COLLINGBOURNE HENNAH LAW
EST 1887
A GUIDE TO MOVING HOME
The aim of this book is to provide a basic guide to a conveyancing transaction. This book will give you an understanding of the conveyancing process from the very start to post completion. Each chapter will set out a step by step guide.

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**INTRODUCTION TO CONVEYANCING**

Conveyancing refers to all legal and administrative work associated with the transferring of land or buildings from one person to another. There is a misconception that conveyancing is a paper shuffling exercise, but in reality the range of tasks involved is often complex and difficult.

Many sale and purchase agreements contain conditions that may need to be fulfilled before the transaction can proceed. It is important that these contractual conditions are expressed clearly.

**FINDING YOUR PERFECT HOME AND HAVING YOUR OFFER ACCEPTED. WHAT HAPPENS NEXT?**

1. **INSTRUCTING A CONVEYANCER OR SOLICITOR**

Find a solicitor or conveyancer. Your choice of solicitor may depend on many factors such as cost, location, whether they are known to you, recommended etc. You need to instruct a solicitor who you will have confidence in and who can explain the procedure to you so that you fully understand what is involved.

It is always best to have a face to face chat with your solicitor in the first instance as most people have a lot of questions they will need to ask. It will also enable you to get acquainted with your solicitor and help build a relationship.

When you have chosen your solicitor and have your first meeting, your solicitor will discuss the main steps of the conveyancing process shown below. Your solicitor will discuss with you what each step entails and what is required of you.
If you need a mortgage in order to fund the purchase of a property it is important that you know how much you are able to borrow. It is always best to see a mortgage advisor before you start looking for properties so that you know your budget. Once you know how much you can borrow and have chosen which bank you will obtain a mortgage with, you will need to inform them of your solicitors details in order for them to send the mortgage offer to your solicitor. Your solicitor will then need to review the mortgage offer to ensure that all details are correct and that the terms reflect your needs. In order to have a mortgage offer and not just a mortgage principle a survey will have to be carried out, the results of the survey will need to satisfy you and your lender.

The surveys will consist of:
- A Homebuyers Survey and Valuation
- Home Buyers Report
- Basic Mortgage Valuation

**HOMEBUYERS SURVEY AND VALUATION (HSV)**
This survey is done to a precise format set out by the RICS. It is a nine-page form which includes all major sections of the property that are clearly visible to the overall condition of the property is, and to identify which areas are in need of further tests or more specific investigation, rather than detailing every aspect of the property. Wiring, drainage and gas are not included in the survey, so many people choose to have further reports done on these areas as well. This survey is most suitable for conventional properties that are in a reasonable condition, have been built within the last 150 years, and are under 2000 square feet. It is cheaper than a building survey, but is not suitable for unusual properties, ones that are particularly old, or if you are planning on renovating the house. It is recommended that all buyers have a HSV performed on the house which they want to buy.

The main details of the HSV will include:
- Looking at the general condition of the property and assessing its major and minor faults.
- Assessing whether any of the major faults will need repairing, and the cost implications of these.
- Assessing and reporting damp in the walls and woodwork, and any woodworm also.
- Assessing the condition of damp-proofing, insulation and drainage (although drainage will not be tested).
- Providing an estimated cost for rebuilding should the property be destroyed. This is usually for building insurance purposes.
- Recommendations for any further surveys and investigations that may need to be performed on specialist areas before the contracts should be exchanged.

Providing a valuation, based on the surveyor’s expertise and experience, of the property on the open market.

**HOME BUYERS REPORT**
These surveys are much more detailed, and provide a comprehensive report about the current condition of the property. This type of survey is the most thorough one available, and each one can take several hours to complete. The survey will examine all accessible parts of the property and, if you wish to have any specific areas looked at, this type of survey is the right choice.

The Building Survey is suitable for all types of property, whether they are listed, unusual or old, whether you wish to perform renovation work on them or whether the property has already had extensions added to it. This means that this survey is preferred for all buildings which cannot be included in the HSV, largely because it is more expensive. The price of the survey will fluctuate according to the size of the property and its condition, the approximate value of the house, its location and which surveyor or company is used to carry out the inspection. Sometimes these surveys can be used instead of the Basic Mortgage Valuation (see below), but only if the surveyor you use is approved by the mortgage lender. The actual survey does not provide a valuation, but the surveyor will include one if you request it.

