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Notes for buyers and sellers of residential properties

1. NOTES FOR BUYERS

These notes contain important information about buying a property, and we ask you to read through them carefully. We hope that the information provided will enable you to understand better what is happening during the process and the documents you will receive from us during the transaction.

If you require any additional information or if you have any queries on this note please contact us and we will be pleased to help.

OVERVIEW

In a nutshell, the legal steps in a sale are as follows:

- We receive title documents and a draft contract for the purchase of the property from the seller's solicitors together with completed property information forms.
- We apply for the necessary searches and you make your mortgage application (if applicable).
- We carry out a detailed investigation of the legal documents supplied to us by the seller's solicitors and where necessary we raise further legal enquiries.
- When our investigations are complete and your mortgage offer has been issued, we send you a legal report on the property.
- Contracts are exchanged and a date is fixed for completion; from this moment you are legally committed to purchase the property.
- Your purchase is completed on the completion date, and you are able to move into the new property. The purchase price and all legal and other costs (e.g. Stamp Duty Land Tax) have to be paid on or before this date.
- We register your ownership of the property at the Land Registry.

We are often asked why there needs to be a gap between exchange and completion. The two stage process of exchange followed by completion is useful because it provides an opportunity for you to sort out the practical aspects of moving (e.g. arranging removals) in the knowledge that both sides are legally committed to a fixed completion date. It also enables us to make the legal pre-completion arrangements by reference to a fixed date.

SURVEY

The house or flat you are buying should be surveyed because the seller is not under a duty to tell you about any defects at the property and you will buy it in the state which it is in at the moment of exchange of contracts.

There are three types of survey:

1. **Mortgage Valuation Survey:** This survey is for the lender's benefit and the inspection is very limited.
2. **Homebuyer Valuation and Survey:** The aim of this survey is to provide a concise and readable account of the general condition of the property. It is cheaper than a full survey and is a useful way of highlighting any serious problems at the property.
3. **Full Structural Survey:** This will involve a very detailed examination of the property although even then there may be parts of the property which are hidden or inaccessible. The surveyor will let you know this.

Please note that the drains, the central heating system, the wiring and gas and electrical installations are normally outside the scope of a survey and you may need to have them specially examined. The sellers will not be liable to you if it is later found that any of the services or appliances are defective.

INSPECTION BY YOU

In most cases, we will never see the property you are buying. For this reason it is essential that you inspect the property yourself and tell us anything that appears to be worthy of further investigation.

You should check whether any tenant or lodger is living at the property and look for signs of any third party rights over the property e.g. a public right of way or a neighbour's right to use a path. If there appear to be any such third party rights please let us know immediately as this is not always clear from documents supplied to us.

You should also let us know whether, from your own knowledge of the property, it is on or near to a common or village green, a railway or underground line, an area of mining activity or next to a river or lake. In these cases we may need to raise further enquiries with the appropriate authorities.

MORTGAGE

If you need to borrow money from a bank, building society or other lending institution to buy the property, this loan will be secured against the property. If you breach the terms of the mortgage, the mortgage lender can repossess the property and sell it to repay the loan.

Your mortgage lender will provide you with detailed mortgage conditions, but some general conditions to bear in mind are as follows:

- You must keep up your mortgage repayments.
- The property must be kept insured.
- Unless you have specifically obtained a mortgage that allows you to rent out your property, you must not do so without having obtained the lender's prior consent.
- You must not share occupation of the property with any other adult who is not a party to the mortgage without first having got the lender's consent.
- If you make any alterations to the property, you must make sure that you obtain any necessary planning and building regulation consents and carry out the work in accordance with them.

SEARCHES

In most conveyancing transactions we will want to obtain the results of a Local Search, a Drainage Search and usually an Environmental Search.

Local Search

This search reveals obligations of a public nature which are enforceable against the owner of the property (e.g. tree preservation orders, compulsory purchase orders, enforcement notice for breach of planning). It will also give more general information about the property including details of roads, planning consents and building regulations approvals.

The information supplied in a Local Search relates only to the actual site of the property and does not (except in the case of road proposals) deal with the areas around it. It will not for example say anything about development proposals for land in the vicinity of the property. If you have questions about these, you can speak to the planning department and look at pending planning applications online.

Drainage Search

The search result will tell us amongst other things whether the property is connected to mains drains and mains water. It will also show on a plan where the mains drains and water supply pipes run in relation to the property.

