

You have just agreed to buy a property. Thank you for your instructions to act on your behalf. You will have heard that buying a property is one of the most stressful events in your life. We want to make this transaction proceed as smoothly as we can. Therefore, we set out below the answers to your most likely questions.

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## 1. How long will it take?

Usually two to three months, but can be much quicker if all parties in the chain are able to move fast

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## 2. Why do I need a Survey?

To check the physical condition of the property. The survey will advise on any immediate necessary or potential repairs to the property together with the value thereof. If you require a surveyor, please contact us

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## 3. How do I know what contents are included?

A list will be provided by the seller of the property and you will be supplied with a copy.

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## 4. When do I have to pay the deposit and your fees?

Your deposit is paid shortly before exchange of Contracts, we will tell you when. Our fees are paid shortly before completion.

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## 5. Why do I need to wait for a written mortgage offer?

A written mortgage offer is an obligation on the mortgage lender to provide the mortgage monies when required. You cannot commit yourself to a moving date or completion date without having a written mortgage offer or you may find that you do not have the money to pay for the property at completion. This would cause both you and the sellers of the property considerable problems.

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## 6. How do I get the mortgage money?

You don't. Mortgage monies are always released to the solicitors by the mortgage lender. We deal with this.

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## 7. What are the searches?

These are forms of questions and answers given by Local Authorities and statutory bodies concerning the property. With the introduction of Home Information Packs (HIPs) all residential properties marketed for sale after 14 December 2007 must have a HIP. The HIP will contain a local authority and water and drainage search. However, most HIPs contain a personal local search. If you are buying with the aid of a mortgage we would need to check if your lender accepts personal local searches. If not, it will be necessary to obtain an official local search. We also undertake an environmental search which is not in the HIP. There is an optional search that we can undertake called "know your neighbour". Please let us know if you require this search.

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## 8. What do you mean by "title to the property"?

"Title" is a simple definition which means that the seller legally owns the property and that all the rights and obligations are specified so that you know exactly what you are buying.

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## 9. What is a "contract"?

A Contract is a legally binding agreement between the seller and buyer of the property which is only entered into when the seller and the buyer are able to carry out their side of the agreement.

## 10. What is "completion"?

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This is when the Contract is finalised. The balance of the purchase monies are paid to the seller and the seller will then vacate the property to enable the buyer to move in.

## 11. What is exchange of Contracts?

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This occurs when both buyer and seller are able to be legally committed to each other. If any of the Contract terms are then broken, there are penalties that can be imposed on each party.

## 12. When can I move in?

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When completion has occurred.

## 13. How much are the search fees?

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These vary depending on the type of Search applied for and the Local Authority. We will advise you as to the anticipated costs in the service specification at the start of the transaction.

## 14. To whom do I make the cheques payable?

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Osbornes

## 15. Do I need to come into the office on exchange of contracts and completion?

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No, but it will be necessary for you to attend at the office before exchange of contracts so that we can discuss all matters relating to the property and obtain your signature to the various deeds and documents.

## 16. What are cleared funds?

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This is the way in which the purchase price of a property is paid. Cleared funds are either a personal cheque which has had seven working days to clear, a mortgage lender's cheque which has had four working days to clear or a bank transfer which is immediately cleared funds.

## 17. How long do the searches take?

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Usually, approximately two weeks

## 18. Who will keep the deeds?

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If you have a mortgage, we will send the deeds to the mortgage lender on completion. The deeds form a security for the mortgage. If you do not have a lender, we can send the deeds to you or we can store them in our deeds safe free of charge.

## 19. What are "covenants"?

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These are obligations that are registered against the property and to which the property is sold subject to. We will advise you fully as to what these are.

## 20. Do I need to make a Will?

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Yes, we will advise you on this.

## 21. What happens if I buy the property with someone else?

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This depends if you are buying the property with your husband or wife or with an unmarried partner, again, we will advise on this.

## 22. What is Stamp Duty Land Tax?

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This is a tax which is imposed by HM Revenue and Customs and is payable within 30 days of completion of a purchase and presently is in the following bands:-

**Purchase price - £175,000 to £250,000 1% of total purchase price**

**Purchase price - £250,001 to £500,000 3% of total purchase price**

**Purchase price - £500,001 upwards 4% of total purchase price**

The property may be exempt from SDLT at the rate of 1% if completion takes place before 25 March 2012 and if the purchaser is a first time buyer who will use the property as their main residence.

If Stamp Duty Land Tax is payable, we will complete the Land Transaction Form on your behalf and send this to you after exchange of Contracts for checking and signature.