The main details of the Building Survey will include:
- All major and minor faults found within the property, and the implications that these will have.
- How much the repairs for these defects will cost.
- Testing for dampness of the walls, and results for these tests.
- Testing of all woodwork for damp and woodworm, and the results of these tests.
- Investigation into the condition of damp proofing, insulation and drainage, although the drains will not actually be tested.
- Technical information about how the property was constructed, and all materials which were used in the process.
- Information about the location of the property.
- Proposals for any further special inspections and subsequent work which may need.

There are other types of survey which you may wish to have carried out before you buy the house, and sometimes the type you need to have performed will be dictated by your mortgage supplier. If you cannot decide which type of survey is right for you, talk to a RICS member and they will be able to advise you as to which one is most suitable. The surveys are completely objective and independent, and their aim is to help you make an informed decision about your purchase.

**BASIC MORTGAGE VALUATION**
When you apply for a mortgage, the lender will require you to carry out a Basic Mortgage Valuation on the property. This acts as a kind of collateral for the mortgage provider to make sure that the property is worth the value which you are proposing to buy it for, i.e. what the mortgage provider is lending you. The main aim of this type of survey is to assess whether the property represents a suitable security against the amount of the mortgage requested. Some providers will not charge for this to be done, as an incentive to try and persuade you to take out the mortgage with them, otherwise the cost of the survey will depend on the size and purchase price of the property.
This valuation is not an extensive survey and will not provide accurate details about the condition of the property, major structural problems which will cost you a great deal of money often are not picked up in these types of surveys. The valuation also does not guarantee that the property is worth the asking price. The Council of Mortgage Lenders strongly advises homebuyers to get a more extensive survey than this one done when valuing the house.

Once the surveys have been completed, the sellers’ solicitor will then send the draft contract pack to the buyers’ solicitor which will include title documents to the property, completed protocol forms (sellers property information form, fittings and contents form and leasehold information form if applicable). These forms include information regarding the property such as utility providers, rights and obligations and furniture that will remain at the property.

The purchaser’s solicitor will review the documents and may have questions or concerns regarding the information provided, and will therefore raise pre contract enquiries with the sellers solicitor.

These enquiries would include whether there are any guarantees for works carried out at the property i.e. rights of way, shared access, service providers, cavity wall insulation, whether there have been any neighbour disputes, etc.

If a property is leasehold there will be separate enquiries as the buyers solicitor will need to know if there is a management company, whether there are ground rent and service charges to pay. A separate list of leasehold enquiries will be sent to the sellers solicitors who will forward to the freeholder or the management company. The purchaser’s solicitors will also request searches.

The searches to be carried out are:
- Local Authority Search
- Water and Drainage Search
- Environmental Search
- Chancel Search

The approximate cost for the 4 main types of searches, as stated above, is £168.00.

**LOCAL AUTHORITY SEARCH**
This search will reveal specific information regarding a property and the surrounding area. This search takes an average of 2-3 weeks. The search will reveal the following:- Listed buildings, Conservation areas, Tree protection orders, Improvement or Renovation grants, Smoke control zones, Future developments, Nearby road schemes and motorways, Road proposals by private bodies, Public paths or by ways, Advertisements, Completion notices, Houses in multiple occupation, Noise abatement, Urban development areas, Enterprise zones, Simplified planning zones, Land maintenance notices, Mineral consultation areas, Hazardous substance consents.

**WATER AND DRAINAGE SEARCH**
The Main information which this search reveals is whether the property is connected to a mains water and sewer supply, whether the property has a water meter and where the drains and sewers are located.

**ENVIRONMENTAL SEARCH**
This search will reveal whether there are any environmental issues which affect the property. The search contains information on historical land use and is unique in considering the issue of contaminated land in relation to property value and its use. The search will reveal if the property is located in an area where radon gas is high, whether there are issues with ground stability and the reasons why, and flood risks.

