

# About You

## Residential & Investment Property

*Eatons*

For sound expert legal advice, trust Eatons Solicitors



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## Your Purchase

Buying or selling your home is a big deal. Your home is usually your main asset and so moving home can be eventful but exciting.

Now you have available to you Eaton's' expert professional help to guide you through the process. We are just as keen as you to complete your transaction quickly and efficiently.

We have helped thousands of people move house over the years and so are ideally placed to be there for you every step of the way. This document sets out the steps involved in what can be a complex legal transaction.

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The property that you are buying is unique. Buying property is not like buying anything else: it will exist forever. Lots of people (previous owners, neighbours, members of the public, local authorities and financial institutions) can have rights over it. Our job is to make sure that you become the true and rightful owner.

We study the title deeds, ask questions, make searches and prepare contracts for you - all to make sure that your investment is safe. There are essentially three different stages in the work that we go through to make you a home owner:

- The lead up to exchange of contracts
- Preparing for completion after contracts have been exchanged
- After completion, registering you as the new owner

### 1.1

#### The Lead up to Exchange

Once the estate agent has provided us with the details of the sale, we will be in touch with the seller's solicitors. They will have obtained the title deeds to the house and will prepare the contract documentation to send to us.

Before we can be sure that it's safe for you to exchange contracts, we need to be happy with the following:

##### Contract Documentation

The sellers will put together a package of information to send to us including:

- A contract which is a legal document about what has been agreed (i.e. price, names of the parties and what happens if something goes wrong). Two copies of the contract will be prepared - you will sign one copy - the seller will sign the other and then the solicitors will swap or "exchange" them.
- Once exchanged the contract becomes legally binding meaning there will be penalties if either side backs out.
- Relevant extracts from the deeds to confirm that the seller owns the property and to identify what rights or obligations are attached to the property.
- A Property Information Form that the seller will have completed. This will contain details about the property, such as with regard to the boundaries, utility, suppliers etc.
- A Fixtures, Fittings and Contents Form that the seller will have completed. This will give details of fixtures and fittings that are included and excluded in the sale.
- Any guarantees, permissions (e.g. planning) or similar agreements.

If the property is leasehold (usually a flat), other documents will be needed to cover such things as insurance, service charges, ground rent and shared facilities.

Often we will need to raise additional questions arising out of this documentation. We will also send you copies so that you can see what the sellers have said. If there is anything that you are not happy about or need more information about please let us know and we will also raise this with the sellers.

Our enquiries do not relate to the physical condition of the property - this is an area that should be dealt with by your own inspection and survey. Similarly, we cannot visit the property and so cannot check anything that would only be apparent on a visit e.g. whether the boundaries have moved compared to the plans, if an extension has been built or if there is an informal arrangement such as a footpath. Please let us know if there is anything that you would like us to check.

If any defects or problems become apparent which were not made clear when you made your offer for the property, it may sometimes be possible to renegotiate the price. Until contracts have actually been exchanged, neither the seller nor the buyer is legally bound to go ahead and there is no penalty or compensation if either pulls out.

Be aware of the limitations of certain types of surveys. We would always advise you to consider a more detailed type of survey than the basic mortgage valuation.

“I don’t think there is anything to improve on, outstanding service. If I need a solicitor in the future I would call Eatons and also recommend Eatons to family and friends. Thank you.”

#### **Mortgage Offer**

When you receive your mortgage offer, we will receive a copy as well. Your lender will ask us to check things and make sure that we have met any conditions they need. You need to read the offer very carefully to make sure that anything you need to do is not forgotten. For instance, you may need to arrange life or building insurance cover and we cannot exchange contracts until all the lender’s requirements are met.

#### **Searches**

For every transaction, we need to search the records that various agencies keep about the land.

We need to carry out a local authority search every time. This is sent to the local council and covers things like whether the roads and sewers are maintained by the council, whether there have been any planning applications and whether there are plans for any new roads. This search will reveal anything in the Council’s records about the property, but applies only to the property itself and not to neighbouring properties or the surrounding area. If you know of something that is likely to happen in the immediate area of the property, you should let us know before contracts are exchanged.

We will also search the Land Registry which holds digital records of all the land registered in the country. This will provide us with the boundary details which will reveal any third parties who have rights over the property, showing what charges, or mortgages, exist.

*Depending on the area, we may also need to do searches to tell us whether there has been any mining in the area, whether the house is liable to flooding or whether the land has been used for something previously which might have caused pollution.*

#### **Joint Ownership**

If you are buying the property with someone else we would usually assume that you are intending to own it in joint names and have an equal share each. If this isn’t what you intend (e.g. if perhaps you are contributing more to the purchase price on the deposit and want to agree that your share of the property is proportionally greater) then please let us know and we can make arrangements to have a Declaration of Trust agreed and recorded on the title deeds.

