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Buying a house or flat

A client guide

ADDITIONAL CONFERENCE ROOMS AT: FIRST FLOOR 91-93 HIGH STREET UPPERMILL OLDHAM OL3 6BD

The Firm is authorised and regulated by the Solicitors Regulation Authority SRA 626658. Their website can be found at www.sra.org.uk

O'Donnell Solicitors is the trading name of O'Donnell Solicitors Limited registered as a Company in England and Wales with Company Number 09872469

Registered office address Appleby's Business Centre, 3 Mossley Road, Grasscroft, Saddleworth, OL4 4HH

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Buying a property

When you instruct our firm to act on your behalf in buying a property there are several steps to go through before you can receive the keys to this property.

This note provides an overview of the steps common to most purchases. As each purchase is different, you may find that not all the steps mentioned apply to you or they may occur in a different order from that listed below. Your purchase may also involve additional steps. We have given below a very rough estimate as to the time-scale for each step. However, each property, each buyer and seller and therefore each sale is unique and so the estimates below assume a straightforward purchase with no unusual issues arising.

We will provide you with additional advice during your purchase. This note is intended as a starting point only. If you have any questions after reading this note, please get in touch.

1. **Confirming the offer (usually within 1-2 weeks of the offer being accepted by you)**

Once you have had your offer accepted by the person(s) selling the property (**seller**), the estate agents (**agents**) will ask you for our contact details. Please provide them. They should then send you confirmation in writing of the agreed terms of your purchase (often headed "memorandum of sale"). This should include:

- The address of the property you are buying.
- Your name and current address.
- Our contact details.
- The name and current address of the seller.
- The contact details of the seller's lawyer.
- The price you have agreed to pay, including the amount of any deposit.
- The provisional completion date, if you have agreed one.
- Any furniture or other contents you have agreed to pay extra for.
- Any other special terms you have agreed with the seller.

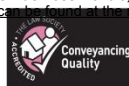
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The agents should send the memorandum of sale to us. Please tell us as soon as possible if anything in the memorandum of sale is incorrect or has been missed.

Although your offer has been accepted, it is not binding on you or the seller until contracts have been exchanged. There is a risk that the seller may pull out of the sale before then. You can also withdraw your offer before then. In either case, you will lose any money you have spent on the purchase by that stage, for example, our legal fees to that point.

2. **Opening your file and confirming instructions (usually within 2-3 days of you accepting our quotation as to our fees and disbursements)**

We have several legal requirements to comply with before we can start working for you and some instructions we will need to confirm. These include:

- Explaining the terms of our appointment (including our prices) to you.
- Confirming your identity. The agents may also ask you to confirm your identity with them or may already have asked you to do so, but we still need to do this step.
- Confirming whether you are buying the property alone or jointly with someone else. If you are buying jointly, we will need to confirm the identity of the other purchasers, as well as their instructions to act on their behalf. If you are buying the property jointly, then references to "you" in this note mean all of you buying the property.
- Confirming whether you are buying a house or a flat and how you are financing the purchase.
- Confirming the terms of your offer.
- Confirming whether there is a "chain" of properties being bought and sold at the same time. For example, is your seller buying another property? Are you selling an existing home?

We will also need you to pay us some money upfront to cover costs, such as the costs of searches, that we will order and pay for on your behalf.

We will write to you separately about these matters. You will need to sign and return all relevant letters and questionnaires and provide the necessary proof of identity and money before we can do any further work for you.

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The instructions you provide will impact the advice we need to give you and some of the steps we need to take. It is important that your instructions are clear and complete and that you let us know if anything changes.

3. Financing the purchase (We usually expect to receive your mortgage offer within 1-2 weeks of the lenders valuer valuing the property although this varies from lender to lender)

If you are using a mortgage to purchase this property, you will need to contact your lender or mortgage broker directly to finalise your mortgage offer and give them our contact details. Once the offer is in place, the lender will send us a copy of the offer.

Lenders will usually carry out a valuation on the property and may ask you questions about it before agreeing to the offer. Lenders occasionally withdraw their offer but usually only if something is found to suggest that the property is not a good investment or if your financial circumstances change.

If you have a lender, it is likely that we will also be instructed to act on their behalf. Lenders have certain requirements about properties they lend money against and we will be under a duty to check that the property you are buying complies with that list. If it does not, they may not lend unless we can find a compromise that they accept. This may be in the form of a specialist insurance policy to address whatever defect in the property has been identified.

Be aware that there will be an expiry date on your mortgage offer. We will need to have completed the purchase before then. If not, you will need to get another offer and this will delay the process.

Depending on how you are financing the purchase, we may need to complete additional paperwork or carry out additional identity checks (for example, if your deposit is being loaned to you by a family member). We must know where all the purchase money is coming from to comply with our legal obligations and to enable us to document the ownership arrangements for you in the way that best suits your situation. This reduces the likelihood of any future disputes about ownership.

