

# Norton Peskett

## Solicitors

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*Please note that this is a general guide and not to be relied upon when taking any personal or business decisions and that it is not a substitute for legal advice tailored to the reader's circumstances.*

## CONVEYANCING GUIDE

This Conveyancing Guide is designed to help you understand the various stages of your transaction, the work that we will be undertaking on your behalf and the jargon that is commonly used. It is not intended to be a technical or exhaustive description of how to buy and sell a house, but to provide an example of the sequence of events which often occur in a straightforward sale and/or purchase of a freehold house. Every transaction will, of course, differ in some way.

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### SEQUENCE OF EVENTS

#### A. THE SELLER

##### **Stage One – Appointing a Solicitor**

1. It is helpful if the seller instructs a Solicitor before a buyer is found as this enables the Solicitor to obtain the deeds and prepare some of the documentation in advance.
2. If the property to be sold is mortgaged, the seller's Solicitors will write to the mortgage company for the deeds and will therefore need from the seller (a) the seller's full name, (b) the property address, (c) the name and address of the mortgage company and (d) the mortgage account number (sometimes called the "Roll Number"). If there is no existing mortgage on the property then the seller will need to arrange for the title deeds to be delivered to the Solicitor.
3. The seller will be asked to supply his Solicitor with information about the property by filling in two forms, a Property Information form and a Fixtures Fittings and Contents form. The seller will also need to send to the Solicitor any guarantees or other relevant documents affecting the property which are not already with the deeds.
4. The buyer agrees to purchase the property either directly with the seller or, where an Estate Agent is appointed, through the Estate Agent.
5. If an Estate Agent is involved they will, when a sale is agreed, write to both the buyer and seller, and their respective Solicitors, confirming the price and any other terms of the transaction that have been agreed, e.g. the anticipated timescale.

##### **Stage Two – Signing the Contract**

6. When all pre-contract matters are agreed and there are no further questions that remain outstanding, the seller will be asked by his Solicitor to sign the contract for the sale of the property. The contract will then be held on file of the seller's Solicitors until everyone is ready to proceed (including, of course the seller in respect of any related purchase he may have of another property).
7. When everyone is nearly ready to exchange contracts, discussions will take place between the various parties to come up with a completion date, or moving date, that all can agree on. It is normal to provisionally book the removal firm, if one is being used, before contracts are exchanged on the basis that the booking will be confirmed as soon as contracts have actually been exchanged.

### **Stage Three – Exchange of Contracts**

8. The Solicitors acting for the parties will exchange identical copies of the contract, so that the seller's Solicitor ends up with the part signed by the buyer and the buyer's Solicitor ends up with the part signed by the seller. **This is when the contract becomes binding.**
9. The seller should then (a) confirm his removal arrangements, (b) inform the public utilities, i.e. electricity, gas, water, telephone and the local authority of the completion date and (c) make arrangements for the keys of the property to be available to the buyer as soon as the sale is completed, either directly with the seller or via the Estate Agents.

### **Stage Four – Signing Documents**

10. The seller will be asked by his Solicitor to sign the final document which will, on completion, transfer the title to the property to the buyer. This deed must be signed and returned to the seller's Solicitor before the completion date.

### **Stage Five – Completion**

11. On the completion date the seller should move out as early as possible and hand over all the keys to the property as previously arranged.

**Note:** If the seller has arranged to hand the keys to the buyer himself, he should only do so after checking with his Solicitor that the matter has completed and that his Solicitor has received the monies from the buyer's Solicitor.

## **B. THE BUYER**

### **Stage One – Agreeing to Buy**

1. The buyer agrees to purchase a property either directly with the seller or, where an Estate Agent is involved, through the Estate Agent.
2. If an Estate Agent is involved they will, when a sale is agreed, write to both the buyer and seller, and their respective Solicitors, confirming the price and any other terms of the transaction that have been agreed, e.g. the anticipated timescale.

### **Stage Two – Appointing a Solicitor**

3. The buyer will appoint a Solicitor to act on his behalf in connection with the purchase. He will need to tell the seller or the Estate Agent who he has appointed so that the seller's Solicitor knows who to contact.

### **Stage Three – Applying for a Mortgage**

4. If the buyer needs a mortgage he will generally apply for a loan from a building society or a bank who will usually require him to (a) complete a mortgage application form, (b) pay a mortgage valuation fee (i.e. the fee charged by the surveyor appointed by the mortgage lender to value the property).
5. The lender will usually then (a) obtain confirmation of the buyer's income, (b) carry out a credit check on the buyer, (c) take up references, and (d) instruct the valuer to carry out a mortgage valuation report.

**Note:** Although the buyer normally pays for the mortgage valuation report, the report is prepared for the mortgage lender and its main aim is to inform the mortgage lender whether the property is suitable security for the loan, and to provide a valuation for the mortgage lender. The inspection is limited and may not necessarily reveal problems with the property and so the

buyer should always consider whether he should arrange for his own, more details survey to be carried out, particularly if he is buying an older property. The survey might, for example, recommend that the buyer arranges additional specialist reports, for possible damp or timber defects, drainage or electricity etc, or even possibly, if he has identified movement in a property, a further structural report.