We will also assume that you will want to jointly own the property as “Joint Tenants” (which means that you own the whole property together and that on the death of one of you their share passes automatically to the survivor(s)) rather than as “Tenants in Common” (which means that you each own your own distinct share which will go direct to your estate on your death). Since the great majority of people own property jointly as joint tenants, we will need you to let us know if you wish to hold the property as

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Tenants in Common, so that we can similarly record this and in which event we would always advise that you make a Will.

### Deposit

When we exchange contracts, the seller will want you to pay a deposit which is usually 10% of the price. If you had to back out of the transaction (for any reason) after you had exchanged contracts (although this would be very unusual) the seller would be entitled to keep your deposit.

As we need cleared funds in our bank account before we can pay the deposit for you, we need to have the money for your deposit sufficiently far in advance for the money to be cleared through the banking system (which in the case of a cheque is 10 days).

### Fixing a Date for Completion

There is usually a gap of a week or two between exchanging the contracts and “completion” (i.e. the day on which you actually move in). Having become bound by contract to complete on a particular day, this gap allows us time to get the money we need from your lender and to prepare the legal work for the transfer of the property, but also allows you some notice to book your removal van. Please do not be tempted to agree a proposed completion date with the sellers direct, without checking with us. You will appreciate from all the steps outlined above that there are many elements to put in place before you book your removal company.

### Exchanging Contracts

We will liaise with you before we actually exchange, just to check that we are all happy to do so.

Exchanging contracts is the stage where both buyers and sellers become legally bound and, if you are buying and selling at the same time, we will make sure that you do not become bound on one transaction without a binding agreement on the other. You should note that it is exchanging contracts, and not the physical signing of the contract, which is the binding act. You may, therefore, sign the contract some time before we exchange it. When buying a property you must have the property insured from exchange of contracts and any life policies must be validated.

## 1.2

### Preparing for Completion

Leading up to the completion date, after exchange of contracts, we will carry out the following steps in preparation:

- We will raise any final queries with the seller’s solicitors regarding the title to the property, the arrangements for transferring money to them and obtaining keys from them on the date of completion.
- The final documents (mortgage deed and transfer) will be prepared and signed by you ready for completion.
- We will make our final searches at the Land Registry to make sure everything is clear before completion.
- We will arrange to collect the money we need from your lender and from you. Again, we need to have cleared funds (in our bank account) before the date of completion.

You should arrange to take over responsibility for the gas, electricity, telephone, water and other supplies from the relevant suppliers from the date of completion.

“You were brilliant. You responded promptly and were the height of efficiency.”

#### Completion day

On the date fixed for completion, we will arrange to send the purchase money to the seller’s solicitors by telegraphic transfer through the banking system. Only after they have received this, will you be able to collect the keys. If you are selling and buying we will need to have received your sale money from your buyer’s solicitors before we can complete the purchase with your seller’s solicitors.

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*This can cause delays in the release of keys; we will do all we can to minimise these. Once we have put money into the banking system, we are totally reliant on the speed of that system. From experience, we usually get confirmation that the money has been transferred before 2pm on the day. We will be able to let you know by email or telephone when the money has cleared and when you can have the keys to move in.*

#### 1.3

### After Completion

Following completion we will need to register you as the new owners. In order to pay the stamp duty on your behalf, we will need to send you more documents; we may also need to ask you to send us information such as a new life policy.

Since there are time limits, it is important that you reply to us as soon as possible. We will send the title deeds and application forms to the Land Registry but it will usually take several weeks or months to complete registration, after which we will get your deeds back. Your ownership (“or title”) is now only recorded digitally by the Land Registry and, once this has been registered, they send us back any old paper deeds.

## Your Sale

When we deal with the sale of your property, our priority is to ensure that the buyers and their solicitors have all the information and co-operation they need to complete the transaction. Also, that you receive the money from the sale as smoothly and swiftly as possible. This is of paramount importance when you are selling a house to enable you to buy another one. There are essentially two stages in the work to complete the sale transaction, the lead up to exchange of contracts and preparation for completion.





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### Contract Documentation

After obtaining your title deeds to your property, we will assemble a complete package of information and documents to send to your buyer's solicitors. These will include:

- A contract based on the information we have taken from your title deeds.
- Copies of parts of your deeds, so that the buyer's solicitors can see that you own the property and see what rights or obligations are attached to the property.
- A Property Information Form that you will have completed.
- A Fixtures, Fittings and Contents Form which you will have completed.
- Any guarantees, planning permissions or similar agreements which you have supplied.
- Landlord, service charge and ground rent information (if applicable).

The buyers may well have questions about the documentation that we have sent them. These questions will either be about the legal title to the house (in which case we will answer these from the information that we have collated) or about the house itself (in which case we will assist you in providing the appropriate answers).

The buyers and their solicitors will then go through the process of putting themselves in a position to proceed with their purchase. For instance, they will apply for a mortgage, have a survey carried out and make various searches of the records held by different agencies such as the local authority and the Land Registry and check for things like mining subsidence, the likelihood of flooding and pollution.

