

## Our guide to buying your newbuild home



**Buying your home is probably the most expensive investment that you will ever make so it pays to get the right advice.**

As one of the oldest and largest firms in the South West we aim to provide you with a swift and expert service at a competitive price.

### The steps involved when buying your home

- Decide how much you can afford to spend, how much you need to borrow and get some mortgage advice from your preferred lender/broker
- Go house hunting
- Find your 'ideal home' and make an offer
- Your offer is accepted
- Instruct Tozers to act in connection with your purchase
- See your chosen lender/broker and apply for the mortgage
- Property valuation carried out by your lender and if you have decided to have a survey, it will be carried out at this stage
- Tozers carry out any searches required and make enquiries about the property which you are purchasing
- Search results received
- Mortgage offer received (if required)

- Meet with your conveyancer at Tozers to go through the contract and mortgage offer, or property report and contract sent to you for signature if preferred

### Pre-exchange of contracts

**Before offer** - you should consider the type of property which you require and the amount of mortgage which you can afford. You should discuss availability of a loan with a lender if one is required.

**Post-offer** - once you have agreed to purchase a property, you should notify us. The site office will send us a reservation form setting out: the address of property, the purchase price, the name of the developers' conveyancers, your name and address and any incentives or deals that have been agreed between yourself and the developer.

Most developers will impose a 28 day exchange deadline. If contracts are not exchanged within this timescale the developer reserves the right to remove or reconsider any incentives they are offering. This does not mean they will! To help speed up the interval between agreeing your purchase and exchange of contracts, we would ask you to pop into our offices so we can deal with our identity requirements and take payment on account of search fees.

**Survey** – it is unlikely, given that the property you are purchasing is in the process of or has recently been built, that you will have a survey undertaken of the property (this should be carried out at the earliest opportunity and certainly before exchange) if having a survey. You should arrange for the result to be sent to us to check whether there are any legal queries arising from it.

**Searches** – during this pre-exchange period, we will be carrying out searches of the property on your behalf, raising enquiries of the developer where we feel appropriate and reviewing your mortgage offer once issued to us. Once we have received the results of our enquiries and searches, as well as your mortgage offer (if applicable), we will contact you regarding an exchange of contracts.

**Timescale** – as referred to above, most developers will impose a 28 day exchange deadline. We will naturally do all we can to ensure this is met, however, there are some factors outside of our control i.e. how long your mortgage lender (if applicable) takes to issue an offer, how long the Local Authority take to respond to our search request etc. A pro-active approach must be adopted, both by you and us, thereby limiting the chance of the deadline being exceeded.

## Exchange of contracts

Before signing the contract, the documents relating to your purchase will be explained to you either in person when you attend the office, or in the form of a property report which is sent to you by post. Provided you are happy with the terms of the purchase, you will be asked to sign the contract and return this to us (if this process has been done by post) together with your deposit monies.

Contracts can then be exchanged. This is the point of no return and you need to be certain that you wish to buy the home! The exchange itself is carried out during a telephone conversation between both sets of solicitors and it is at this stage that the completion date will, if the property is structurally complete, be written into the contract. In the majority of cases completion will be 'on notice' to allow the developer time to finish building the property. On a practical level, this means completion will usually be between 7 and 10 working days after the developer has provided us with evidence that the property is structurally complete and has been signed off by building control. The site office will be able to provide you with an anticipated completion date and will keep you updated as matters progress.

## Post-exchange of contracts

If a fixed completion date is offered on exchange you will be busy making plans to move. It is unwise to book your removal firm until contracts have been exchanged and a completion date agreed as, prior to exchange, there is no guarantee when completion will take place. Notwithstanding this, it is prudent to make initial enquiries of removal firms to check potential availability.

We have listed below some third parties that you may want to notify about your proposed move.

If completion is on notice, it will be a case of waiting patiently for the developer to serve a notice to complete on us before carrying out these steps. If you are purchasing the property with the benefit of mortgage finance, we will ask your mortgage lender to forward the advance in time for completion.

We will prepare and forward to you a financial completion statement showing the purchase price, legal fees, stamp duty (if applicable) and Land Registry fees payable, and also the monies credited to your account, for example the mortgage advance and any deposit that has been paid. The statement will also account for any financial incentives being offered by the developer as well as the reservation deposit paid by you directly to the site office. The statement will show either a balance due to you or a balance due from you in time for the completion date. If money is required from you, we will need the money at least two days before the completion date. Please note that we aim to get the statement to you as soon as possible but often have to wait for information to be provided by the developers' solicitor.

