

# Moving Home

*A brief Guide to the Legal Process*





## **Moving Home**

Whether you are buying your first home, or selling your own home, possibly to buy another, the conveyancing process can seem unfamiliar and daunting. After all, moving home is regarded as generally one of the most traumatic and stressful experiences you will encounter.

Here at Vingoe Lloyd Solicitors we are committed to removing much of the stress and trauma from the legal side, to make what should be a most exciting experience as straightforward as we can. We have a committed team of experienced conveyancers who will be at your service throughout.

We believe that this information sheet will help guide you through the process and answer some of your questions. It also contains helpful advice, so we would ask you to read it carefully, and in conjunction with any other advice we will give you as your matter progresses. Please ask if there is anything you do not understand.

### **Are you Selling?**

If you are selling your home, then you will have started by putting your property on the market, usually through an estate agent. One of the first matters to be addressed is an Energy Performance Certificate ("EPC"), which is needed before you market the property. Your estate agent will normally arrange this for you, but you can arrange your own through Yellow Pages or the Internet. If you prefer, we can arrange this for you.

Even before you get an offer, it will help to get as much information about the house to us as quickly as possible. We will have to prepare a contract package and we will provide you with information forms to complete and return to us. You need to be careful when completing these forms to make sure that all information given is accurate to the best of your knowledge. If you deliberately or negligently give false or misleading information, the buyer may be able to sue you. We can help you complete the forms, if you have any difficulties.

We also need to see your title deeds, and you will need to give us your mortgage details or ( if there is no mortgage) you will need to get your deeds to us as soon as possible, if we do not already hold them.

Once you have negotiated a sale, and when we have the contract package ready, we will send it out to the buyer's solicitors. This will enable them to start on their pre-contract enquiries and searches.

### **Are you Buying?**

By the time you consult us it is likely that you will have made an offer on the home you want to buy. Once we have information about the purchase, either from yourself or the seller's agent, we will contact the seller's solicitors to request the contract package. We will then carry out all appropriate pre-contract searches on your behalf, as well as raise any pre-contract enquiries that we think are advisable.

If you are buying with a mortgage, you will need to make an application either through a mortgage broker, a financial adviser, or the mortgage company itself. It is your responsibility, not ours, to make sure that the mortgage application is made and then pursued to the stage where the written mortgage offer is sent to you. You cannot sign your contract until you have received a mortgage offer which is acceptable to you. You also need to ensure that you are satisfied about the structural integrity of the home, and that it is worth what you have offered. More advice on these topics follows later in this booklet.

If you are buying jointly, then you will need to decide on what basis you will hold the property once you have bought it. This is a very important decision and there can be a number of factors affecting this decision. We will give further advice on this as the matter proceeds, but we will need your written instructions by the time you sign your contract.

### **What is involved?**

There are certain basic stages in the conveyancing process. Simply put, these are:

1. Offer and Acceptance - The proposed buyer makes an offer for the property, which the seller accepts. Please note that in English Land law, this is not yet binding on either party.
2. Pre-contract period - The seller's solicitors send the draft contract package to the buyer's solicitors. The buyer's solicitors arrange searches, check documents and

raise pre-contract enquiries to which seller responds. The buyer obtains a mortgage offer (if necessary).

3. Contract - Both seller and buyer sign separate identical contracts, a completion (moving) date is agreed and then the two parties' solicitors exchange contracts. The buyer pays a deposit, usually 10% of the purchase price. The deal is now a binding and legally-enforceable contract.

4. Post-Contract - The buyer's solicitors prepare the transfer deeds, deal with mortgage requirements and ask for the advance from the mortgage company. Final searches are done. Final arrangements for completion are now made.

5. Completion - The buyer's solicitors pay the balance of purchase price to seller's solicitors, legal completion takes place, keys are handed over and the seller moves out and the buyer moves in.

### **Financing your Purchase**

You will probably need to obtain a mortgage to help you buy your new home. There are many types of mortgage and you should make sure that the type of mortgage is right for you. Regrettably, we are not permitted to give you advice on this aspect.

You will not be ready to sign a contract until you have a written mortgage offer, acceptable to you, and we have also been instructed to act for the lender. It is important therefore that you make sure the offer is issued as soon as possible.

Please check your mortgage offer when you receive it. If you do not understand anything, contact the lender or your mortgage adviser for an explanation. Be aware of low starting interest rates which can rise substantially after a year or two, and also be aware of any conditions which mean you might have to pay a hefty penalty if you pay your mortgage off early.

Many mortgages these days are "interest-only". This means that you must put in place a scheme for saving enough capital to repay the mortgage at the end of its term—usually 25 years.

We will explain the terms of the mortgage deed to you before you sign it.

Note that your mortgage repayment is the most important regular household payment. You may lose your home if you do not keep up the payments.