**CHANCEL SEARCH**
This search will reveal whether the property is located within an area where the owner of the property is at risk of potential chancel repair liability.

The 4 searches are the usual searches that would need to be carried out, however, other searches may be required. Your solicitor will know if other searches are required as an alert would prompt them. These alerts would include such searches as a coal and mining search if the property is located in an area where coal mining used to take place and will identify if there is an environmental or stability risk.

Once the search results have been received your solicitor will check the contents of the same to ensure that nothing unusual has been revealed. If your solicitor has any concerns they will raise further pre contract enquiries with the sellers solicitor.

Once your solicitor has received replies to enquiries from the sellers solicitor and they are satisfied with them, they will arrange for you to attend their office. This is to report to you on the title documents, replies to enquiries and your mortgage offer. You will then be required to sign the legal documents in readiness for exchange of contracts, this will consist of the contract and mortgage deed (in some cases there may be more documents to sign). During the appointment the solicitor will also provide you with a completion statement. This will provide a breakdown of all the fees and disbursements incurred and will enable you to understand what monies are required from you in able to exchange contracts (at least 10% of the purchase price) and complete (full balance of monies).

### 3. EXCHANGE

**PREPARING FOR EXCHANGE OF CONTRACTS**
Once you and your solicitor are satisfied with everything you can start negotiating a completion date. The completion date will need to be agreed and deposit monies received by the purchasers solicitor before exchange of contracts can take place. Your solicitor will also need to carry out a bankruptcy search on each purchaser plus, if they are receiving a loan or gift from any family members or friends a bankruptcy search will also need to be carried out on each person. This is for a nominal fee and results come back immediately.

Exchanging contracts will make the transaction legally binding and neither party can pull out or change the completion date without legal consequences.

The usual method of exchanging contracts today is by telephone where the seller and purchasers solicitor will read out the details of the contract and then send their clients signed copy to the other solicitor. A deposit amount will need to be agreed and depending on how soon the completion date is the purchasers solicitor will need to send the deposit monies to the sellers solicitor who will hold on to them until completion has taken place.
4. COMPLETION

Once contracts have been exchanged and a legally binding completion date has been set the purchasers solicitor will send the request to the mortgage lender in order to request the funds in readiness for completion.

The sellers solicitor will request a final redemption figure from the mortgage provider if there is a charge registered against the property. If the property is leasehold the sellers solicitor will apportion the service charges and ground rent and send a completion statement to the purchasers solicitor.

The sellers solicitors will also need to ensure that their client has signed a transfer in readiness to send to the purchasers solicitors on completion. The purchasers solicitors will send to the purchaser a completion statement illustrating all outstanding monies which is to be transferred to the solicitor prior to completion. The statement will include a complete breakdown to include disbursements, solicitors fees, third party fees.

The sellers solicitors will redeem all charges registered against the property, they will also deal with restriction holders and pay third party fees such as estate agents.

5. POST COMPLETION

Although the purchasers will have already moved into the new property, their solicitor will still have important formalities to deal with. After completion has taken place the sellers solicitor will send to the purchasers solicitor the sellers signed transfer, any original deeds and any guarantees they may hold.

Once the purchasers solicitor receives the sellers signed transfer they will submit their application to the land registry in order to register the title in the purchasers name. The purchasers solicitor will also need to submit stamp duty return form. The purchasers solicitor will have 30 days to submit the stamp duty otherwise they will incur a penalty.

The land registry may take several weeks before they confirm that the buyer is now the registered proprietor. For all properties that have been registered in England and Wales the land registry fees are halved when we submit the application to register the property in the new purchasers name as we submit the applications online in order to save the clients cost. The sellers solicitor will have paid charges on the day of completion, they will then await for the confirmation that the lender has sent confirmation of the discharge to the land registry.

On the day of completion a seller should aim to be packed up and ready to vacate the property by around noon. The completion time is usually set for 1pm-2pm.

The purchasers solicitor on the day of completion will transfer the balance of monies to the sellers solicitor. Once the sellers solicitor is in receipt of the monies they will contract the buyers solicitor to confirm that completion has taken place and the keys are available for collection.
GLOSSARY OF TERMS

Absolute title
Guaranteed title to the ownership of a property or lease.

