

Residential Conveyancing FAQs

1. How long does it take to buy and/or sell a house?

On average, it takes approximately 6-8 weeks for a conveyancing transaction to complete. Having said that, in cases where there is no chain and there are no difficulties with the title to the property, that timescale can be greatly reduced. When there is a long chain of transactions, or there are complications (such as a Licence to Assign / Deed of Variation being needed on the sale of a flat), the transaction can take longer than two months. As we act for many developers and property investors we are used to exchanging contracts in a day or two when needed (where circumstances permit).

2. How much are your conveyancing cost?

We will provide you with a detailed estimate of costs and disbursements specific to your matter when you first contact us. Please contact one of our solicitors to obtain a costs estimate. You can also view our conveyancing fee scale on our website - https://www.ashleywilson.co.uk/pdf/conveyancing_fees.pdf

3. Will I have to pay a deposit?

Where you are purchasing a property with no related sale transaction, the contract will provide for a 10% deposit to be paid on exchange of contracts. On occasions a reduced deposit is agreed, for instance, where you are obtaining a 95% mortgage the deposit payable on exchange would be 5% of the price. Where you are selling and buying simultaneously, very often the deposit being paid by the purchaser of your existing property can be used as the deposit payable on your onwards purchase transaction.

4. Do I need to have a survey carried out?

The English property system operates on the basis of "buyer beware" and if you miss an item of disrepair for example then you are likely to be left with the cost of putting right. Therefore we always recommend that you have an independent survey carried out on the property that you are buying (preferably a full structural survey). Even if you are buying a leasehold property you are likely to have to bear a part of repairing the structure and exterior of the building as a whole. As solicitors we cannot advise you on the physical structure of the building and so you should consider if you require independent advice in relation to the state of repair of the building.

5. What is Exchange of Contracts?

When both buyer and seller are ready to commit themselves to the transaction, contracts are exchanged. From this point on, the transaction is legally binding on both parties and the agreed completion date will be recorded in the contract. You do not have to attend the exchange as this is carried out between conveyancers only. Until contracts have been exchanged then usually either party can walk away without liability (except for their own legal costs and disbursements) unless a "lock-out" agreement has been signed. So if you are renting you are best advised not to serve notice terminating your tenancy until contracts are exchanged. If you are selling a rented investment property with vacant possession it is important to know that you will be able to secure possession on completion before you exchange contracts, otherwise you will be in breach of contract.

6. Why does the Local Authority, Drainage and Environmental Search have to be carried out?

Local Authority Search

The Local Authority Search is a comprehensive list of questions that are put to the local Council. They hold records relating to the area and property itself. The Local Authority Search can reveal many different which can include whether the property is:

- a listed building
- located in a conservation area
- subject to a tree protection order
- in need of an improvement or renovation grant
- situated in a smoke control zone.
- subject to proposals for new roads, rail schemes or planning decisions that could affect the property, as well as outstanding statutory notices, breaches of planning or building regulations or the existence of a compulsory purchase order.
- The search will also reveal the planting history of the property.

The search will only cover, however, certain matters. You may be concerned about other issues not covered under the search such as the existence of planning permission for the development of land nearby and we therefore always recommend that in such circumstances you contact the Local Authority direct or specifically request that we do so on your behalf.

Environmental Searches

These searches reveal the environmental history of the area within 500 metres of the property. It will show flooding history, land contamination, telephone masts etc. If land is contaminated then the Local Authority may in the future serve a remediation notice requiring the land to be 'cleaned up' in view that this would be an expensive process you may not wish to proceed with your purchase if the land is subject to contamination.

Water Searches

This shows whether the property is connected to mains water and sewage and where pipes are. The location will be particularly important if the property has been extended or you propose an extension.

Planning Searches

Separate planning searches can now be carried out to show current planning applications and history in the vicinity of the property. We do not carry out this search automatically but can do so at your request.

Chancel Search

A Chancel Search is a search which assesses a properties liability to contribute towards the repairs of their local church. This is an incredibly old quirk of English law. With around 5,200 pre-Reformation churches across England and Wales, chancel repairs potentially affect up to 500,000 homes. The reformation was a 16th century movement within Western Christianity so pre-reformation churches are extremely old buildings. The historic nature of chancel repairs means many liabilities are not recorded on title deeds, but they remain legally enforceable. The search will confirm if the property remains liable to contribute to the repairs of the church chancel (the part of a church containing the altar, where the priests and choir sit).

