

**BVA**

**BANA VAID & ASSOCIATES**  
— S O L I C I T O R S —

# Conveyancing



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# GUIDE TO CLIENTS ON CONVEYANCING

This guide is intended to explain some of the terms used in conveyancing matters, the steps which are usually taken (and the reasons for taking them), and the factors which may affect you when such steps are to be taken.

## What is "CONVEYANCING"?

Conveyancing is the word used to describe transferring ownership of land from one person to another, and the Solicitors for the Seller and Buyer are each obliged to safeguard their client's interests.

## The Conveyancing Quality Scheme (CQS)

The Law Society has set up a new quality scheme for Solicitors who deal with buying and selling property.

We are a member of the Conveyancing Quality Scheme (CQS), which means that we meet the high standards the Law Society sets to ensure that we give clients a professional and quality conveyancing service and work in line with the quality standards of the Law Society's scheme.

This unique conveyancing quality standard will:

- Enhance the reputation of conveyancing Solicitors;
- Provide reassurance about integrity and practice standards;
- Confirm our adherence to good practice management standards;
- Confirm our adherence to prudent and efficient conveyancing procedures through the scheme protocol;
- Create a trusted conveyancing community that will deter fraud; and
- Provide a more effective service for you.

Membership provides credibility with stakeholders including regulators, lenders and insurers.

It is likely to be a pre-requisite for acceptance onto lender panels for mortgages.

## What Happens in a CONVEYANCING Transaction?

There are three main stages and each is explained briefly. These stages are:-

- (i). Before Exchange of Contract
  - a. The Buyer

Once you have found the property you want and the Seller has accepted your offer, you will be required to instruct a Solicitor. The Solicitor will check "title" to the property by carrying out "searches" and raising "preliminary enquiries". We then report to you the information obtained about the property and advise you as to the meaning of the provisions in the sale contract. We also ensure that you do not commit yourself to the purchase by exchanging contracts before it is guaranteed that you have available all the money needed to pay for the property at "completion". Once all these elements have come together, we shall ask you to sign the contract and pay the agreed deposit to us, so that contracts can be exchanged.

It is up to you to discover whether there are any physical defects in the property. The Seller is not required to point out any such defects. For this reason, we always advise you to have a survey carried out to discover whether the property has any faults, which may not be readily apparent to you when you view the property.

## Examples of some problems that we may encounter on a purchase:-

- The person purporting to be the Seller is not the legal owner.
- The land shown on the Land Registry Title Plan is not the same as that actually being sold.
- There are no legal rights of way to the property or a garage or in the case of lease hold flat or maisonette over a staircase leading to the flat.
- Important documents may be missing.
- Extensions or alterations to the property have been carried out without the necessary Planning or Building Regulation Consent from the Local Authority.
- If you are buying a Leasehold property the Lease may be defective i.e. no one is responsible for maintaining the common parts or the Lease contains terms that are unacceptable to you and the Lender.
- The Lender may not lend you as much as you want.
- You do not know who the Landlord is.
- The valuation of the property by the Lender values the property much lower than the agreed price.

## **b. The Seller**

After you have found a Buyer and agreed a sale price, we have to send a draft sale contract to the Buyer's Solicitors. To do this we have to obtain the Deeds of the property. It can be a good idea to instruct us as soon as you have decided to sell the property. This is so we can put together a package of the documents and information that will be required by the Buyer's Solicitors, so that no time is wasted once a Buyer is found.

We have to check the nature of your ownership and the existence of any rights or burdens, which must be revealed to the Buyer. We shall prepare a draft contract and send it to the Buyer's Solicitors when we are notified of who they are.

The Buyer's Solicitors will send us "any additional preliminary enquiries" of matters causing them concern. Once the Buyer's Solicitors are satisfied, they will approve the contract and we will ask you to sign the contract.

Contracts would then be "exchanged" and the deposit received, and at this stage a date will be fixed for completion.

### **(ii). Between Exchange of Contracts and Completion**

During this period the Buyer's Solicitors will prepare the document to transfer ownership to the Buyer. The buyer will request the mortgage funds from the Lender.

As the date for completion is approached, the financial details will be calculated and the Buyer will be asked to provide the balance of the purchase price. On completion, the money is passed to the Seller's Solicitor in return for the Deeds and signed transfer document. At this point the Buyer would be entitled to occupy the house and to take possession.

### **(iii). After Completion**

As Seller's Solicitors, we would account to you (the Seller) for the balance of the sale price after paying off any mortgage, estate agents and other expenses including our fees.

If we are acting for you as a Buyer, more work has to be done. We pay Stamp Duty Land Tax.

## **Conclusion**

We deal with most normal conveyancing problems as a matter of course and more often than not you are not even aware that a problem has cropped up. Some difficulties are more problematic and whilst we are able overcome them this sometimes this takes more time and legal expertise.

If you are thinking of moving or selling your home, please feel free to contact us at any time for a quotation. If you just require some further information, we shall be happy to assist you either by telephone or call into our offices.