



## **BUYING & SELLING A HOUSE**

**NOTE:** With effect from 21 May 2010 **Home Information Packs (HIPS)** are no longer required when selling residential properties.

BUYING and/ or SELLING YOUR HOME is without doubt one of the most important financial decisions you will make in your lifetime. It is therefore essential when contemplating buying or selling to contact us at an early stage. A prompt start to your transaction will help avoid delay in the later crucial stages of the transaction.

We can help with your transaction at whichever of our offices is most convenient for you - Hinckley, Earl Shilton or Market Bosworth. We are always happy to receive a telephone enquiry from you and the professional member of staff that you should ask for at each office is detailed below. Alternatively contact us by e- mail at [law@thosflavell.co.uk](mailto:law@thosflavell.co.uk)

**Hinckley:** Chris Stratford Jamie Connolly or Gail Tanner (01455 610747)

**Earl Shilton:** John Cowlard (01455 842297)

**Market Bosworth:** Gavin Hammond (01455 290203)

Before you can market your property you must commission an Energy Performance Certificate (EPC) for your property, where no such certificate is already available. It is the duty of both the Seller and the person acting on behalf of the Seller to make reasonable efforts to secure an EPC within 28 days of commencing marketing. **THOMAS FLAVELL & SONS** can organise the commissioning of an EPC for your property to pass to your chosen estate agent. Please ask any of our Conveyancers for more details.

Once a sale or purchase has been agreed there are two stages in buying and selling a house:-

1. Exchange of Contracts.
2. Completion.

It is not until Contracts are exchanged that there is any binding agreement. Until that time, either the Buyer or the Seller can withdraw. After exchange of Contracts, each party is bound. In practice, it is impossible for either party to withdraw after exchange of Contracts. A Buyer who fails to complete a transaction after Contracts have been exchanged, might well lose his deposit, and a Seller could be made to pay damages to the Buyer.

Completion comes at some point after exchange of Contracts. On that day, the ownership of the house passes from the Seller to the Buyer with removals usually taking place around midday.

In a typical transaction, the legal procedure once a sale/ purchase has been negotiated is as follows:-

### **A. Before Exchange Of Contracts**

1. You or the Estate Agent tell us about the house you have agreed to buy or sell.
2. The Seller's Solicitors prepare a Contract which they send to the Buyer's Solicitors with all the supporting documentation.
3. The Buyer's Solicitors check the Contract and other information received, carry out searches on the property and if appropriate raise further enquiries. Note that the Local Search cannot give details of the way the area might change in the future. It does not give details of the future use of neighbouring land.

4. Because an owner of a property may now have to pay for decontamination even if that owner was not responsible for the contaminating event, it is usual for the Buyer's Solicitors to carry out a basic Environmental Search on the property to ascertain the likelihood of any contamination being present.
5. The Seller's Solicitors (if he has not already done so) will send to the Seller a list of questions to discover certain facts, e.g. what fixtures, fittings and contents will be left at the property, have there been any disputes with the neighbours over the boundaries? The Seller's answers to these questions are then sent to the Buyer's Solicitors. The Buyer's Solicitors will frequently ask additional questions of the Seller's Solicitors who will obtain the Seller's answers and pass them on to the Buyer's Solicitors. Solicitors do not make any enquiries as to the state of repair of the property. That is the job of the Surveyor.
6. If the Buyer is having a mortgage he receives a mortgage offer from his bank or building society which must be in writing.
7. Ideally you will then come to our offices to go through the Contract and discuss all the associated documentation with us. We need to be sure that you understand all of the documentation. If a visit is not convenient to you the documentation can be sent with an explanatory letter. If you and we are satisfied with all matters you sign the Contract. The Contract is not binding yet merely because you have signed it.

## **B. Exchange Of Contracts**

We exchange Contracts on your behalf. This simply means that the Buyer's Solicitors send the Contract which the Buyer has signed to the Seller's Solicitors who then send the duplicate Contract signed by the Seller back to the Buyer's Solicitors. A deposit is paid at this stage. It is only now that the Contract becomes binding. It is now that the completion date is fixed. You tell us what completion date you want. We try to get the other side's Solicitor to agree. We will not agree any date which is inconvenient to you. You must bear in mind the need to choose a date which is acceptable to all parties. The completion date is usually about two weeks after exchange of Contracts.