7. When can the Searches be carried out?

Once we have received your money on account (usually £500.00) and a plan from the seller's solicitors. It is always advisable to wait until a plan of the property is to hand before sending for the search, as there may be uncertainty as to the extent of the property. Some Local Authorities are not able to carry out a search against the property until they have a plan. You need to tell us at the outset of your matter if you want us to hold off incurring this expense for you (perhaps until you have a clear survey result).

8. Can I exchange Contracts and complete on the same day?

This is possible but not always in the best interests of the parties. We must be forewarned that it is your intention to exchange and complete on the same day, as there are formalities usually carried out between exchange of contracts and completion which must be done earlier if the matter is to exchange and complete on the same day. The drawback to a simultaneous exchange and completion is that both parties will be moving towards completion making various arrangements, for instance, with removers, without the security of a binding agreement i.e. if you are selling in a falling market your buyer could reduce their offer at any time up to the date of exchange and completion or your seller could change their mind about selling at the last minute. You are better seeking an exchange as early as possible if you want certainty and peace of mind.

9. What do you do to draw down the mortgage money?

You should receive a written mortgage offer before we exchange contracts (which is acceptable to you). Although a written mortgage offer is not a guarantee of funds the offer then is unlikely to be withdrawn unless a fraudulent application is made or the property has a defective title. After exchange of contracts we liaise with your lender to ensure the money is available by the completion date. To do so we must report to the lender to confirm we have reviewed the title and it is in line with their requirements. At this time we advise the lender of the completion date and the date we require funds to be released to us (usually one working day prior to completion).

10. When do I pay the legal fees?

We will ask you for some money at the time you instruct us (typically £1000) to cover the cost of initial disbursements. The rest of the money will be requested from you after exchange of contracts (we send you a detailed statement of account at that time) and we will require cleared funds from you (usually on the working day prior to completion).

11. Do I have to pay stamp duty land tax

Stamp duty land tax is a property based tax based on the old stamp duty. It is payable on the purchase price of the property where the price is above £125,000.00 (slightly different rules apply to the grant of new lease). The Government changes the rate of duty payable from time to time.

When we provide you with a quote we will advise you on your SDLT liability.

12. How do I arrange handover of the keys to the property?

If you are selling, the keys are left with the estate agents. The estate agents will not release the keys to the property unless authorised to do so by the solicitors acting for the seller. This authority is only given when the full purchase monies have been paid to complete the matter. Similarly, where you are buying, the keys can be collected from the estate agents once the full purchase price has been paid to the seller's Solicitors. If there is no agent direct communications between seller and buyer are made. Solicitors very rarely handle keys. Where you have a purchase but no sale then completion can often take place by 1pm - 2pm (the bank system permitting). Where a chain is involved then completion may occur later in the day.

13. How early on the completion day can I get the keys?

The time of completion is to a certain extent beyond the solicitors' control. The purchase monies are ordinarily paid through the banking system, and of course there are many thousands of transactions taking place every day. On particularly busy days, the money can take up to six hours to move through the banking system. On other occasions it can take as little as ten minutes for the money to change hands. For this reason, some completions take place early in the day, whilst others happen late in the afternoon. The bank CHAPS system only guarantees "same day" delivery, not the time.

14. When and how do I pay the estate agent's commission account when I am selling a property?

Once contracts have been exchanged, the estate agents will send the commission account to the solicitors acting for the seller. It is this firm's policy to send a copy of the commission account to you, the seller, for approval when sending your Statement of Account. The terms of your agreement with the estate agents will set out the date by which the commission must be paid. Usually, with your approval, we pay the estate agent's commission out of the net sale proceeds of your property on the day of completion.

15. What do I do about Bills and removals.

When contracts are exchanged a completion date is agreed being the date when you will actually move out/ in. After exchange you should arrange your removals for the day of completion as quickly as possible. Ensure you book removals as quickly as you can particularly if you are completing on a Friday. Remember to book all your new services to your new property including sky TV, new telephone lines, broadband etc. On the date you vacate the property you should take final meter readings and provide these to your utility providers and request a final invoice.

16. By what time do I/the seller have to move out.

Normally the contract time is 1pm or 2pm on the day of completion. When you move out please ensure you take your rubbish with you. Leaving old furniture or personal items in the property after moving out often leads to claims that vacant possession has not been provided and possible damages claims for hotel bills, removal costs etc.