## 23. Why do you not speak to the seller direct?

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It is a matter of good professional conduct between solicitors that we do not speak to each other's clients.

## 24. What if I cannot speak to you on the telephone?

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You can always leave a message on the voicemail of the solicitor dealing with the matter, we will advise you who that person is at the commencement of the transaction, or with the receptionist. We always endeavour to return a telephone within 24 hours. Alternatively, you can always email the solicitor dealing with the matter.

## 25. What are disbursements?

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These are payments that are made to third parties such as Local Authorities, HM Land Registry, HM Revenue and Customs.

## 26. What do I pay my solicitor to do?

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Approve the title to the property on both your behalf and that of any mortgage lender.

## 27. Can one solicitor act for both parties?

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No, but there are certain exceptions to this rule. Your solicitor acts in your best interests and it is for that reason that each party should have different solicitors.

## 28. What are the identification requirements and why are they required?

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Unless you are an existing client, we require evidence of identification as to a client's name and address. Separate identification must be supplied for each. We are required to check a client's identity under the Money Laundering Regulations 2003 and, if you have a lender, on behalf of your lender.

We will be unable to begin work on your file until satisfactory evidence of identification has been received.

We would ask that you now spend some time reading the following entitled "What Happens Now?" This is a more detailed explanation of the whole process and we hope will answer any further questions you may have. If anything is not covered in the following, then please do not hesitate to ask.

### **What happens now?**

At Osbornes, we aim to make your house purchase happen as quickly and be as trouble and stress free as possible.

### **Buying a Property**

Most people contact their solicitors or legal advisers when an offer has been accepted to start the ball rolling. The first question we are usually asked at this point is "When can I move?". As a general guide line, the whole process takes some two to three months from when your offer is accepted to when you can move into your new property. To get to the moving stage, there are quite a few steps and procedures that must be followed satisfactorily. These steps lead to the first important stage of the process, ie. exchange of Contracts. After exchange of Contracts, there is usually a short period of one week or more when other steps are carried out to enable completion to occur.

Exchange of Contracts occurs when the parties in a transaction, ie. the seller of a property and the buyer of the property, are in a position to be legally bound by the terms of the Contracts. A date for completion will be agreed at exchange of Contracts and this is the date that the seller will move out of the property and the buyer can then take possession of the property or move into the property. Before you can exchange Contracts, there are three areas affecting the property that need to be dealt with.

These are as follows:-

### **Physical Condition**

You have agreed a price for the property you are wanting to buy and you need to know that the "price is right" and if any repairs are needed to the property. It is usual to have a report on the property carried out by a surveyor. If you are obtaining a mortgage, the mortgage lender will arrange the report although you will have to pay for it. If you are a cash purchaser, then it is your responsibility to obtain your own report about the property. This report is called a survey. When the survey has been completed, you will be sent a copy and usually we also receive a copy. Sometimes there are matters referred to on the survey that require further investigation e.g. the likely cost of any repairs to the property or whether or not the property has the benefit of any guarantees to cover things such as damp proofing or woodworm. If the surveyor is concerned, he/she will recommend that the solicitors should make further enquiries.

### **Financial Position**

If you are a cash purchaser, please arrange for your money to be readily available, initially to pay the deposit which is usually 10% of the purchase price, and then the balance of the purchase price.

Most people need to arrange a mortgage to provide monies which together with your cash deposit will be used to pay for your house. You should receive your mortgage offer in writing, usually two to three weeks after you have applied for the mortgage. Your mortgage provider will not issue the mortgage offer until certain things have been satisfied. The physical condition of the property is dealt with by the survey report and the other important item is you! Your mortgage provider will need to be certain that you can meet the mortgage repayments. The mortgage provider will carry out certain financial checks against you and obtain certain references. When the mortgage provider is satisfied on these items, the mortgage offer will be issued. The mortgage offer usually contains numerous conditions, which is the basis on which the mortgage provider is willing to lend the money. Some of these conditions are satisfied by you direct, but some of the conditions are referred to your solicitors in order that we can deal with these matters.

### **Title**

This expression includes a lot of things and it is our job to advise you on the title and to approve the title on behalf of you and your mortgage provider. The first thing we usually do is obtain the Home Information Pack from the seller's solicitor or estate agent and see if any further searches are required. There are a number of different searches that need to be carried out and the results of these searches must be available before exchange of contracts. The searches are usually as follows:-

### *Local Search*

This is a form of enquiries and replies given by the Local Authority relating to the property. This information is obtained from registers kept by the Local Authority. Generally, the Local Search will provide information on matters relating to your property only. These matters will deal with the planning history of the property, information concerning roads and footpaths, improvement grants that may have been paid for the property, road schemes that may affect the property and various other matters. This search will be in the Home Information Pack. However, we would need to check if the search is an official or personal local search. If the latter and you are purchasing with the aid of a mortgage it may be necessary to obtain an official local search. We will advise on this at the time. It usually takes the Local Authority two to three weeks to complete the search after it is received and the approximate cost of the Local Search is £180-275 depending on the Local Authority concerned.

