



Arnison Heelis Solicitors Clients Factsheet

What is Conveyancing?

What is conveyancing? It's the word for the legal process of transferring ownership of land. In this Factsheet we describe the process, first from the buying perspective and secondly, when selling property. When you are selling and buying then these transactions are, generally, undertaken simultaneously.

How long it will take from your offer being accepted until you can move in to your house will depend on a number of factors but the average process takes between 6-12 weeks. It can be quicker or slower, depending on the parties in the chain. For example if you are a first time buyer purchasing a new build property with a mortgage in principle it could take 4-5 weeks. However if you are buying a leasehold property that requires a lease extension of the lease, this can take significantly longer and could take 3-6 months.

Buying a Property

The process starts when you see a Property for sale, usually with an Estate Agent, and you decide that you want to buy it. After viewing it, you make an offer to the Estate Agent and, if that is accepted, you appoint us to do the conveyancing for you. We will provide you with our terms of business and contract the seller's solicitors to request the contract documentation.

Prior to the conveyancing getting underway, it is important for you to have the Property surveyed to make sure that it is in good condition and that you are paying a reasonable price.

There are different levels of survey offered by Surveyors, depending on the level of investigation that is to be carried out.

If you are buying the Property with a mortgage, then your Lender/Mortgage Provider will undertake their own valuation to establish the value of the Property for lending purposes. Please note that if a valuation has only been carried out by a Lender then you cannot rely on these results. They are for the benefit of your Lender only and we would advise that a minimum of a Home Buyers Report be carried out in every instance. The onus is on the Buyer to carry out any necessary inspections and investigations on the property to satisfy themselves as to the physical condition of the property.

The seller's solicitors will provide us with the contract documentation including the title documentation and we will report to you on these documents.

Conveyancing involves a number of tasks, the most important of which is the examination of the legal title (or ownership) to check that the Seller has the legal ability to sell what they say

they are selling. Also to ensure that there is nothing on the title that would affect the value of the Property, your proposed use for it, your ability to raise finance on it or to sell it in future.

The second important area is “searches and enquiries”. Searches and enquiries are made with various statutory and other authorities to make sure that there are no other circumstances that affect the Property in a similar way.

Details of the most usual searches are as follows:-

A “Local Search”: this is a questionnaire which is sent to the local authority in whose area the Property is situated. The local authority usually has responsibility for road maintenance, planning and building control, road building or alteration and a register of the existence of any environmental conditions that might affect the Property. The purpose of this is to get information about the Property from the local authority records. This is important, for example, to establish that the access to the Property is over a public road; or that any alterations that have been done to the Property have planning consent and building control approval;

A “Drainage and Water Search”; this is an enquiry sent to the water and sewerage utility company for the locality; it tells us whether the Property has a mains water supply and whether the foul and surface water drainage is connected to a public sewer;

A “Coal mining Search”; an enquiry sent to the Coal Authority to establish whether the Property is in an area affected by coal mining operations present or past. This is important as coal mining activity can have an effect on the structural integrity of the Property;

An “Environmental Search”; an enquiry of specialist information company to see whether the Property is near to, or affected by, any adverse environmental factors.

An Inventory – a Fixtures Fittings & Contents Form – is supplied by the Seller of the Property stating which items of fixtures and fittings in the Property are included or excluded from the price. The Seller also supplies some standard information about the Property such as:-

- Whether any alterations have been carried out;
- Who owns or maintains the boundaries;
- Whether any third party has any informal rights over the Property, e.g. a neighbour using a path to reach refuse bins;
- Whether the Seller has any guarantees for any building work recently done, or for the heating system.

When all this information is received, enquiries may be raised with the Seller’s Conveyancer about anything that is incomplete or unclear.

Whilst these checks are going on, a Buyer who is buying with a Loan (“a Mortgage”) will be applying for their mortgage and once that has been approved, the Buyer receives a mortgage offer which sets out the terms of the Loan and a copy is also provided to us.

