

Selling a Property?

What your Conveyancer is doing for you

It is important that you read through this information thoroughly

Ellis-Fermor & Negus solicitors has been in practice since 1893 and has offered conveyancing expertise for over 125 years. We offer a personal service to all our clients from our team of experienced lawyers throughout the conveyancing process. Our five offices across Nottinghamshire and Derbyshire put us in an ideal position to offer an excellent local service but we also work for many clients across England and Wales.

At Ellis-Fermor & Negus, we pride ourselves on providing a personal, high-quality, conveyancing service for all our clients. This guide explains what your conveyancer will be doing for you.

1. Conveyancing Transaction Outline

(a) Pre-Exchange

Timescales

We estimate that a reasonably standard freehold sale with no unforeseen complexities of a legal or financial nature may take approximately 8-12 weeks from receiving your full instructions up to the completion date. There are several factors involved in the conveyancing process over which neither you nor we may have control such as the Buyer, the Buyer's conveyancers, the parties in the chain below (your Buyer's buyer). This means that we cannot guarantee any fixed timescale in which your sale may complete.

You may of course let us know, bearing in mind the above, an approximate timeframe in which you would ideally like to complete your sale. We are always happy to discuss this with you and aim towards this timescale where possible.

Before contracts are exchanged, we will prepare the contract and submit it to the Buyer's conveyancers (see 'Producing the Contract and Deducing Legal Title' below). At the same time, the Buyer's conveyancers will carry out any investigations or searches they believe necessary, and the Buyer will arrange their mortgage and survey.

Any negotiations regarding the sale price and proposed completion date must be agreed by both parties during this period before exchange of contracts.

Money Laundering

Money will need to be transferred into and out of our firm's client account, to enable the sale to go ahead and for you to receive the net sale proceeds. There are very strict rules in place relating to the transfer of funds and as such, we must carry out checks in order to prevent money laundering. These include verification of your identity. It is important that you supply any information requested as soon as possible.

(b) Exchange of Contracts

You will sign one copy of the contract, and the Buyer will sign another identical copy. The contract becomes binding once those two copies are formally exchanged between the conveyancers.

Once contracts are exchanged:

- The completion date will be a fixed agreed date and is legally binding
- The sale price will be a fixed agreed price and is legally binding
- The property will still be yours legally until the completion date, when you will transfer it to the Buyer in exchange for the sale price.
- Neither you nor the Buyer will be able to withdraw from the transaction and there will be legal and financial consequences should one party decide to withdraw after exchange of contracts.

Deposit

Normally, the Buyer will be expected to pay a 10% deposit on exchange of contracts. If you are buying a property at the same time as selling, we would normally use the deposit from your sale on your purchase.

The deposit remains in the hands of the conveyancers until completion. On completion, we can release the deposit to you or use it towards paying off your mortgage, legal fees, estate agent's fees, ongoing purchase price, etc.

Alternatively, if the Buyer does not complete on the contractual completion date, then (in most circumstances, subject to a notice to complete procedure) we can release the deposit to you.

(c) Completion

Completion should take place on the date stated in the contract. On the Completion Date, we expect to receive the purchase monies from the Buyer's conveyancers. Once we have received this, you will have to hand over the keys and vacate the Property (normally by approximately 1.00pm).

We will normally use the sale proceeds to pay your estate agent's fees, your mortgage and any other loans secured against the property (see below). We will also deduct our legal costs and disbursements from the sale proceeds.

Unless otherwise agreed, you **must** remove from the Property anything that is not included in the sale; and you **must** leave the Property in the same condition it was in on exchange of contracts. Do not leave any unwanted items in the Property, garden, garage or outbuildings. If anything is damaged between exchange of contracts and completion, please let us know straight away.

(d) Discharge of Mortgage

Normally, unless you instruct us differently or we inform you otherwise, we will obtain a settlement figure from your mortgage lender (if any) and attend to repaying your mortgage from the sale proceeds.

Your Buyer's conveyancers will require us to give a binding professional undertaking (legal promise) to make sure your mortgage is removed on completion. While this does not remove your personal responsibility for paying the mortgage, it does mean that we need to make sure that the mortgage is repaid in full on completion. To be able to do this, we will need to obtain written confirmation of the amount required to repay your mortgage before completion can take place. Most redemption figures are calculated to the exact date, so we cannot request a redemption figure until the completion date is known. Consequently, when negotiating a completion date with the Buyer, we will need to make sure that there is enough time to obtain a redemption figure.

Lenders require mortgages to be repaid by same-day CHAPS bank transfer and the charge for this service is shown on our conveyancing costs estimate of £25.00 plus VAT per mortgage repayment.

Negative Equity

If the amount required to pay off the mortgage(s) is greater than the sale price, we will need to ask you to make an upfront payment early in the transaction to cover the shortfall to repay the mortgage(s) and our legal costs.

(e) Payment of Net Sale Proceeds

Once everything else has been settled, we will pay the net sale proceeds to you by bank transfer. Our standard BACS bank transfers take three working days to clear. Alternatively, we can send you funds by same day CHAPS transfer, for which there is an additional charge payable of £25.00 plus VAT.

For payments over £250,000 we must send funds to you by CHAPS bank transfer and cannot offer a BACS payment.

If you would like us to send you funds by direct bank transfer, we will need your bank details, but please note that we **do not accept bank details via email alone**. That's not to say that you must not send us your bank details by email, but please note that we will not be able to transfer funds to details received in that way until we have been able to confirm them with you.

We are required to send your funds to a bank account that has been **open for at least 12 months**. If for any reason your nominated account has been open for less than 12 months, please let us know as soon as possible.