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4. **Submit searches (We advise that searches are not requested until your mortgage offer has been received by us- unless you instruct us otherwise- from the point at which we request searches we would expect to receive the searches back within 5-6 weeks. Please note however that this can vary dramatically particularly in regards to the local authority search. The local authority search turnaround will be determined by the local authority where the property is situated and some local authorities currently have a backlog of 2-3 months)**

There are certain searches that we need to carry out for you, to understand more about the property you are buying. These include, for example, a search of the title at the Land Registry, and searches of the local authority records. We will request these searches and check the results.

The price of these searches, and how long the results take to come back, is not within our control. Some can take a few weeks. We will chase if they are taking an unusually long time. We need these search results before we can proceed with your purchase. They will tell us about any issues with the property that may be of concern to you, or your lender. Depending on what the results show, we may need to ask the seller's lawyer to provide more information.

5. **Instruct a surveyor (This will depend on the workload of the surveyor you chose to instruct but can take around 2-3 weeks form the point you instruct a surveyor).**

In most cases you will need to arrange and pay for a surveyor to inspect the property you are buying. They will be able to advise you on the best type of survey to have based on the age and style of the property. Your lender may have requirements about the surveyor you use or the type of survey you choose. You should check this with your lender as soon as possible and before instructing a surveyor.

The surveyor will report back to you with any concerns once they have inspected the property. Please share a copy of the report with us and tell us of any issues so that we can help you decide how to address them from a legal perspective. We are not qualified to advise on the contents of the survey itself or any valuation matters.

You can search online for local surveyor. We do not provide recommendations.

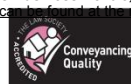
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6. **Receive contract and enquiries (We expect to receive the contract pack within 2-3 weeks of the point at which the memorandum of sale is issued by the estate agents, this can however vary as this will depend upon how quickly the seller returns his/her documents to their own solicitor to enable their solicitor to draft and issue the contract pack to us. We aim to review and report to you upon the contract pack within 2 weeks of receiving the pack and to raise enquiries with the sellers solicitors within the same time-frame)**

The seller's lawyer will draft the contract and send it to us. We will review the contract and negotiate any necessary amendments for you.

The seller will be asked to answer some standard enquiries about the property. This will include a form they have to fill in to say what items they will leave at the property and what they will take with them, such as wardrobes, carpets and curtains. The form should say whether the seller wants to charge an additional price for any of those items.

We will review all the replies and send them onto you. Please review them carefully. Let us know if you have any concerns or questions arising from the answers, particularly if any of the answers given do not match what you have been previously told by, or agreed with, the agents or the seller, or do not match with what you saw when you viewed the property.

If the property you are buying is a leasehold property (usually because the property is a flat), then you will be purchasing the right to possess the property for a fixed period of time. The lease will contain various restrictions on how you use and occupy the property. It will usually oblige you to make certain payments to the landlord, such as a yearly rent and a more regular service charge.

On the purchase of a lease, there will be more information for us to read and review. There may be additional documents to be drafted and negotiated and additional enquiries to raise. The landlord may need to be involved, for example, to answer some of the queries raised. Your lender's offer will be subject to the lease being in a form agreeable to them. This extra work can mean we need additional time to purchase the property.

Depending on the answers to the enquiries, and any comments in your survey, you may want to have additional inspections carried out before you buy, such as an inspection of the boiler or the electrics. The seller does not have to pay for these, so you may have to.

When acting for you we must comply with an agreed standard of practice amongst lawyers (the Conveyancing Protocol). The Conveyancing Protocol may impact your purchase in some ways, for example, timings of the steps, the number of enquiries we can raise and how much we can negotiate your contract.

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7. Preparing for exchange (Bearing in mind the preceding stages, on a usual straightforward purchase therefore, we would expect to be in a position to exchange contracts around 6-8 weeks from the point you return our client care pack to us duly completed)

Once all the search results are in, we are satisfied with the replies to enquiries and the contract is agreed, we will draft a report for you. This will summarise the contractual obligations you will be entering into and the findings of our searches and investigations.

Please read the report carefully and let us know if you have any questions or concerns. Tell us if anything in the report is different from what you expected or what you have been told previously by the seller or agents.

We will then ask you to:

- Sign the contract and return it to us.
- Send us the deposit. This is usually 10% of the purchase price but we will confirm the exact amount to you before we reach this stage.

If you are also selling a property at the same time, we will receive a deposit from your buyer on your behalf. If the property you are buying is more expensive than the one you are selling, the deposit needed for your purchase is likely to be larger than the one you receive on your sale. You can use the deposit you receive on your sale towards the deposit on your purchase, but you will need to make up any difference from your own money.

If the property is to be jointly owned, we will advise you on aspects of this joint ownership. We may need to draft additional documents to detail the way in which you will be holding the property between you. Depending on the financial arrangements, one or more of you may need to receive independent advice from a separate lawyer.

8. Exchange (At the point of exchange of contracts, the parties i.e yourself and the seller, will determine how much of a gap there needs to be dependant on your circumstances and those of the chain, in between exchange and completion. Some parties agree to exchange and complete on the same day and this is known as a simultaneous exchange and completion, whereas others prefer a gap between exchange and completion of 1-2 weeks)

We will agree a **date for exchange** with you and the seller. If there is a chain, the date for exchange will need to be agreed with others in the chain too.