You should be aware that if defects or problems become apparent e.g. as a result of their survey which were not clear when the buyers made their offer for your property, they will sometimes try to renegotiate

the price. Until contracts are actually exchanged, neither you nor the buyer is legally bound to go ahead and there is no penalty or compensation if either of you pulls out. When it seems likely that the buyers will be able to proceed, we will send you one copy of the contract which we have prepared, to sign in preparation.

### Title Indemnity Insurance

Sometimes when we investigate the title to your property, it highlights a potential problem, e.g. the property may have been extended in breach of a restrictive covenant against the building. In these circumstances either your lender or the purchaser may ask us to put in place an insurance policy to protect you, e.g. to insure against somebody enforcing a restrictive covenant at some point in the future. You may have to pay a single premium to cover the cost of this, which we will not have allowed for in our original estimate. If this kind of insurance is needed, we will explain it to you at that time and help to put the policy in place (for which there will be an extra fee).

### Deposit

When we exchange contracts, you will want the buyers to pay a deposit which is usually 10% of the price. Although it would be very unusual, if for any reason they had to back out of the transaction after you had exchanged contracts, you would be entitled to keep their deposit.

The buyer's solicitor will arrange to have the deposit money from the buyers in advance to send to us on exchange of contracts. They will also have arranged for the buyers to sign their copy of the contract.

### Fixing a date for Completion

There is usually a gap of a week or two between exchanging contracts and “completion”, i.e. the day on which you actually move in. Having become bound by contract to complete on a particular day, this gap allows the buyer’s solicitor time to get the money they need from the buyer’s lender and to prepare the legal work for the transfer of the property, but also allows you some notice to book your removal van. Please do not be tempted to agree a proposed completion date direct with the buyers, without checking with us. You will appreciate from all the steps outlined above that there are many elements to put in place before we can be sure that you can book your removal company.

The buyer’s solicitors will prepare and send us a legal transfer of your property that we will check, then send to you to sign in readiness for completion.

### Exchanging Contracts

Exchanging contracts is the stage where both buyers and sellers become legally bound - and, if you are buying and selling at the same time, we will make sure that you do not become bound on one transaction without a binding agreement on the other. You should note that it is exchanging contracts, and not the physical signing of the contract, which is the binding act. You may, therefore, sign the contract sometime before we exchange it. Once the contracts have been exchanged and the completion date agreed, you can arrange for your removal van.

## 1.5

### Preparing for Completion

After the exchange of Contracts, we will carry out the following steps in preparation for the completion date:

- We will answer any final queries raised by the buyer’s solicitors about the title to the property.
- We will ask your mortgage lender for the redemption figure to pay off your mortgage on the day of completion. Your mortgage with your existing lender must be paid right up to the completion date. Please do not cancel your mortgage payments until then because if you stop paying early, this may mean that we do not have enough money to complete the sale for you without a delay.
- We will prepare and send you the final completion statement that will show how much money you will receive from your sale. If, however, we need money from you in order to complete, then we will ask you to arrange for a bank transfer (CHAPS) or a bankers draft, to be with us the day before completion at the latest (we cannot accept a personal cheque) so that we have cleared funds on the day of completion. If you contact your bank they will be able to arrange this for you.
- We will ask you how the keys are to be made available for the buyers. You can either leave the key with your estate agent or you can arrange to hand them over direct to the buyers.

“Your due diligence and efficient communications by email made the whole process of finally letting go of our parents home less emotionally challenging.”

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- The buyer's solicitors will ask for our bank details so that they can arrange to transfer the money to us on the completion day, they will also ask where the keys will be left for the buyers to collect once we have received the purchase money.
- We will require a contact number for you prior to the completion day and contact address for you for after completion.
- We will ask your estate agent for their commission account.

You should arrange for the final reading of the gas, electricity, telephone and water from the relevant suppliers on the date of completion.

### Completion day

You must arrange to leave your house empty either before or on the day of completion. This is "vacant possession". Once we have obtained the purchase money from the buyer's solicitors, we will let you know that you can release the keys to the buyers to allow them to move into the house. Since the purchase will usually be completed on the morning of the completion day, you should try to be out early.

We are unable to advise you of a definite time the keys can be released until the bank has confirmed that the money has been transferred.

Once we have received the purchase money into our bank account, we will arrange to immediately pay off your mortgage and will pay your estate agent direct. Unless the balance of the money is being used towards your new purchase, we will arrange to forward the net proceeds of the sale to you.

Please note that this will be paid into the bank account details that were provided on your initial questionnaire and any monies can be paid into an account held in your name (**only**).

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### After Completion

*We will continue to assist the purchaser's solicitors to register the buyers as the new owners of the property. Your lender will acknowledge that the loan is paid and that there is nothing else outstanding resulting from you having owned the house. We will do everything we can to ensure that you have complete peace of mind.*

If you require further information about any of the points we have explained in this guide, please do not hesitate to contact the person dealing with your matter.

Tel: 0800 998 1155  
enquiries@eatons-solicitors.co.uk  
www.eatons-solicitors.co.uk

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