Adverse possession
Transfer of ownership by adverse possession is when someone takes over the ownership of the property without buying or paying for it.

Amenity Green Space
Open land that makes a positive contributions to the appearance of an area or improves the quality of lives of people living or working locally.

Asbestos
Naturally occurring mineral and has been used predominantly for fire protection (this product was banned in 1999).

Bankruptcy search
Search to find out whether an individual has ever been made bankrupt.

Beneficial Owner
When a person has some sort of right to a property even though the legal title belongs to someone else. E.g. when a property is held in trust.

Boundary
These are the lines marked that limit the extent of the property.

Building regulations
These are a set of rules which are in place to ensure that any new build property or alterations to an existing property are done to a certain standard.

CML
Abbreviation for the council of mortgage lenders.

Caveat Emptor
Buyer beware, this is a Latin saying which means that the onus is on the buyer to find out every potential issue with the property.

Certificate of Title
This is the document which confirms who the current owner of a property is. These are held by the land registry once a property is registered.

Chancery Liability
This is a very old law which grants the Parish Church powers to charge some of the owners of land within their parish for the upkeep and maintenance of the church.

Chattels
This is items that are not fixed to a property, such as furniture.

Coal Search
This is a search that determines whether or not the property may be affected by any coal mining which used to take place in the area.

Common Land
This is land owned by a person which others have access over.

Completion
This is where the buyers money is transferred to the sellers solicitor and ownership of the property changes hands.

Completion Statement
This is the document which confirms a breakdown of solicitors fees and expenses/discharges.

Conservation area
This is an area of special architectural or historic interest.

Contaminated Land
This is any land which appears to the local authority is situated to be in such a condition by reason or substance in, on or under the land that is either a significant harm being caused or there is a possibility of significant harm being caused or pollution of controlled waters is being or is likely to be caused.

Contract
This is the document which confirms and is proof of the agreement between the seller and the buyer which must be signed before contracts can be exchanged.

Covenants
These are legally binding restrictions, duties or conditions imposed on a property.

Deposit
This is the amount of money which is required on exchange of contracts. The standard amount is 10% of the purchase price.

Disbursements
These are costs which a solicitor must pay on behalf of their client, i.e. searches.

Discharge of Charge
This is when a mortgage is paid off and the charge over the property is removed.

Easement
An easement is a right given to the owner of a property over land or a property owned by someone else.

Energy Performance Certificate
A report which details the energy efficiency of a property.

Environmental Search
This is a search to find out if anything has a negative effect on the environment around the property.

Exchange of contracts
This is when the contracts for the sale of the property are exchanged and it is the point where the buyer and seller officially agree that the sale will go ahead. Once this has taken place neither side can back out without legal consequences.

Filed plan
This is the plan which details the boundary of the property.

Fixtures and fittings
These are all items contained within a property, i.e. curtains, light fittings etc.

Fittings and Contents form
This is completed by the seller to confirm what items will remain at the property.

Flying Freehold
This exits where part of the property you own overhangs of another person’s freehold.

Ground rent
This is a regular payment of rent by a leaseholder made to the landlord or person who owns the freehold.

Home Buyers Report
This is a detailed report on the condition of the property carried out by a qualified surveyor.

Investigation of title
This is carried out by a solicitor to establish whether or not the seller of a property actually has a right to do so.

Joint tenancy
This is where 2 people own a property in its entirety but do not have a specific share each. Therefore if one person dies the property automatically passes to the other owner.

Leasalone
This is where ownership of the property is fixed for a number of years controlled by a lease.

Leasehold Information form
This is completed by the seller which provides information of the landlord and the terms of the lease.

Lender
This is the company who provides the mortgage.

Listed Building
A building of special architectural or historic interest.

Local authority search
This is a search where the local authority provide information about the property and the surrounding area. This would include building regulations, planning permissions, whether the property is located within a conservation area.

Land Registry
Is a non-ministerial government department. The land registry deals with registering the ownership of land and property in England and Wales.

Management Company
If a building has some common areas, the landlord will employ a management company to maintain them.

Memorandum of Sale
This is the document which confirms the fact that the seller and buyer have agreed to the property transaction.