### *Drainage Search*

This search is carried out with the local water authority and gives information as to whether or not the drainage systems serving the property are connected to the publicly adopted systems. If a drainage system is adopted, this means that the repair and maintenance costs of such system is borne by the water company. If the property is not connected to an adopted drainage system, then, as a purchaser, you need to know what existing or potential liability there may be in respect of such private systems. This search will be in the Home Information Pack.

### *Environmental Search*

This search gives information as to whether or not the property is affected by any environmental factors. It will highlight whether the property is affected by subsidence, flooding, contaminated land or radon gas or is located near to a telecom mast amongst other things. The majority of environmental factors can be covered by insurance. We will advise you on this at the time.

### *Know Your Neighbour*

This search provides information about the area within which the property is located such as property prices, council tax bands, nearest primary schools, nearest GPs and hospitals and the crime rate. It also includes an aerial photograph of the property and any planning applications within 250 metres of the property. This is an optional additional search that we can undertake if required.

When you instruct us to act for you in connection with your purchase of the property we will ask you to let us have a payment of £350 so that we can apply for the above mentioned searches. This payment can be made by a cheque made payable to the firm, cash or by debit/credit card. We cannot apply for searches if necessary, until we have received payment on account.

The solicitors acting for the sellers of the property will send to us the draft Contract and HIP. We check the draft Contract to make sure that the terms and conditions therein are in order and do not prejudice you in any way. If there are any special terms or conditions that need to be agreed, then these are dealt with at this stage. With regard to the HIP, this includes written evidence of the sellers ownership of the property which usually contain detail of various things which affect the property. Again, it is our job to inform you as to what these things are and to advise you if they are satisfactory. Another document that is supplied is a list of fixtures and fittings which will be left in the property when the sellers vacate. We do supply you with a copy of this for your approval as soon as possible. There is also a further form provided by the seller to the property which is called the "Sellers Property Information Form". This form is a list of questions and answers that the seller of the property needs to complete. The HIP will also contain a local authority and drainage search and we will advise you once the HIP is received if any further searches are required.

When the above mentioned matters have been dealt with or approved, it will then be when we will report to you on the Property. This is usually by way of a written report, but it may be necessary for you to call at the office in order to discuss the matter fully and hopefully sign the Contract in readiness for exchange. The report will advise on the terms and conditions of your mortgage offer, if you are obtaining a mortgage, the results of the searches which we have obtained in respect of the property and also any matters concerning the title to the property. We will also ask how you wish to own the property. If you are purchasing the property jointly with another person, for example, your husband, wife or partner, then you need to consider what is to happen to the property after you die. Your share in the property can either be automatically transferred to the other owner of the property or alternatively, you may wish for your share in the property to be left to a third party. This can be provided for in the Transfer Deed but it is also worth considering whether or not you should make a Will. Again, we will discuss this with you at that time.

It is now that your deposit will be payable. The amount of your deposit should be 10% of the purchase price. For example, if you are buying for £55,000, then the deposit will be £5,500. Your deposit should be paid by way of cheque made payable to the firm or by giving your bank instructions to send the money electronically (BACS or CHAPS).

It is now at that this stage that possible completion dates are discussed. A completion date not only has to be agreed by you, but also the people that are selling the property and any other parties in the chain. We liaise with their solicitors regarding exchange of contracts and completion dates.

We will also discuss with you any insurance arrangements you have made. It is usual for the property insurance to be effected from either exchange of Contracts or completion. We will inform of the date you need to insure from the report. If your mortgage lender is providing property insurance, then we will deal with this matter directly with your mortgage lender. If, however, you are arranging your own property insurance, then we would ask that you let us have a copy of the Schedule you receive from the insurance company before completion. Your mortgage provider may not release the mortgage funds to us without evidence that the Property is insured.

Exchange of Contracts will occur when both buyer and seller are in a position to be legally committed. The actual exchange of Contracts is dealt with by the solicitors who act for the parties in the transaction and we do, of course, advise you when exchange of Contracts has occurred.