Environmental Matters

The environmental search is a desk-top exercise and looks at various environmental issues, the most significant being the risk that the land has become "contaminated". Remediation costs for contamination are potentially very large.

Other environmental matters which you might have concerns about are matters such as flooding, radon gas or other factors which might have an effect on health.

Replies to environmental enquiries raised with the seller's solicitor tend not to yield much useful information and we will usually carry out an environmental search, unless you instruct us not to do so as an environmental problem will have a direct effect on the value and suitability of a property.

DEPOSIT

Part of the purchase price has to be paid to the seller on exchange of contracts. The contractual deposit is usually 10% of the purchase price although less can be agreed. If you withdraw from the transaction after exchange of contracts you will lose the deposit and you may have to pay additional compensation to the seller for breach of contract. Even in a case where the seller is prepared to accept less than a 10% deposit on exchange he will still be able to sue you for the full 10% deposit should you fail for any reason to complete the purchase.

Please bear in mind that if you are obtaining a mortgage the mortgage money will not be available until completion so you will not be able to use any of that money for the deposit. You should consider at this stage where your deposit money will come from and please let us know if you foresee any difficulty in providing the deposit for exchange of contracts.

If you are also selling a property the deposit you receive from your buyer can usually be used towards the deposit on your purchase. If your selling price is less than your buying price you may need to make up the deposit shortfall from your own resources.

INSURANCE

It is essential that the property you are buying is properly insured. You should make these arrangements at an early stage and then put the policy on risk on the day of exchange of contracts.

If you are buying the property with a mortgage the mortgage lender may arrange buildings insurance on your behalf. It should be apparent from your mortgage offer whether and on what terms the property will be insured by the mortgage lender.

THE CONTRACT

The contract will contain the terms agreed between you and the seller for the purchase of the property and you will need to read through the contract and check in particular that the price, the property and the parties are correctly stated, before signing.

There will often be a clause in the contract stating that you are not entitled to rely upon any statements made by the seller or by any representative or agent of the seller. Accordingly, if there are any statements or promises that have been made to you that you consider to be important and on which you are relying, please let us have details so that these may be specifically confirmed with the seller's solicitors.

The contract will also refer to rate of interest (the "contract rate") payable in the event of late completion. If you fail to complete the purchase on the due date interest at the rate mentioned in the contract becomes payable on the balance of the purchase price outstanding.

When you receive the contract you will see that the contract date and completion date have been left blank. These dates will be filled in by us on the day of exchange.

STAMP DUTY LAND TAX

Stamp Duty Land Tax (SDLT) is payable by the buyer of property on the value of the transaction. The amount of the tax depends on the purchase price of the property.

If you have never owned a property, there is no stamp duty payable on properties up to £300,000 although we will still have to complete a return.

If your purchase will result in you owning more than one property, please let us know so that we can discuss the higher rate which may be applicable.

We will advise as to the amount of SDLT payable once we have full details of the transaction.

GENERAL INSURANCE

In certain circumstances it may be necessary to arrange indemnity insurance during the course of your purchase transaction, for example to cover the fact that restrictive covenants are unknown, or that there are no proper rights of access to the property, or that planning and building regulation consents are not available.

In this connection, we are required to tell you that this firm is not authorised by the Financial Services Authority. However, we are included on the register maintained by the Financial Services Authority so that we can carry on insurance mediation activity, which is broadly the

advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by The Law Society. The register can be accessed via the Financial Services Authority website at www.fsa.gov.uk/register.

If it is necessary during the course of the transaction for any insurance to be put in place we must inform you that we only arrange insurance through Legal & Contingency, Zurich Conveyancing, Guaranteed Conveyancing Solutions or Countrywide Legal Indemnities, but we are not contractually obliged to conduct business in this way and we receive no commission for doing so.

2 NOTES FOR SELLERS

These notes contain important information about selling a property and we ask you to read through them carefully. We hope that the information provided will enable you to understand better what is happening during the process and the documents you will receive from us during the transaction.

If you require any additional information or if you have any queries on these notes, please contact us and we will be pleased to help.