In terms of documentation that you need to sign at this stage, we will ask you to sign the transfer, mortgage deed and the stamp duty form, should you not have done so already.

## People to notify when moving home

- Council tax office
- Clubs and organisations
- Children's schools
- Doctor
- Utility companies
- TV and broadband provider
- Employer
- Dentist
- Store and credit card companies
- Insurance companies
- DVLA
- Optician
- Bank / building society
- Pension provider
- HM Revenue & Customs
- Post Office - mail redirection

## Completion of your purchase

On the completion date you should be able to move into your new home, no later than 2pm all things being well.

Completion may take place earlier than this time and you should check this with us. The time at which you can move into your new house will depend on the time at which your mortgage monies are received (if applicable) and the speed of the banking system in transferring the purchase invoices to the developer's solicitors.

On completion, you should (if you have not already done so), notify all relevant third parties of your move. You can find a suggested list of persons to contact under the "post-exchange of contracts" section of this guide. Keys will usually be collected from the site office, unless you have come to an alternative arrangement.

Now is a good time to consider making a will, if you don't have one already. We can assist you with this.

## Property safeguards

### Radon gas

Radon is a natural gas found in soil and rocks. It has no colour taste or smell. Levels vary from country to country, region to region and even from house to house in the same street. In open space, when radon mixes with air, it is quickly diluted into the atmosphere. But when air containing radon rises from the soil and rocks beneath your home, it may find its way in.

Radon is particularly prevalent in areas where properties are located on granite, as in the south west, but not exclusively so. Tozers does not deal with radon tests. However, if you are worried we can carry out a check with UKradon (a reference site of the Health Protection Agency) for an additional fee. This will not be specific to the property and it will only give general details of the area in which the property is situated. For specific measurements, a test of the property would need to be carried out which can take three months.

The Health Protection Agency publishes leaflets explaining the implications of radon in greater detail and further information can be found at the websites of the following organisations: Health Protection Agency and UK Radon.

## Surveys and valuation

**Surveys** – if you intend to have a survey, this should be carried out before exchange of contracts as, once the contract has been exchanged, you are committed to buying the property. This may not be feasible if the property is not built yet. Please let us know if you wish us to wait until the results of the survey are received before we submit the searches.

**Building society valuations** - if you are having a mortgage, your lender will obtain a valuation of the property before making a mortgage offer. Please note that a valuation is not a survey and is only carried out for the benefit of the lender. A valuation is extremely limited and you should not rely on this when deciding whether or not to purchase a property.

**A homebuyer survey and valuation** – also known as an HSV/HSBV or homebuyers report - this report is prepared in a standard format. The Royal Institution of Chartered Surveyors (RICS) advises that this report is intended only for particular types of houses, flats and bungalows, which are of 'conventional type and construction' and in 'apparently reasonable condition'.

The report considers defects and problems which require urgent attention or are significant and will affect the price to be paid for the property. Given the property has recently or is being constructed; significant defects are likely to be covered by your new home guarantee.

**Building survey** - this type of survey is suitable for all properties but would normally be recommended if the property which you intend to buy is of non-traditional construction, or has been renovated, or if you plan to renovate or convert the property. It is not commonly used for new build properties. The surveyor will tailor the survey to your requirements and will produce a comprehensive report, detailing minor and major defects. You should be aware that a valuation of the property will only be carried out if you request it and that this may cost extra.

If you decide to have a homebuyer survey or building survey carried out, the conveyancer dealing with your purchase will happily recommend a surveyor. Alternatively, you can browse the RICS website (<http://www.rics.org/uk>) for the names of chartered surveyors in your area. This will enable you to check the cost of a survey and what is included in the price. On the other hand, your lender may be able to arrange this for you.

## Deposit

**Deposit** - the standard contract terms which all solicitors use require the deposit to be 10% of the purchase price. It maybe that you have agreed something different with the site office, in which case please tell us as soon as possible so we can confirm the reduced amount with the developers solicitor.

**What is the purpose of the deposit?** The deposit protects the developer against the risk of you changing your mind and not purchasing the property. If this happens then the developer can keep the deposit. If a reduced deposit has been paid, then the developer will be able to claim against you for the difference. In addition, the developer's claim can include any other losses suffered if the property is subsequently sold at a lower price.

**When is it paid?** The deposit is paid to the developer's solicitor following exchange of contracts. If paying by cheque, you need to pay it to us five days before exchange of contracts to allow time for the cheque to clear. Your cheque for the deposit should be made payable to "Tozers LLP". Alternatively we can accept funds by bank transfer directly into our account, which should be received the day before exchange at the latest.

