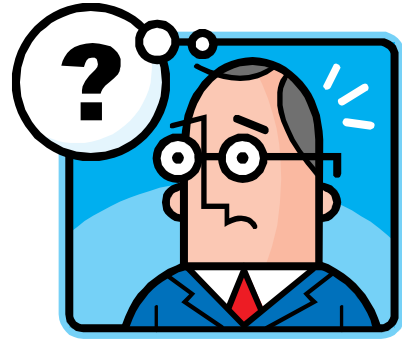


## **BONE & PAYNE SOLICITORS LLP**

### **FREQUENTLY ASKED QUESTIONS**



1. **How long does it take?**
  2. **Do I need a Survey?**
  3. **What is Land Transaction Tax?**
  4. **Who owns the boundaries?**
  5. **What searches need to be carried out?**
  6. **When do I arrange Buildings Insurance?**
  7. **Finance matters.**
  8. **Matters relating to your Mortgage.**
  9. **How soon do I need to pay any money?**
- 

#### **1. How long does it take?**

- On average the likely minimum time from beginning to completion will be between four to eight weeks where there is no chain. If there is a chain (as described below), then the time will often increase in proportion to the number of links in the chain. This can be a frustrating process for all concerned as the chain will only move at the speed of the slowest link. In general, a chain of transactions can be influenced by a huge variety of factors outside your or our control. It is for this reason that we discourage the practice of giving “provisional” or “target” completion dates at the outset of a conveyancing transaction. The number of variables is such that “provisional” or “target” dates are meaningless and almost inevitably lead to disappointment when they cannot be met. By all means let us know if there are dates you know at the outset that you cannot meet (i.e. holidays or unbreakable work commitments) over, say, the next three months. We can then pass this information along the chain to forewarn everyone in the chain and prevent a problem arising at a later stage.
- Once the Seller’s Solicitor has the title information and the Property Information Forms, etc. they send these together with the Contract to the Buyer’s Solicitor.
- Once received by the Buyer’s Solicitor they will read through them and ask questions about any aspects which seem to be unclear. Depending on what answers are received to these questions, more work may be necessary to iron out any problems that may exist. The timescale mentioned below assumes that any problems are capable of being ironed out relatively quickly. If not, the process will take longer than estimated.
- If the Buyer is having a Mortgage his application will be being processed. Different banks and building societies take different lengths of time to process Mortgage applications. Depending

on the Buyer's Lender, the Mortgage application typically takes between three to four weeks to process.

- Bearing all this in mind, a Buyer will not usually be ready to exchange contracts for a minimum of four weeks after the Buyer's Solicitors receive the contract papers from the Seller's Solicitors. Depending on the circumstances of each case the process may take less time or more time. If your case is urgent please let us know immediately. We always do all we can to move the process along quickly.
- There need not be a gap between exchange of contracts and completion; legally it is possible to do both on the same day. Sometimes there is a gap of about a fortnight or even longer. However, until contracts are exchanged either the Buyer or Seller can pull out and the completion date is not binding. Consequently, if you chose to exchange contracts and complete on the same day or complete very shortly after exchange of contracts, you will obviously have very little warning of the precise date on which you will be moving and this can be very stressful.
- The date of completion will need to be a day upon which the Buyer and Seller agree. If there is a chain (that is a number of interdependent sales and purchases which can involve anything from three transactions upwards) then everyone in that chain will also need to agree and be happy with the date. The longer the chain the longer this takes to agree. Closer to exchange of contracts we would suggest you discuss with your Buyer dates that are convenient to you both for moving. We say a "number" of dates because this gives leeway when we have to agree a date that everyone in the chain accepts. Please bear in mind that the actual completion date will need to be a working day (i.e. Monday to Friday inclusive). If you want exchange of contracts and completion to take place at the same time or very quickly after one another, you will need to notify us as soon as possible.

## 2. Do I need a Survey?

- Before committing yourself to buying a property we strongly recommend that you obtain a Survey Report. When buying a property neither the Seller nor the Estate Agent have to disclose any faults in the property. You buy a property "as seen" and in general there are no legal remedies available if you don't see a fault in the property before you buy it. Although newly built properties normally have a 10 year guarantee which covers all faults for the first 2 years and major structural faults for the last 8 years. If you have applied for a Mortgage to assist you in your purchase then your Lender will require a Mortgage Valuation Report prior to agreeing to lend. This is not a detailed report and cannot be relied upon if a problem subsequently arises after you move into the property.