After exchange of Contracts, there is usually a period of one week or more when the final completion arrangements are made. During this time, it is necessary for us to obtain certain further searches and to obtain the release of the mortgage advance monies from your mortgage lender. It may well be that in addition to your deposit, you are making a further contribution to the purchase price and if that is the case, then these monies will be payable to this firm shortly after exchange of Contracts. We will prepare what is called a cash statement which will show the financial position and will confirm what further monies are required from you. Please note that if you are wishing to make your final payment by way of personal cheque, then we will require seven working days in order to clear this cheque. If there is not sufficient time between exchange of Contracts and completion to allow for your cheque to be cleared, then we will ask that you arrange with your bankers to make a bank transfer directly to us. This is to ensure that on the completion date, we are in possession of cleared funds. As solicitors, we are governed by the rules of the Law Society and we must therefore ensure that all monies we receive on our client's behalf are cleared funds in time for completion.

We will also complete the Stamp Duty Land Tax Transaction Return on your behalf and forward this to you to check, add your national insurance number, sign and return. This form must be returned to us in good time for completion. We are bound by very strict time restraints, so we must send the form to the Inland Revenue on the day of completion to prevent penalties being paid by you.

On the day of completion, we arrange with our bankers to make a bank transfer, which is commonly called a CHAPS or Telegraphic Transfer to the seller's solicitor's bank. This process can take up to four hours and when the monies have been received by the seller's solicitors, they will authorise that the keys to the property are released to you. Most sellers leave the keys to the property with the estate agents. You will not be able to collect the keys from the estate agents until the seller's solicitors have received the completion monies. Normally you would not expect to be able to collect the keys from the estate agents until after midday. If the sellers have not used an estate agent and it is a private sale, the sellers of the property will usually arrange to meet you at the property or deliver the keys to you. On rare occasions, the keys can be left at the offices of the seller's solicitors. It is not usually necessary for you to attend at our office on the day of completion. We always try to telephone you on the completion date to confirm that completion has occurred. Two or three days after completion has taken place, you should be advised by your mortgage lender about the start of your mortgage payments and we will also confirm that legal completion has occurred.

The next thing for us to do is to present the Stamp Duty Land Transaction Return at HM Revenue and Customs if any stamp duty land tax is payable. Then we apply to register the change of ownership and your new mortgage deed with the Land Registry. This registration can take between four and six weeks to be completed. After the registration is completed, the Title Deeds to your property will be forwarded to your mortgage lender who will keep the Deeds during the time that you still have an outstanding mortgage on the property. We will, of course, forward to you a copy of the completed registration for your own information. If you are a cash purchaser or your lender does not require your Title Deeds, then the Deeds can be retained by you. We will of course forward the Deeds to you, but strongly advise you to leave your Title Deeds with us in our fireproof deeds safe for safe keeping as this service is free and safe.

### Buying a Flat or Leasehold Property

In addition to the procedure for buying a property set out above, if you are buying a flat or leasehold property we will also need to check the lease and service charge and ground rent account and report on this to you. At the outset of the matter we will forward our standard enquiries of the freeholder/landlord. The seller's solicitors will obtain replies to these and will meet any costs in doing so.

On completion the service charge and ground rent will be apportioned, so that you are not paying for any charges prior to your ownership, and a retention may be required. A retention is an agreed sum that is held by the seller's solicitors from the sale proceeds to cover any excess in service charge prior to your ownership. The amount of the retention will be agreed before exchange of Contracts and a clause will be inserted into the Contract.

It is usual in flats or leasehold properties for the landlord to insure the whole building or block. We will confirm this in our report to you.

The information supplied by the freeholder/landlord will also provide details as to whether any future major works will be required and it may be possible to obtain details of what this would cost.

### Selling a Property and buying another one at the same time

It is generally accepted that you should have arranged a sale of your own property in principle before making an offer to purchase another property. In practice, most people will have been looking at other properties whilst waiting to sell their own property and usually the two go hand in hand. It is our job to synchronise both your sale and purchase so that they proceed simultaneously, as most people need to release the equity from their own property towards paying the purchase price for the new property.

When you are buying and selling, therefore, it is our job to ensure that you are not committed to selling your own property if you are not ready to proceed with the purchase of your new property and similarly, we could not allow you to proceed with the purchase of your new property unless you were able to proceed with the sale of your existing property. It is quite common for one party in a transaction to be in a position to proceed before the other side is and it is very often extremely frustrating to have to wait whilst other parties in a chain of transactions become ready to exchange Contracts. We always endeavour to keep you as fully informed as possible as to what is happening. As solicitors, we are not allowed to contact other parties in a transaction when such other parties have solicitors acting for them. Sometimes, it is often quicker to speak to the estate agents who do not have to abide by this rule and can find out information.