### **Surveys**

We will always advise you to have a survey of your new property carried out before you sign your contract. Unless you are buying a brand new home (when you will normally have some kind of guarantee) you will be responsible for making sure the property is structurally sound, and worth what you have agreed to pay for it. We are not qualified to do that for you.

If you are getting a mortgage, it is not enough to rely upon the mortgage valuation. This is a very cursory look at the property and not a survey. You can have a full structural survey, and although this is the best, it does cost a lot of money. Many people prefer a Home Buyers Report, which would flag up most problems, and this could be helpful in negotiating the purchase price. It may be possible to ask the lender's surveyor to carry out your survey as well, which could reduce overall costs.

If you are buying a flat, it will be important to have the main parts of the whole building checked, as you will probably be required to contribute towards its repair and maintenance.

Read the survey report carefully and take note of all recommendations. You may need to get specialist reports on drains, woodworm, damp, wiring etc —get these reports done quickly, and get estimates for any recommended remedial work, before you sign the contract.

### **Searches and Enquiries**

One of our most important roles is to carry out pre-contract searches and enquiries to obtain as much relevant information about the property as we can. Merely checking the deeds provides only part of the picture.

We will give you detailed advice on the types of searches we would carry out for you. We will want to check with the local council about roads and planning. We also need to find out about mains water and sewerage. We will always recommend a mining search—very important if buying in Cornwall. We will also carry out checks to see if there may

be any environmental issues in the vicinity. We will report to you on the results of the searches before you sign contracts.

We will usually get some basic information about the property with the contract package. This rarely is sufficient and we will normally raise further enquiries with the seller.

We will provide you with a plan showing the property boundaries. As we will rarely be able to visit the property ourselves, we will ask you to check the plan against the actual boundaries of the land - any differences will need to be resolved before signing contracts. You will also need to let us know if there are any modern extensions we will need to check that all permissions have been given.

### **The Contract**

The contract is the most important document in the conveyancing process. It contains all the essential terms of the transaction. Once contracts have been signed and exchanged, there can be no going back, and no second thoughts.

All our pre-contract preparation is to make sure that you are confident that you wish, and are ready, to proceed to buy or sell. Up to exchange of contracts, either party can withdraw, or try to re-negotiate the terms.

The contract document is really two identical contracts. The seller signs one, and the buyer the other. Signing the contract does not immediately commit you to proceed—the parties are only bound once contracts have been exchanged between solicitors. We will only ask you to sign the contract when we are satisfied that it is safe for you to do so.

If you are a buyer, you will normally be asked to provide a deposit, usually up to 10% of the price. If paying this by cheque, you must allow enough time for cheque clearance before we can proceed with the exchange. If you have a related sale, we may be able to use the deposit received on that sale — we will always advise you if we need additional deposit money from you.

You will also need to agree a completion (moving) date with the other party, and often we can assist in arranging this for you.

## **Completion**

By the time you arrive at your moving day, we will have done everything necessary on the legal side, to ensure a smooth move. We will have prepared all the deeds, obtained from you any balance of money required, and carried out all last minute searches.

If you are a first time buyer, we will arrange to send off the money required to complete your purchase as early as we can on the day, to try to ensure an early release of keys. If you are in a chain of transactions, we have to wait for the money to be sent to us by your buyer's solicitors, before we can send on the money to complete your purchase. If the chain of transactions is long, the process of sending the money from the bottom to the top of the chain can often take several hours. Because of this, we cannot guarantee that we can complete at any specific time of the day. It is preferable for you to make advance arrangements with your seller to collect keys at a time convenient to both of you. Sometimes this is not possible, in which case you may have to wait until the money reaches the seller's solicitors before keys can be released to you. If this happens, please bear with us — we will be doing everything we can to get the matter completed as soon as we can.

Please make sure that we are able to contact you on the completion day. We will endeavour to contact you on the day to confirm that completion has taken place so that you can move into your new home.

## **Your Will**

Whether you are buying or selling a property, now is an ideal time to consider your Will. If you have not yet made one, then it is very important you make one now, to ensure that the right person inherits your property. If you already have a Will, you need to check to see whether it meets your current requirements and changed circumstances.

Here at Vingoe Lloyd Solicitors we have a team of experts, experienced in helping you to make sure that, in the event of your death, the right people inherit, and also can help reduce Inheritance Tax liability. Please ask about this service.

### **Other Legal Services**

Vingoe Lloyd Solicitors offer a wide range of legal and other services to their clients. We can provide advice and assistance with:

Residential Conveyancing  
Wills & Administration of Estates  
Divorce and Family Matters  
Legal Aid

*If you need any of these services in the future, please ring for an appointment.*

# Vingoe Lloyd Solicitors in West Cornwall

*We provide a caring and professional service in:*

*Residential Conveyancing*

*Wills and Probate*

*Divorce & Family work*

*Legal Aid*

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