There are three types of report available:-

- **A Mortgage Valuation Report**

This is the basic report referred to above which a Surveyor carries out for the Mortgage Lender's benefit and simply confirms whether the property will provide adequate security for the Lender.

This report does not usually contain sufficient detail to enable the Buyer to make a reasoned judgment about proceeding with the purchase. In addition, if in a Mortgage

Valuation Report the Surveyor fails to identify a physical defect, it may be impossible to claim against that Surveyor as the report has been prepared for the Lender so the Buyer cannot legally rely on it.

- **The Homebuyer Report**

This is a more detailed report which gives details of all important aspects of a property, listing in conclusion any matters which particularly concern the Surveyor. The fee for this type of report will depend on the price being paid for the property.

- **The Building Survey**

This is the most detailed and comprehensive type of report that a Buyer can obtain for a property. It is the most expensive and the cost will depend on what aspects you want the Surveyor to check. You can always speak to the Surveyor in advance and ask their view as to whether such a detailed Survey is required. Many Surveyors are local and can point you in the right direction on the basis of their local knowledge and experience.

- Please could you let us have a copy of any Survey and/or Mortgage Valuation Report as soon as possible as, unfortunately, Surveyors and Lenders do not send copies to us directly and it is important that we see the reports to enable us to advise you in connection with any legal issues raised.

### 3. What is Land Transaction Tax (LTT)?

- Land Transaction Tax is a tax on land and property transactions in Wales and replaced Stamp Duty Land Tax from 1<sup>st</sup> April 2018.
- LTT tax is charged at marginal rates on each slice of consideration for a transaction. Higher rates of LTT will be levied on some residential purchases above £40,000.00. These increases are intended to affect second homes and buy to let properties purchased in Wales. However, in practice the rules are affecting other transactions as well, particularly in the context of spouses who may be separated in practice but are not divorced or legally separated. As the rules are complex, we will be asking you to complete a questionnaire and declaration at the outset. Depending on the information supplied we may then advise you that specialist taxation advice should be sought for which there will be a separate charge. We may also need to revise our charges. The rates are as follows:

Land Transaction Tax Bands From 1 April 2018:

Brackets	Standard Rates	Buy to let/Second Home Rates
Up to £40,000	0%	0%
£40 to £180,000	0%	3%
£180 - £250,000	3.5%	5%
£250 - £400,000	5%	8%
£400 - £750,000	7.5%	13%
£750 - £1.5m	10%	
Over £1.5m	12%	

- After completion of your purchase you have an obligation both to notify the Welsh Revenue Authority (WRA) of the transaction and to pay any land transaction tax that is due. This must be done within 30 days of the completion date. If you are purchasing the property jointly, then this liability to WRA is joint and several regardless of your respective contributions to the purchase price and costs of purchase, etc. You will have been given an estimate of any LTT payable at the outset of this transaction when we gave you details of our charges and other disbursements. WRA are notified by means of a Land Transaction Return which has to be completed whether or not any stamp duty is payable. **We are willing to complete the Land Transaction Return for you, but this will be on the basis of information received from you and you have ultimate responsibility for the accuracy of the information.** We will ask you to check the form and then sign it and on completion we will submit the Return electronically to WRA. If any information is missing on the form, then this could lead to delays in the acceptance of the form by WRA and the possible incurrance of a late return penalty. There is a fixed penalty of £100.00 if the Return is up to three months late and £200.00 in any other case, regardless of whether any tax is payable. In addition a tax-related penalty will be due if there is a failure to file the Return within 12 months of the filing date. Interest is also payable on late or under payments.
- When WRA are satisfied that a Land Transaction Return has been made and the details are not manifestly inaccurate or the tax incorrect, you (or more commonly ourselves as your Agent), will be issued with a Land Transaction Return Certificate. This Certificate acknowledges receipt of the Return, but it is not conclusive evidence either that the Return is correct or that liability to LTT has been satisfied. Any delay in the submission and/or acceptance of the Return will lead to delays in the receipt of the Land Transaction Return Certificate. This Certificate is essential to enable us to register your ownership of the property at the Land Registry and any delay could have serious repercussions not only for yourself but also your Mortgage Lender.
- The Land Transaction Return requires us to give our details as the ‘Tax Agent.’ The fact that we will be your Tax Agent simply means that WRA can correspond with us about your tax affairs. By signing the Land Transaction Return, you consent to WRA communicating with us thereby enabling WRA to comply with data protection requirements. If we do not act as your Agent then the Land Transaction Certificate will be sent to you and this could lead to delays in the registration of your title.
- WRA operates a “process now, check later” system which means that you may be liable to pay any shortfall from the self-assessed amount after any enquiry. Clearly you will be notified if this is the case.
- WRA may raise enquiries on the transaction, often as much as 9 months later, and may ask for more tax. In some cases they can investigate matters up to 21 years later. You may decide to deal with such enquiry yourself, or ask your accountant to deal with it. If the Revenue decides more tax is due you will have to pay it although there are appeal procedures. Depending on the nature of the enquiry, which initially the Revenue will send to us as your Tax Agent, we may need to make an additional charge over and above the figure quoted to you for our charges at the outset of this matter. We should stress however that it is not commonplace for WRA to raise such enquiries.

