



## Tozers' guide to buying your 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 a mortgage certificate from your preferred lender
- 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 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
- Additional 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 arrange a loan with a lender if one is required.

**Post-offer** - once you have agreed to purchase a property, you should notify us. The estate agent (if you are buying through one) will send us a memorandum of sale setting out: the address of property, the purchase price, the name of the seller and his conveyancers, your name and address and the details of the conveyancer at Tozers acting on your behalf.

What happens during the time between agreeing a purchase and exchange of contracts? After the initial flurry of activity, your purchase will go quiet. To help speed up the time spent between agreeing your purchase and exchange of contracts, we will send you a copy of the property information form, and fittings and contents form completed by the seller. We will ask you to check that the forms are accurate and if they are inaccurate, you must let us know as soon as possible.

**Survey** - if you are having your own survey undertaken of the property, this should be carried out during this time. You should arrange for the result of the survey to be sent to us to check whether there are any legal queries arising from it.

**Utilities** - in addition to the survey, you should consider tests on the drainage, wiring and central heating systems at the property. The property is not sold with any guarantee that these systems are in working order and you will have no comeback against the seller for any defects that you may discover at a later date. The onus is on you to be sure everything is in good working order.

**Searches** – during this pre-exchange period, we will be carrying out searches of the property on your behalf, raising enquiries of the seller 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** - the period of time from a sale being agreed to an exchange of contracts varies on a case-by-case basis. Factors relevant to this period include the number of parties involved in the chain and their individual financial arrangements. If you are one link of a chain transaction, unfortunately if one person in the chain is not ready to proceed this will have a direct effect on you.

## 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 when your seller is ready. 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 be written into the contract. Completion normally takes one or more weeks after exchange, but it can be sooner if not on the same day as exchange (known as a simultaneous exchange and completion). It is important to let us know your preferred completion date as early as possible. Also, if you agree a date direct with your seller, please check with us that the proposed date is realistic.

Insurance of the property will be your responsibility from exchange of contracts. In terms of arranging insurance, it might be that your mortgage lender is arranging for cover on your behalf. If this is not the case, then you must let us have details of your insurance cover before exchange of contracts as we are required under the terms of the mortgage to check that cover is properly in place.

## Post-exchange of contracts

You will now be busy making plans to move. It is unwise to book your removal firm until contracts have been exchanged as, prior to exchange, there is no guarantee that completion will be taking 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 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 show either a balance due to you or a balance due from you on the completion date. If money is required from you, we will need the money at least five days before the completion date.

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
- utility companies
- credit / store card companies
- bank / building society
- doctor / dentist / optician
- pension provider
- HM Revenue and Customs
- children's schools
- employer
- DVLA
- clubs and organisations
- TV licensing
- insurance companies
- Post Office - mail redirection

## Completion of your purchase

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.

Usually the seller will move out during the morning and you can move in around lunchtime or early afternoon. 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 length of the chain and your position in the chain.

On completion, you should take meter readings of the property and, should you not already have 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.

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 the matter of radon tests. If you think that the house that you are buying is in an area which is built on or near granite you should ask the seller and the estate agent (if there is one) if the house has been tested for radon. If you are worried we can carry out a check with the UKradon (a reference site of the Health and 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 proper test should be carried out which can take three months and may delay your purchase.

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

## Surveys and valuation

*Surveys* - we strongly advise that you have a survey on the property which you intend to buy. This should be carried out before exchange of contracts as, once the contract has been exchanged, you are committed to buying the property regardless of its condition. 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. It is for this reason that we always recommend that you have a survey of some sort.

*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.

The RICS sees the purpose of this type of survey to:

- assist a buyer in making a reasoned and informed judgment on whether or not to go ahead with the purchase
- assess whether or not the property is a reasonable purchase at the agreed price
- be clear what decisions and actions should be taken before contracts are exchanged

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.

*Building survey* - this type of survey is suitable for all properties. You may need this type of survey 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. 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.

## Deposit

**Deposit** - the standard contract terms which all solicitors use require the deposit to be 10% of the purchase price. If you do not have 10% available, please tell us as soon as possible, so we can try to negotiate a reduced amount with the seller's solicitor.

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

**When is it paid?** The deposit is paid to the seller's solicitor following exchange of contracts. 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".

## Boundaries and party walls

**Boundaries** - generally, we will advise you of any information which we receive about boundaries. Sometimes the deeds are 'silent' which means that we will have no information. 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 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

Technical terms explained:

### **Completion date**

The date on which the buyer pays the money to the seller 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.

### **EPC**

Acronym for Energy Performance Certificate, which is an assessment carried out on a property to give an estimate of its energy efficiency. It will also show if any improvements could be made to the property to increase its efficiency, and so save on running costs.

### **Fittings and contents form**

A form completed by the seller identifying what common items will remain at the property, or be taken from it, at completion. If you are a purchaser, you must check this carefully to be sure that it includes all the items which are included in the purchase price. If any items are omitted which you believe should be left, you must notify us immediately in order that we can agree their inclusion in the sale price with the seller's solicitor.

### **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 property will need to sign the mortgage deed prior to the completion date.

### **NHBC (National House Building Council)**

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. Most defects are covered by 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. Most properties are now registered at the Land Registry, who will hold copies of any salient historic documents relevant to a given property. However the originals of these documents will normally still be in the custody of the property owner, with mortgage lenders rarely interested in holding these since the introduction of the registration system.

### **Transfer deed**

The document sent to the Land Registry to transfer the property from the name of the seller 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.

## **Further advice**

We hope this information has been useful to you when buying 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 or email us at [ResidentialProperty@tozers.co.uk](mailto:ResidentialProperty@tozers.co.uk)