Mining Search
This is a search which checks whether may have been or could be affected by any form of mining.

Mortage
This is the money lent to a buyer to purchase a property.

Mortage valuation
A mortgage lender will usually insist that a property is inspected by a qualified surveyor to ensure the property is worth the value the purchaser has declared it to be.

NHBC (National House-Building Council) states its primary purpose as raising the construction standards of new homes in the UK to protect homeowners. New properties issued with a NHBC will have a 10 year warranty. This means that any defects structural or weather proving parts will be rectified within this period.

Office Copies
These are the documents help with the land registry which confirms ownership of the property.

Party Wall
This is the wall dividing 2 separate properties or households.

Preppercorn rent
A very small or nominal consideration given upon the creation of a legal contract.

Permitted development
Allows people to undertake minor development under a grant of planning permission.

Possesory Title
This is when the owner is in legal possession of a property but does not have absolute title.

Post completion
This is the time after the property transaction has finished and the sale has gone through.

Pre-completion searches
These are searches carried out before completion to ensure nothing has changed since exchange of contracts, i.e. purchaser being declared bankrupt.

Pre-contract enquiries
These are the list of questions which the purchasers solicitor will ask the sellers solicitor before exchange of contracts can take place.

Property chain
This is when there are a number of property transactions being dependant on the others.

Radon
This is a colourless, odourless radioactive gas. It can be found everywhere in the UK and the local authority search will reveal whether the quantity requires some sort of action.
GLOSSARY OF TERMS

Registered Land
This is land which has been registered with the land registry.

Rent charge
This is an annual sum payable to a third party even though the property is freehold.

Report on title
This is the detailed report produced by the purchaser’s solicitor.

Requisitions on title
This is a standard set of pre-completion questions which has been produced by the law society.

Right of way
This allows someone to pass over or through a property that they do not own.

SDLT (stamp duty land tax)
This is tax which must be paid when a house is bought for £125,000 or over.

Section 24 Sewers
These are sewers that are shared by 2 or more properties which were built before 1st October 1937 and were therefore automatically adopted by the sewerage company.

Section 38 Agreement
A legally binding agreement under section 38 of the Highways Act 1980, the highways authority may enter into an agreement with the developer to adopt the roads.

Section 106 agreement
A legally binding agreement of the water industry act 1991 between a developer and a water company which means the water company will adopt the sewers.

Section 106 agreement
A binding legal agreement under section 106 of the 1990 Town and Country planning act between a council and a developer associated with a grant of planning permission regarding matters linked the development.

Sellers Property Information Form
This is completed by the seller for the benefit of the purchaser. It will include useful information such as boundary responsibility, utilities details etc.

Septic tank
This is a tank which collects sewerage from a property and is not connected to the public sewerage system.

Service Charge
This is a charge with you may have to pay on a leasehold property to maintain the common areas.

Smoke control order
This is enforced by the local authority designed to reduce air pollution in an area.

Soakaways
This is a man-made chamber that is buried and evenly distributes the surface water into the ground.

Stock Transfer Form
This is a form which documents the transfers a share in the management company to the purchaser.

Subsidence
This is the motion of the earth’s surface as it shifts downwards. This usually happens when problems occur with houses built on clay soils or when water leaks into the soil.

Tenants in Common
This is where 2 or more people buy a house together and have a fixed share of the property.

Term of a Lease
This means the duration that a lease will run for.

Title
The title of a property belongs to the person who has the legal ownership.

Title Deeds
These are the deeds which detail who owns the title.

Transfer
This is the legal document that transfers the ownership of a property from the seller to the buyer.

Tree Preservation Order
This is a direction made by the local authority that makes it an offence to cut, top, lop, uproot or willfully damage a tree without the authority’s permission.

Undertaking
This is a legally binding promise.

Unregistered Land
This is land that has not yet been registered with the land registry.

Vacant Possession
This is when a property is sold and at the time of completion the occupiers of the property leave and take their possessions.

Valuation
This is the process to determine the value of a property.

Water and Drainage search
This is the search carried out by the water company, checks are made to see if the property is connected to mains water supply, and drainage systems etc.