet with you whenever possible to explain the documents you have to sign. Some mortgage lenders insist that a borrower's signature on the Mortgage Deed is witnessed by a solicitor. Where you do not need a mortgage or your lender does not require your signature to be witnessed by a solicitor, we can post the documentation to you.

### **(p) Bankruptcy Search**

If you need a mortgage we usually carry out a precautionary bankruptcy search against you before exchange. This can avoid the lender withdrawing the mortgage offer from you between exchange and completion. If you know you have a County Court Judgment or Bankruptcy Order against you, please tell us at the outset of the purchase.

## **Stage Two - Exchanging contracts**

Until contracts are exchanged neither you nor your seller have to proceed with the sale. However, once contracts are exchanged, you are both legally obligated to proceed and there are financial implications and penalties for any party that does not proceed in accordance with the contract.

Before contracts can be exchanged, you and your seller and any one else in the chain need to agree the completion date. This is the date when ownership of the property actually changes and you can move in and your seller must move out. Before agreeing to any suggested date, check you can book a removal company for that date. Completion can only take place on Monday to Friday inclusive, not at weekends or on bank holidays due to the banks being closed. We recommend that the completion date is at least two weeks after exchange of contracts to allow us sufficient time to carry out the post-exchange work and to allow you time to do everything you need to do before the big day. However, if completion has to be quicker than this we will certainly do our best to achieve your desired date.

Exchange of contracts is dealt with by us and your seller's conveyancer over the telephone. During the telephone conversation we each write into the contract the completion date, the amount of deposit and the date and time of exchange of contracts. Each conveyancer will then put the contract in the post to the other conveyancer. We will also send us the deposit to your seller's conveyancer.

## **Stage Three – Post-exchange**

### **(a) Mortgage Advance**

Once contracts are exchanged and subject to us having seen a copy of your buildings insurance policy and schedule, we will request the mortgage advance from your mortgage lender. As mortgage lenders cannot specify at what time during the day we will receive the mortgage advance, we ask for this to arrive at least one working day before the completion date. You will be charged interest by the mortgage lender from the date we receive the advance but this is preferable to having to pay interest and compensation for failing to pay the balance of the purchase price to the seller by the time specified in the contract.

### **(b) Completion statement**

We will prepare a completion statement for you. This will summarise the financial arrangements, showing all the money we have or will receive on your behalf, and all the payments we have or will need to make on your behalf. If we need any money from you this will be shown on the statement and we ask that you give this to us in good time so that it has cleared through our bank account before completion.

## **Stage Four – Completion Day**

### **(a) Purchase monies**

We will electronically send the balance of the purchase money to the seller's conveyancer. Even though they will receive it before the time specified in the contract, they have until 2pm to move out of the property. Do not aim to arrive at the property with your removal van at 10 am as you will find yourself sitting outside until they have moved out.

Upon receipt of your money the seller's conveyancer will redeem any mortgages on the property.

### **(b) Keys**

The seller usually takes at least the front door key to the estate agent once they have moved out. When the seller's conveyancer has told the agent that they have received your money, the agent will then release the keys to you.

## **Stage Five – Post-completion**

### **(a) Stamp Duty**

We will submit a cheque and the Stamp Duty Land Tax Return to the Inland Revenue. When they have processed your Return they will send us a Certificate.

### **(b) Land Registry**

Once we receive the Certificate of payment from the Inland Revenue and confirmation from the seller's mortgage lender(s) that they have cancelled their mortgage(s), we can apply to register you as the new owner, and also register any mortgage(s) you have taken out.

When the land registry has completed the registration we will send you a copy of your title together with any surplus deeds and searches. The original mortgage Deed will be sent to your mortgage lender.

## **Completion Day Reminders**

Don't forget to:

∑ Take meter reading and inform the existing service providers of the readings

∑ Inform the Council Tax department that you now own the property

∑ Inform the existing telephone supplier and if required, transfer your telephone number from your previous address

∑ Re-direct your post to the new property

We hope you find this Guide useful. It is only a brief summary of the conveyancing process. We will liaise with you throughout your purchase and explain any important developments as they arise. If you have any questions during your purchase, we will be happy to answer them.

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