The Lender appoints the Buyer’s Conveyancer to represent its interests in taking a mortgage over the Property. The cost of that work for the Lender is paid for by you, the Borrower. A mortgage is the term used for a Loan secured on Property and it is used to describe the Loan itself and the document you sign which, in simple terms, secures the Lender’s loan on the Property. We will go through the conditions of the mortgage offer with you. The Mortgage

gives the Lender the right to take possession of and sell the Property if you break the terms of the Loan. In acting for the Lender, we have a responsibility to the Lender to provide a report confirming that the title to the Property is in order and that there is nothing that would stop a Lender making its Loan.

If the property is leasehold we will go through the paperwork provided by the Landlord or the Management Company and report to you on these documents.

Once we are satisfied with the title and the result of the searches and enquiries, we will report to you on the legal aspects of the Property. Provided you are happy, you will sign the Contract and, when all parties are ready, Contracts are “exchanged”; this is the physical exchange of the Contract so that the Buyer gets the Seller’s part and vice versa; it is done by the Conveyancers agreeing on the phone that exchange is effected and the Contracts follow in the post. At that point the completion date is agreed and fixed (the date for paying the balance of the price and taking possession of the Property) and a deposit is paid. The deposit is usually 10% but can be less by agreement. This is usually held by the Seller’s Conveyancer until the completion of the transaction. If you pull out of the transaction after exchange, you will lose your deposit.

At the point of exchange, the Parties are bound to the Contract. Exchange of Contracts can sometimes be delayed because there is often a “chain” of Buyers and Sellers and everyone in the chain has to be ready and agree the completion date.

After exchange of Contracts, we:-

- Prepare the Transfer Deed, which will transfer ownership, and this is approved by the Seller’s Conveyancer.
- Conduct final title searches to make sure that nothing has happened to affect the Seller’s Ownership since the Contract was prepared (this is very important since, for example, a creditor of a Seller may secure his debt on the Property);
- Send a report on title to your Lender;
- Get the balance of money needed from you to complete the transaction. This will include any stamp duty, land registration fees, legal fees, and all other costs.

On the completion date, we pay over the balance of the price – usually by a same day bank transfer – and the Seller’s Conveyancer sends the Transfer Deed and title deeds to us. You obtain the keys and the Property is yours.

You must pay Stamp Duty Land Tax (SDLT) if you buy a property or land over a certain price in England and Northern Ireland. The current SDLT threshold is £125,000 for residential properties and £150,000 for non-residential land and properties. There are different rules if you’re buying your first home or purchasing a second property. For further information on Stamp Duty Land Tax please use the Inland Revenue calculator at the following link. <https://www.tax.service.gov.uk/calculate-stamp-duty-land-tax/#/intro> We will prepare the application to the Inland Revenue to deal with payment of the SDLT.

We will then make an application to the Land Registry to register the property and once completed the Land Registry will issue an updated copy of the title register which forms your proof of ownership of the property.

Selling your Property

Most properties are sold through an Estate Agent. Once a Buyer is found, and the terms of sale agreed, the legal process begins.

You will complete for us a Property Information Form and a Fittings and Contents Form. These provide general information about your Property and an Inventory of the fittings and contents included in the sale price.

We prepare a Contract stating what is being sold and the terms of the deal. The Contract is sent to the Buyer's Solicitors with the Property and Fittings and Contents Forms together with evidence of ownership. The Buyer's Conveyancer then undertakes the work we referred to above. We liaise with you on any enquiries they raise and respond to them.

Once exchange of Contracts is reached, a date for completion is fixed. We hold the deposit paid until completion, but it can be used in connection with a related purchase.

After exchange, we deal with any further questions raised by the Buyer's Conveyancer and approve the Transfer Deed, which you then sign. We seek a loan repayment figure from your Lender(s) if you have a mortgage and ask you to check that it's right.

On the completion date, we receive the balance of the sale price, pay off the mortgage and after payment of any Estate Agency and legal fees, account to you for the net proceeds.

We also forward the Transfer Deed and any Title Deeds to the Buyer's Conveyancer and send a written Mortgage Release form to your Lender by which the Mortgage is formally released from the Property.

This Factsheet is intended as a general guide, and is not intended to take the place of legal advice. You should take specialist advice before taking any action.