6. If and when the mortgage lender is satisfied that everything is in order, it will issue a formal mortgage offer to the buyer, with a copy being sent to the buyer's Solicitor. If the buyer has decided upon an endowment mortgage and requires a new life policy, he will need to complete the application forms required by the insurance company as soon as possible because any life policies should be ready to be put into force before the Solicitor exchanges contract.

**Note:** The buyer's Solicitor acts not only for the buyer but also, as far as the mortgage is concerned, for the mortgage lender and owes an independent duty to them to confirm that everything is in order.

#### **Stage Four – Signing the Contract and Paying the Deposit**

7. Once the buyer's Solicitor has received his copy of the mortgage offer, the results of his searches, and replies from the seller's Solicitor to various enquiries he will have raised, he will be in a position to prepare and submit to the buyer a detailed and comprehensive written report on the property and the mortgage.

**Note:** Searches – the buyer's Solicitor will carry out any necessary searches with the local authority, the water authority, and any other searches that might be appropriate in the circumstances, e.g. a commons search or a mining search. The local authority search would reveal if the local authority had any plans for the property (e.g. a proposed new road nearby) or if there had been any breaches of planning or other regulations (e.g. in respect of an extension) but the search is only against the property itself and does **not** show up any possible or proposed neighbouring development.

8. The next step for the buyer is to (a) sign the contract and (b) pay the deposit to the buyer's Solicitor.

**Note:** All contracts for the sale and purchase of property provide for the payment of a deposit on exchange of contracts equivalent to 10% of the purchase price. It is, however, often possible for the buyer's Solicitor to get agreement from the seller's Solicitor that a smaller sum will be accepted.

The fact that the contract has been physically signed does **not** mean that it is legally in force – this only happens once the contracts are exchanged.

9. When everyone is nearly ready to exchange contracts, discussions will take place between the various parties to come up with a completion date, or moving date, that all can agree. It is normal to provisionally book the removal firm, if one is being used, before contracts are exchanged on the basis that the booking will be confirmed as soon as contracts have actually been exchanged.

#### **Stage Five – Exchange of Contracts**

10. The Solicitors acting for the parties will exchange identical copies of the contract, so that the seller's Solicitor ends up with the part signed by the buyer and the buyer's Solicitor ends up with the part signed by the seller. This is when the contract becomes binding. The buyer's Solicitor will then contact the mortgage lender to arrange for the mortgage advance to be sent to the buyer's Solicitor in time for completion.

**Note:** The mortgage advance, being received just before completion, is **not** available to be used by the buyer as the deposit.

11. The buyer should then (a) confirm his removal arrangements, (b) inform the public utilities, i.e. electricity, gas, water, telephone and the local authority of the completion date and (c) make arrangements to collect the keys once the transaction has been completed, either directly from the seller or from the Estate Agents.

**Note:** On the day of completion you will only be able to collect the keys once (a) the seller has moved out and (b) the monies sent by your Solicitor to the seller's Solicitor have actually been received by the seller's Solicitor's bank.

### **Stage Six – Completion Money**

12. The buyer's Solicitor will provide the buyer, after exchange of contracts, with a Completion Statement detailing the total monies that will have passed through his hands during the transaction and setting out the monies needed by the Solicitor from the buyer to enable the Solicitor to complete the transaction on the completion date.

**Note:** Any sums required by the buyer's Solicitor will need to be received by him, if paid by cheque, no later than 5 working days before the completion date to give it sufficient time to "clear".

### **Stage Seven – Signing Documents**

13. Prior to completion the buyer will have to sign (a) the deed of transfer which will, on completion, transfer the title to the property to him and (b) the mortgage document (which the buyer's Solicitor will have prepared).

### **Stage Eight – Completion**

14. Collect the keys and move in!

### **Stage Nine – After Completion**

15. The buyer's Solicitor will, after completion, deal with the question of Stamp Duty, which is payable on purchases at rates in line with the Inland Revenue.

The buyer's Solicitor will also deal with the registration of the buyer at HM Land Registry as the new owner of the property. Once that registration process has been completed the title documentation is sent to the mortgage lender for safekeeping.

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We hope that the above will provide you with a broad outline of the various stages involved in buying and/or selling a house, and the very considerable number of matters that we deal with and investigate on your behalf when acting for you. Whilst the basic process may sound quite straightforward, your transaction may be only one link in a chain of transactions and a chain is only as fast as its slowest link – if any of the relevant factors are not in place along the length of the chain this will inevitably hold matters up. This is not necessarily anyone's fault – sometimes the transactions in a chain commence at different times and so not everyone is ready at the same time.

We appreciate that moving house can be a very stressful time, even for "old hands" and so we would like to encourage any clients who may be concerned or worried about something not to hesitate to call us about it.

Usually it will be something we can reassure you about immediately, and that, after all, is what we are here for.