## **C. Between Exchange Of Contracts and Completion**

Now you are sure that the transaction will go through. You know the completion date. However, much of our work remains to be done.

The Buyer's Solicitors: -

1. If not already reviewed and considered, check the Title Deeds to make sure that they are in order.
2. Raise 'Requisitions' - i.e. questions which might arise from the Deeds.
3. Draw up a draft Transfer and send it to the Seller's Solicitors for approval.
4. Prepare the Stamp Duty Land Transaction Return confirming the Stamp Duty payable.
5. Type up the Transfer and Mortgage Deed and arrange for them to be signed by the Buyer along with the Stamp Duty Land Transaction Return.
6. Carry out final searches on the Registers maintained by the Government, to ensure no unknown matters affect the property.
7. Send the papers to the Bank/ Building Society to give them information and assurances which they require before they can release the mortgage advance.
8. Send the Conveyance or Transfer to the Seller's Solicitors so that the Seller can sign it.
9. Write to the Buyer and ask for any further money which may have to be paid.

The Seller's Solicitors: -

1. Write to the Bank/ Building Society to find out how much is needed to pay off any existing mortgage on the property and to any other company from whom the Seller has obtained other loans secured on the property which will have to be paid off.
2. Write to the Estate Agents to obtain their account.
3. Reply to the Requisitions raised by the Buyer's Solicitors.
4. Approve the draft Transfer submitted by the Buyer's Solicitors.
5. Send the Transfer to the Seller to sign and return.

## **D. Completion Day**

This is the moving day. The Buyer's Solicitors will have received the mortgage advance from the Bank/ Building Society. The Buyer will have paid any money which may be necessary to pay to make up the Purchase Price to their Solicitors. The Purchase Price is paid to the Seller's Solicitors less the deposit, which had been paid on exchange of Contracts. The Deeds are given to the Buyer's Solicitors - including the new Transfer. The keys can be collected either from the Seller or from the Estate Agents, and removals can take place.

## **E. After Completion**

Work remains to be done. The Seller's Solicitors must redeem any existing mortgage or mortgages. Generally the Seller's Solicitors will pay the Estate Agent's Account.

The Buyer's Solicitors send the Stamp Duty Land Transaction Return to the Revenue with payment of any Stamp Duty. The Deeds have then to be registered at the Land Registry. After registration the Deeds are sent to the Bank/ Building Society.

### **How Much Will It Cost?**

Please telephone, call at our offices for a competitive quote

or e- mail us at [law@thosflavell.co.uk](mailto:law@thosflavell.co.uk)

In addition to our fees there will be other payments to be made to others on your behalf namely:

1. Value Added Tax on our fees.
2. Money charged by the Local Authority and Water Authority for answering Search Questions. The fee may vary from one Authority to another.
3. Money charged by the Company instructed to carry out any land contamination search.
4. Money charged by the Land Charges Registry for searches and copies of your Deeds.
5. Land Registry Dealings fees. These fees are charged by the Land Registry and they are based on the price of the house. We can supply you with the Land Registry published table of charges at any time.
6. Stamp Duty Land Tax.

### **How Long Will It Take?**

This is a very difficult question. It can all be done in a week. It hardly ever is. The causes of delay are:-

1. The Seller has to wait for another house to be ready.
2. The time it can take to obtain answers to additional searches and enquiries.
3. The Buyer may have to wait for a mortgage offer before Contracts can be exchanged.
4. The work that we have to do between exchange of Contracts and completion takes some time. From reading the earlier part of this leaflet, you will see that the mere time for posting documents is such that about a fortnight between exchange of Contracts and completion is generally needed even if everybody involved acts in the shortest possible time (which given the number of people involved is rather much to hope for).

The average time from first seeing us to completion is between one month and two months. Sometimes it is quicker. On the other hand, it can be much longer if the pieces of the jigsaw do not come together quickly.