- Finally, it is your obligation as a purchaser to keep relevant LTT documents for a minimum period of six years. We will keep these documents in your file and they would normally be kept for a minimum of 6 years.

#### **4. Who owns the boundaries?**

- You will normally be provided with a plan of the property at an early stage. Usually, it will be self-evident as to whether the boundaries of the property on the ground match up with the legal boundaries as indicated in any plan received. However, this may not always be the case. As Solicitors, we do not (unless specifically asked) carry out a physical inspection of the property so please look at the plan carefully and if you are in any doubt, you should check on site whether the deed plan and the physical boundaries are the same. If you are uncertain then you should refer the matter to us and we will either inspect ourselves or suggest you ask a Land Surveyor to inspect. If you are buying a flat in a larger building or complex, which comes with its own garage or parking space, please make sure that you will be able to occupy the correct garage or space referred to in the plan provided by the Seller.

#### **5. What searches need to be carried out?**

- There are six main types of search which we undertake and we will decide which of these are necessary in a particular transaction:-

- **Local Authority Search**

This is essential and will reveal details of the planning history for the property, whether the Council is aware of any breaches of planning, any proposals for new roads or traffic schemes, tree preservation orders, conservation areas and any other matters within the Council's control that may affect the property.

If you know of any extensions/alterations to the property since its original construction, whether internal or external, it is helpful if you advise us at the beginning of the transaction in order that we may raise the appropriate enquiries of the Local Authority to ensure that the relevant consents were obtained.

Please note that this search relates only to the property being purchased and not the area. If you have any concerns regarding developments within the vicinity of the property, it may be prudent for us to undertake a Plansearch (see below).

- **Water and Drainage Search**

This will confirm whether or not the surface and/or foul water drains run into a public or private sewer. It is often the case that the connection between the property and the publicly-maintained sewer does not belong to the Local Authority and that it is privately owned/shared with the owners/users of that private connection accordingly. The search will also confirm whether the property is connected to the mains water supply.

- **Environmental Search**

This provides comprehensive details on the risks to the property from past and present contamination or pollution; an assessment of the risks of subsidence and flooding; details of the presence of any nearby toxic and explosive substances, information on local industrial and mining activities and location details of waste landfill sites.

- **Plansearch**

This search provides a synopsis of planning applications within a radius of approximately 250 metres from the property.

- **Land Registry Search**

This search is undertaken immediately before completion in order to find out if there are new Mortgages or other adverse matters registered against the property which have not previously been disclosed. If there are then we will obviously require assurances from the Seller's Solicitor that these will be repaid/cleared from the title.

- **Bankruptcy Search**

If you are funding the purchase by way of a Mortgage we are required to carry out a search to make sure that you are not bankrupt. Quite often this search will show an entry against a name similar to yours. If this is the case you will be asked to sign a copy of the results to certify that the entry does not relate to you.

- In addition, we may need to carry out a Coal Mining Search (if the property is near a coal field) and other mineral searches – depending on the location of the property. Also, a Chancel Repair Search may be necessary where the property is in the vicinity of an ancient parish church (chancel repair liability is uncommon but where it does occur it may be an onerous liability on the property).

## **6. When do I arrange Buildings Insurance?**

- Unless the Buildings Insurance is being arranged by your Lender or it is a leasehold property and the insurance is dealt with by the Freeholder, you must arrange Buildings Insurance from exchange of contracts as the contract will normally place the property at your risk from that time. It is prudent to contact your insurance company/broker at an early stage to ensure that the property is not in a flood risk area or there is any other reason why cover could be difficult to obtain.
- The amount of cover should be the estimated cost of re-building the property if it burns to the ground which is not necessarily the same as the current market value. If you have a Survey or you are having a Mortgage, your Surveyor or the Lender's Valuer will normally give the minimum amount of rebuild cover in the Survey Report/Mortgage Valuation Report.