## Boundaries and party walls

**Boundaries** - We will advise you of any information which we receive about boundaries. If you are concerned about a particular boundary, please tell us as soon as possible.

If you are informed that you own a particular boundary, then you will be responsible for the cost and repair of this boundary.

If the boundary is a 'party' boundary, then you will be responsible for the boundary jointly with a neighbour. The law does not automatically require each owner to pay their share and if works are needed it will be best to discuss them with your neighbour before carrying them out. If your neighbour refuses to pay then you may not be able to force him to do so.

Shared boundaries are affected by the Party Wall etc. Act 1996.

**Party walls** - if, following completion, you intend to carry out works on or in close proximity to a shared or party wall, you must comply with the Party Wall etc Act 1996, which requires you to follow certain procedures prior to and during the carrying out of the intended works. Tozers will be happy to advise you further on these requirements, if desired.

## Joint ownership

If you are purchasing the property with someone else, you should be aware that there are two ways in which more than one person can own land - the terms used are joint tenants and tenants in common.

The distinction is crucial on the death of one of the owners. Where land is owned as joint tenants and one dies, the deceased's share in the land passes automatically to the survivor.

When a tenant in common dies such share passes by will or intestacy. In other words, the share can be left to the other tenant in common or to someone else.

You need to decide how you wish to own the property and let us know. If you decide to own it as tenants in common, it is essential that you both make wills to stipulate who will inherit your shares in the property.

## Conveyancing jargon explained

### Completion date

The date on which the buyer pays the money to the developer to purchase the property and legal ownership passes to the buyer.

### Contract

The agreement made between a seller and buyer which binds both to complete the sale/purchase of the property (sometimes called 'the agreement'). One copy is signed by each party and, when the parties are ready, the solicitors speak by telephone to deem contracts 'exchanged'.

### Covenant

An agreement or promise to do or provide something, or to refrain from doing or providing something, which is meant to be binding on the party giving the covenant.

There are two types of covenants: positive and negative. Positive covenants place an owner under an obligation to do something; for example, maintain a fence, while restrictive covenants prevent an owner from doing things; for example, using the property for business purposes.

### Freehold

A technical term to describe what is effectively absolute ownership of a property.

### Indemnity

An undertaking (see below) by one party to meet a specific potential legal liability of another.

### Leasehold

A technical term to describe the ownership of a lease. Where a property is leasehold (usually a flat) the holder of the lease will not own the property outright, but will have a long-term right to exclusive possession of it, subject to observing certain criteria, for example paying a rent and a service charge.

### Local search

This is a search sent to the appropriate local authority to check their records to make sure that there are no matters affecting the property which could alter your decision to purchase it – for example a road widening scheme.

The search is not against neighbouring land or property and if you have any specific queries you should tell us as soon as possible, as the search can be widened for an additional fee.

### Mortgage deed

This is the document which secures the loan being made by the mortgage lender and the term 'mortgage deed' is interchangeable with 'legal charge'. A buyer obtaining a mortgage to assist with the purchase of a property will need to sign the mortgage deed prior to the completion date.

## **NHBC**

Acronym for the National House Building Council. If you are purchasing a property built within the last ten years, it should be covered by the National House Building Council (NHBC) ten-year warranty. This cover will give you some protection against defects, but does not extend to defects which could have been spotted had you undertaken your own survey (i.e. those apparent when you purchased).

Most defects are covered in the first two years of the warranty, but only major structural defects are covered in the last eight years of the ten-year warranty.

Even when buying a new property, you are taking a risk if you decide not to have a survey.

## **Subject to contract**

An expression used by estate agents and solicitors to prevent any legal obligation to sell or buy a property arising until contracts have been signed by all parties and formally exchanged by solicitors.

## **Title deeds**

A generic term used to describe documents showing ownership of property and/or rights and obligations affecting that property. Newly built properties will be registered at the Land Registry and a new title deed created after completion.

## **Transfer deed**

The document sent to the Land Registry to transfer the property from the name of the developer into the name of the buyer.

## **Undertaking**

An agreement either to do or to refrain from doing a particular thing, which is binding on the person giving the undertaking.

We hope this information has been useful to you when selling your home. If we can assist you with any other legal matters, do please contact your nearest Tozers' office where our friendly and experienced staff will be happy to help you.

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Get in touch

**Ready to talk?**

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