On the date for exchange, we will date the signed contract and send the deposit over to the seller's lawyer (known as **exchange** or **exchanging**). You and the seller will become

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contractually bound by the terms of the contract. Before we exchange, we will check that you are happy for us to proceed. We will also let you know when exchange has taken place.

The contract will state the **completion date**. This is when you must pay for the property and the seller must vacate it and hand you the keys (known as **completion** or **completing**). If you are also selling a property, completion of your sale will usually be on the same day. We will agree the completion date with you, the seller and any other parties in your chain before we exchange.

Completion is usually long enough after exchange to give you time to pack and book a removals company. In some cases (for example, when there is no chain) you and the seller might agree that exchange and completion can happen on the same day, or within a few days of each other.

From the date of exchange onwards, you must comply with the contract, including completing on the completion date. Withdrawing from the purchase, or delaying completion, can result in legal and financial consequences for you.

9. Insurance

For most properties, you will need to put buildings insurance in place for the property you are purchasing from the **date of exchange**. Your lender may specify the type of insurance you must buy and your surveyor may be able to advise you as to a suitable reinstatement value to insure for. Obtain buildings insurance quotes at an early stage, to avoid a last-minute rush before exchange.

If you are also selling a property, **do not** cancel your buildings insurance on that property until the completion date for that sale. This means you will temporarily have two building insurance policies in place: one for the property you are buying and one for the property you are selling.

If you are buying, or selling, a leasehold property, your landlord will usually insure the building themselves and ask you to contribute to the cost of that insurance. This means you will not need to take out, or cancel, any buildings insurance policy yourself for those properties.

You should ensure that the contents in your new home are insured from the completion date.

Some lenders may have additional requirements, for example, they may insist you take out life insurance.

10. Preparing for completion

The completion date will be the date you pay for the property and receive the keys to your new home. If you are selling another property at the same time you will usually need to move out of that property on the same day.

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Between exchange and completion, you should start the physical preparations for moving. There is a checklist at the end of this guide to help you think about the tasks that need doing, both before and after completion. This list is not exhaustive and there may be additional tasks you need to do.

We will need you to sign any final paperwork needed for the completion, for example:

- There will be a legal document called a transfer that actually transfers ownership from the seller to you. Depending on how this is drafted, you may need to sign it.
- We will also need you to sign your mortgage deed (if you are purchasing with a mortgage).

You will need a witness to watch you sign and then add their details underneath your signature. This should be an adult who knows you and preferably not a family member. Joint owners cannot witness each other's signatures. We can witness for you if you need.

We will do some final searches for you. If you are purchasing with a mortgage, we will report to your lender and then request the mortgage money. We will also send you a completion statement that shows any other money we need from you before completion, such as tax and Land Registry fees.

11. Completion

On completion, we send the completion monies to the seller's lawyer. Once they have received them, we date the transfer form to complete the purchase. We will contact you to confirm we have completed and you can then collect the keys from the agents. If you are buying and selling properties on the same day, be aware that there may be a gap between completion of the sale and completion of the purchase, as money can take time to transfer between bank accounts.

12. After completion

There will usually be a tax to pay when you purchase your property. In England this is Stamp Duty Land Tax, in Wales this is Land Transaction Tax. We will complete and submit the necessary form(s) for you and transfer the tax to the relevant authority.

We will also apply to the Land Registry to have you registered as the new owner of the property. We will let you know when you are registered and send you a copy of your title. This can take a few months.

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13. Moving home checklist

Below is a list of suggested tasks you may need to do in readiness for completion and shortly after the move. There may be others depending on your situation.

- Book a removals company. Removals companies can get very busy, so do this as soon as possible after exchange.
- Book storage, if needed.
- Book a hotel room or accommodation for the days around the move, if needed.
- Arrange additional support if needed, for example, care for pets or other family members.
- Let utility and service providers (such as gas, electricity, water, TV, telephone, Wi-Fi and any house alarm provider) know the date you are moving. Do this as soon as possible after exchange as they will need advance warning. This may involve transferring accounts to your new property or closing existing accounts and opening new ones for your new home.
- Take meter readings (at your existing home and the new property) on the day of the move and let the relevant companies know these readings.
- Register for council tax payments at your new home. Alert your current local authority of your move so any existing account can be closed.
- Apply for any necessary parking permits at your new home. Cancel any permits for your existing home.
- Consider a postal redirect to your new home and give your new address to family and friends.
- Alert banks and companies of your change of address. The companies to alert will include credit card companies, any companies you have accounts with and any who contact you or deliver to you regularly.
- Update the electoral roll, your driving licence and your car ownership details.
- Let your car insurers know of your change in address.
- Put contents insurance in place for your new home from the day you move in. Cancel any buildings and contents insurance for any property you are selling.

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- Sign up to local services such as the local doctors and ensure you have enough of any medication you take to see you through the moving period.

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