

Residential Property



Overview

Conveyancing can be a daunting process, no matter what the transaction. Here at Russell Jones & Walker, we pride ourselves on making your transaction run as smoothly and as stress free as possible. Whether you are a first time buyer or an established property developer, we can help. We can assist any client, wherever in the country as all the paperwork can be dealt with by email, fax or post.

Our friendly conveyancing team are here to answer any questions that you may have. Unlike some firms, we do not believe in a 'team' approach but believe that the personal service we offer is better for you. You should be able to speak to your solicitor each time you contact us so that any questions you have can be answered straight away.

Specific areas of work

We deal with all aspects of residential Freehold and Leasehold conveyancing, including re-mortgaging, transfers of equity and equity release schemes.

We do hope that you choose Russell Jones & Walker to act for you in your transaction.

Sale information

Once the property has been marketed and a firm offer received from a buyer, we will be able to commence the legal work involved in selling your property.

On the 'completion date' you receive the money and sign over the property. The buyers are entitled to move into possession of the property they have bought free of you, your family, any claims on the property and any of the property's contents at all, (apart from those they have agreed to buy, which must, of course, remain there).

The date, the price and the terms on which the property is taken are formally agreed and become binding from the date on which your solicitor 'exchanges contracts' with the buyer's solicitor. On this date a deposit is paid to us by the buyer. If the buyer fails to complete the purchase you will probably be entitled to retain the deposit (and the property). If you fail to complete, the buyer will recover his deposit and you may face a substantial claim for compensation also.

It is clear then that exchange will only take place when you are confident that you can vacate the property and the buyer is confident he wants to buy the property that you are offering to him and he will be able to pay the price.

After exchange you have an obligation to ensure that so far as is reasonable the condition of the property remains the same. You should not cancel your insurance cover until completion.

Most sales of properties proceed smoothly, but you can see the risks involved and the possibility that the buyer will not be able to proceed and will therefore withdraw before exchange of contracts. For this reason you may decide you want to keep advertising the property until exchange of contracts in the hope of securing an alternative buyer if the present buyer pulls out.

Purchase information

The day on which you pay the money and move into the property is called 'the completion date'. To enable you to make the financial arrangements and arrange for moving at some time before completion, a deal is struck whereby the price and date and the machinery of completion are agreed. This is done formally by document and is called 'exchange of contracts'. Until that date either party is free to withdraw from the transaction with impunity. And please note:

- The seller is obliged only to take reasonable care of the property.
- You have to pay part of the purchase price to the sellers solicitors. This 'deposit' will probably be forfeited if you fail for whatever reason to complete. It is therefore vital that before we exchange you are confident that you will complete.

Before you give us instructions to exchange there are a number of questions you will need to have considered.

- Is the property the one you want, is it in adequate condition and are you paying the right price for it?
- You buy the property in the state in which it is seen. You are not able to complain if it later turns out to have all sorts of problems whatever the seller has said. The survey for the mortgage lender is of no real protection. Your own survey may assist in negotiations over the price.
- If the property is a leasehold flat you will need to consider the condition of the common parts and the structure of the building as you may be contributing to any re-instatement necessary through the service charge.
- Do you need a mortgage and if so of what sort?

We are not experts in advising you as to the mortgage market but we can help to point you to people who can offer advice.

- Do you have the financial ability to complete the purchase?
- Are the legal rights and obligations relating to the property and the terms on which you are buying it acceptable? When we have the necessary papers and information from the sellers solicitor, we will discuss this aspect.
- Does the Local Authority have plans or charges on the property or objections to developments which have taken place etc?

Since the introduction of the Home Information Pack, the Local Search is now carried out by the seller. This is not conclusive but it may warn you of major difficulties. It only relates to the property you are buying and not the whole of the general area.

Once positive replies to any enquiries have been obtained we will then be in a position to exchange, provided you are able to send us the monies to fund the deposit payable on exchange.

Other matters

The time of buying a house is probably the time to re-consider your Will and Inheritance Tax issues generally. Please advise if we can be of assistance.

If, should you eventually sell the property, it has risen in value, you may have to pay Capital Gains Tax on the difference between what you receive for the property and what the property cost to acquire, improve and sell, after allowing for inflation. If the house is your main residence then no Capital Gains tax is chargeable at all, but you should bear in mind that you are only entitled to have one main residence.

Co-purchasing

If you are buying the property with another party, you need to decide what your respective rights in the property are.

You must hold the property as either 'joint tenants' or as 'tenants in common'. If you hold the property as joint tenants, upon the first of you to die the property automatically passes to the other regardless of your wishes or any Will. If you hold the property as tenants in common then it will be dealt with in accordance with your Will or according to the rules of intestacy if you have no Will.

If you intend your respective shares to pass to the other regardless then it is probably marginally easier if you have a joint tenancy. If you realise that you will at some point be involved in the minimisation of inheritance tax problems, then a tenancy in common is preferable. It is easy to change a joint tenancy into a tenancy in common, more difficult to do it the other way round.

However unlikely it may now seem, you should consider whether you want to provide for who will have what share in the property should you ever want to separate and what period of notice each of you would have to give the other to, for instance, have the house sold.


We are able to draw up a separate document for you setting out your respective rights if this is something that you would like and if you want to protect yourself against the possibility of argument in the future.


Whilst a document may assist all co-purchasers, it is particularly important for co-purchasers who are not married, where the costs of answering the questions of ownership and entitlement can cost thousands of pounds even in straightforward matters.

Where do I get more information?

Please feel free to discuss your own property needs. Contact your nearest Russell Jones & Walker office or call:

 **0800 916 9015**

 **Email:** enquiries@rjw.co.uk

 **Web:** www.rjw.co.uk

 **Our offices:**
Birmingham, Bristol, Cardiff, Edinburgh
(Associated Office), London, Manchester,
Newcastle, Sheffield, Wakefield

Regulated by the Solicitors Regulation Authority.
Prepared by Russell Jones & Walker Solicitors 2009.

This factsheet is for general guidance only and should not be treated as a definitive guide or be regarded as legal advice. If you need more details or information about the matters referred to in this factsheet please seek independent formal legal advice. This information was correct at time of going to press October 2009.