## **7. Finance Matters.**

- It is important that you inform us of your financial arrangements for the purchase as soon as possible. In particular, if you are purchasing jointly then we need to know whether or not you are contributing equally to the purchase price. We also need to know whether any third party, e.g. family member, is making any contribution. If so we will need to know if this is a gift or loan or whether the third party is to have an interest in the property. If you are buying with a mortgage then this information will have to be provided to the Lender for its approval. Once you inform us of your intentions then we can advise you further as necessary. If you are purchasing jointly then we will send you a Joint Ownership Form to complete.

## **8. Matters relating to your Mortgage.**

- Whilst we will go through the essentials of the Mortgage with you, you should make sure that you fully understand all the terms and conditions of the Offer. Things that can particularly cause confusion are :-
  - Some Mortgage Lenders require Mortgage Guarantee Premiums (also called Mortgage Indemnity Premiums or High Loan to Value Fees) to be paid (normally if you are borrowing more than 75% - 80% of the purchase price). Sometimes the premium required for these Policies can be substantial and may be deducted from the Mortgage Advance monies before we receive them. This can leave you with less money to buy the property than you anticipated and you should ensure that the net amount to be released to us by the Mortgage Lender is the sum you require to complete the purchase. The purpose of these Policies is to protect the Lender if it has to sell the property at a price which does not cover the debt owed to the Lender. The shortfall is then claimed by the Lender under the Policy but you are still liable for the shortfall and the Insurer could then recover payment from you.
  - You should pay particular note to any penalties on early repayment of the Mortgage - these should have been explained to you by the Mortgage Lender or the Mortgage Adviser but it is as well to check the repayment provisions, if any, and if you are uncertain, then let us know.
  - If there is any work that the Building Society requires carrying out at the property, then they may not release all the Mortgage Advance at the completion date but may make a retention to cover the cost of any work - that retention will be released to you once the work has been done but you would have to make temporary arrangements to cover the shortfall of the Mortgage Advance.
  - Life Insurance - it is a Condition of some Mortgage Offers that you must have sufficient life insurance cover in place to pay off the Mortgage if you die. You should check with your Mortgage Lender at an early stage whether or not this is a requirement of theirs - if it is a requirement of the Mortgage, then we cannot release the Mortgage monies until this Condition has been complied with and if this is only discovered at a late stage, it can cause inconvenience and potentially expensive delays.

- Normally, in addition to acting for you in a purchase, we also act for your Mortgage Lender – they are a client of the firm as much as you are. We have legal responsibilities towards each client to report all material facts. That will include disclosure of any discrepancies between the Mortgage application and information provided to us during the transaction. Normally, your Mortgage Lender's interest is identical to yours but difficulties can arise if we are aware of any incentive or any other arrangement which might obscure the real price which is being paid such as discounts for early completion, contributions to the purchase price, family members lending you money in order to purchase, etc. If there are any such matters arising in your purchase, then we are under a duty to disclose this to the Mortgage Lender. If we feel the matter needs disclosing to your Lender, we will let you know – if you do not permit us to make such disclosure, then we would have to cease acting. There can be other circumstances where your interests and those of the Mortgage Lender may be in conflict, e.g. we will have to pass them information that you give us that may be relevant to their decision whether to finance the purchase. If you tell us things that you do not want the lenders to know, and they are relevant to the lenders, we may have to stop acting for the lenders and possibly also for you.

## **9. How soon do I need to pay any money?**

- If you are purchasing a property we will ask you for approximately £200.00 at the outset to cover the costs of searches.
- If you are selling a property, we don't normally need any money at the outset unless you are selling a flat in which case we may have to ask you for money to pay the fees charged by the Landlord/Managing Agent for information on maintenance or management of the flat. This varies but can range from £150.00 to £450.00 plus VAT.
- It is normal for a deposit to be paid on exchange of contracts. Generally speaking, this is 10% of the purchase price, although that is not always the case. If you are selling and buying then we can usually negotiate to use the deposit that we receive on the sale in connection with the purchase.
- Shortly before completion we will send you a Completion Statement showing the total amount due from you, after allowing for any search fees, deposit paid by you or mortgage advance received from the lender.
- When paying any money to us please note that any cheque drawn on a Bank account will require eight working days to clear. If you have to pay in funds prior to completion, please bear this in mind as we need to have cleared funds on completion as otherwise we may not be able to complete the purchase. Where time is short, cash, (subject to a limit of £500.00) a Banker's draft, a Building Society counter cheque or a telegraphic transfer (CHAPS) into our Client account are acceptable and are cleared funds.