OVERVIEW

- Before the property can be put on the market your estate agent (or you personally if you are not selling through an agent) must be in possession of an energy performance certificate relating to the property.
- We will send you the Property Information Form and Fittings and Contents Form to complete.
- We obtain your title deeds either from you, the solicitors who acted for you when you purchased the property or from your mortgage lender (if applicable).
- We prepare the title and a draft contract for the sale of the property and send it to the buyer's solicitors together with copies of all relevant documents.
- We deal with any additional enquiries raised by the buyer's solicitors; often we will need your assistance to provide some of the replies.
- Contracts are exchanged and a date is fixed for completion; from this moment you are legally committed to sell the property.
- The sale completes when we receive the purchase money from the buyer's solicitors. You move out of the property and the buyer will be entitled to move in. If you have a mortgage, this will be repaid on completion out of the sale proceeds. We also settle the estate agents' commission account.
- We will send you the balance of the sale proceeds, forward the transfer and deeds to the buyer's conveyance and obtain a written release of the mortgage from your lender.

TITLE DEEDS

If you have the deeds at home or have lodged them with the solicitors who acted for you when you purchased the property, you will need to make arrangements to send them to us preferably

using registered post. If your deeds are with your former solicitors, you will either need to collect the deeds and bring them to our office or you could write to the firm asking them to send the deeds direct to us.

If there is a mortgage on the property, it may be the case that the title deeds are held by the mortgage lender. Where there is a mortgage we will always write to the lender to see whether they are holding any deeds.

INFORMATION REQUIRED FROM YOU

A very important part of the conveyancing process involves the buyer obtaining information about the property from you. The Law Society has prepared standard forms to assist with this stage of the process, and we would ask you to complete and return the property information forms as soon as possible so that we can forward them to the buyer's solicitors.

Please also send us originals or copies of any other documents which relate to the property. In particular we will need the original or copy of any planning consent and/or Building Regulations certificates obtained by you for any work at the property (e.g. an extension).

We will also need to see any guarantees obtained by you for treatments at the property (e.g. damp proofing, timber treatment).

If the property you are selling is leasehold (this will always be the case where you are selling a flat), there will be a considerable amount of extra information which we will have to provide to the buyer's solicitors.

Many landlords and management companies use managing agents who will in most transactions provide a standard pre-sale pack on receipt of a fee. Once we have made contact with the managing agents and know the current fee, we will ask you to send us a cheque so that we can apply to them for the pack.

EXCHANGE OF CONTRACTS

You will in due course receive from us the contract for the sale of the property for signature. When you have returned the signed contract to us together with your instructions on a completion date we will then be in a position to exchange contracts with your buyer (assuming of course that the buyer is also ready to exchange). Once contracts have been exchanged you and the buyer are legally committed to the transaction.

The completion date is usually agreed just before exchange and on exchange becomes binding on all parties. Completion can take place on any date the seller and buyer agree on, provided it is a working day. As most people prefer completion on a Friday the bank money transfer systems sometimes get overloaded which can cause delays. If you are able to, it would be sensible to choose quiet day earlier in the week. As a general rule, completion should be at least five working days after exchange of contracts to allow time to order mortgage monies and book removals etc but it can happen on the same day.

DEPOSIT

The deposit is a part payment of the purchase price paid by the buyer to the seller on exchange of contracts. The traditional deposit paid on exchange is 10% of the purchase price, but it has become common for buyers to offer smaller deposits. If your buyer suggests this, we will advise you.

YOUR EXISTING MORTGAGE

You should continue to make your mortgage payments on time right up to completion. If there is any element of overpayment (e.g. because the final redemption statement assumes that a monthly payment will not be made but in fact the payment is made), you will receive a full refund from the lending institution after completion.

Please note that we will usually be unaware of any redemption penalty application to your mortgage, as we will not have a copy of your original mortgage offer setting out the redemption terms. If you are aware that a redemption penalty is applicable to your mortgage, please let us have details. The expiry of any redemption penalty period could determine the completion date which you require.

INSURANCE

It is important that you maintain insurance cover on the property right up to and including the date of completion.

OUTGOINGS

You should continue to pay all outgoings on the property right up to the date of completion. If you are selling a leasehold property then any advance payments of ground rent and service charges which you have made will be apportioned between you and the buyer on completion and you will receive a refund from the buyer for any payments attributable to the period after completion.

Outgoings in respect of the services (gas, telephone, electricity etc) will not be apportioned. You will need to contact the utilities before completion asking them to read the meters on the completion date and to prepare final accounts.