Alternatively, we can send the net sale proceeds to you by cheque.

(f) Storage of Documents

Once your matter has been completed your file will be closed and any documents which may be held on file will be stored for 6 years.

2. PRODUCING THE CONTRACT AND DEDUCING LEGAL TITLE

We will prepare the contract pack and send a copy to the Buyer's conveyancers for their review. The pack will include a copy of the legal title to the property (i.e. the evidence that you have the legal right to sell the property) and supporting information forms, including your completed Property Information Form and Fittings & Contents Form.

If you have carried out any alterations, general repairs, improvements or renovations for the property, you will need to let us have the **originals** of any documents for such works (please refer to the Property Information Form for further details).

Registered Title

Most land now is registered with HM Land Registry. The Land Register provides the legal evidence of who owns the land and what legal matters affect it. We will need to provide copies of the Land Registry title documents for the property to the Buyer's conveyancers to prove your ownership and/or legal right to sell the property.

Unregistered Title

Some land remains unregistered, especially where it has not changed hands for many years. For unregistered land it is the original hard copy title deeds that prove who owns the land and which matters affect it. An unregistered title is often more complicated and time-consuming to investigate, so it may take longer to review the deeds and ascertain the relevant information that we will need to send to the Buyer's conveyancers. We may also need to increase our legal charges above our initial costs estimate to reflect the additional time and complexity involved. If it becomes apparent that a title is unregistered, we will let you have an updated costs estimate as soon as we can.

If you own land/property that is not registered and you do not have any hard copy title deeds for it, please let us know as soon as possible. This may mean reconstructing the title deeds and making a Land Registry application before we can prepare a contract pack for the Buyer's conveyancers. We will need to provide you with an updated costs estimate to reflect the nature of the transaction and the additional time, fees and complexity involved.

Leasehold

If you are selling leasehold property, we will need to obtain landlord and management information from yourself and the landlord, management company and/or their agents or legal team. **These organisations usually charge for providing this information and you will be required to make an upfront payment for any necessary information pack(s).** Obtaining additional leasehold information for your sale transaction may also result in possible delays to the transaction, if we are waiting on these parties to provide the necessary information. You may wish to contact the landlord/management company/agents now to confirm their procedure and costs to provide an information pack.

3. THE BUYER'S SURVEY AND NEGOTIATING PRICES

The Buyer may wish to commission a survey of the property. It is advisable to allow the Buyer to do so, as any refusal may be off-putting and mean the Buyer may withdraw from the transaction.

Depending on what a survey reveals, the Buyer may wish to re-negotiate the price. Any negotiations will need to be done between yourselves and the estate agents. Although we will not be involved in any price negotiations, it is essential that you tell us of any re-negotiated price, as we must update the legal documents and financial information to reflect this.

4. ANSWERING QUESTIONS FROM THE BUYER

If you are asked a specific question about the property, you must provide an honest and accurate answer, even if this is 'not known'.

You must not make any statement that may be incorrect. If you do, the Buyer may subsequently take legal action against you, which could be costly and stressful. If you deliberately make a statement you know to be untrue, this may potentially constitute a more serious matter, possibly even a criminal offence.

If you answer any questions in general conversation with the Buyer, please let us have full details of these.

If your reply to a question changes at any stage during this transaction (i.e. if that question were repeated), please let us know straight away. Your replies to any questions should be assumed to amount to contractual obligations.

Obligations on us to disclose

The Digital Markets, Competition and Consumers Act 2024 (DMCC Act) requires ourselves and your estate agents to disclose to your Buyer any material information we receive that may affect their decision to buy the property. This duty may **override our duty of confidentiality to you**.

Please bear this in mind when sharing information with us and giving us instructions on how you would like us to proceed. For further information please refer to the CMA 207 Competition & Markets Authority Unfair commercial practices guidance.

5. BUY TO LET PROPERTIES

If you are selling the property subject to an existing tenancy, you will usually be required to apportion the rent on completion. If the completion date falls between rent payment days, you will have to account to the Buyer for any overpayment of rent you will have received as a result. This is normally dealt with by the Buyer deducting the correct amount of rent for a certain number of days from the sale price they pay over on completion.

Deposit

If you have a deposit in a protected deposit scheme, you or your letting agents will need to contact the scheme after completion and arrange for them to release the deposit. This is not covered in the work we carry out.

Notice to quit

If you are intending to sell the property free from an existing tenancy, you must follow the correct procedure to make sure that the tenant has vacated the property before completion. This applies even if the fixed term of the tenancy is meant to come to an end between then and now. If you do not follow the correct procedure, the tenant could refuse to leave, which would put you in breach of contract with the Buyer with financial consequences.

Preparing and serving a notice to quit is not covered in the work we carry out, but we do have lawyers here who can help with this. Please contact the conveyancer if you would like additional help and advice on this point.

Further information regarding tenancy agreements and ending a tenancy is available on the government website.

6. OTHER THINGS TO CONSIDER

(a) Taxation Issues (including Capital Gains Tax)

We do not generally advise on whether your transaction will have any tax implications for you. However, generally speaking, if you are selling a property you own that you have not occupied as your main residence in the last 3 years, capital gains tax may be payable. For further general advice, please ask the conveyancer handling your matter. For more detailed advice, or for help in submitting a capital gains tax return, you will need to speak to a chartered accountant.

(b) Wills

It is always important to consider what impact changes in your property are going to have on your estate. If you would like more advice, please contact the conveyancer handling your matter, or a member of our Wills & Probate Department.

(c) Investment and Financial Advice

Once you have sold your property, you may have a sum of money left from the sale proceeds. You may want to speak to an independent financial advisor to discuss the same.

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