

HOUSE PURCHASE/HOUSE SALE

INFORMATION SHEET FOR CLIENTS OF MESSRS W & A S BRUCE

The notes are for guidance only and are not exhaustive. They are however an extremely important guide to essential matters which may come up during the course of your transaction. Please read and note these points carefully. Your Solicitor will be very pleased to discuss any matter on which you are unsure.

SOME ESSENTIAL EXPRESSIONS

MISSIVES

The offer to sell or buy property contains several conditions designed to safeguard the client's interests. The response to the offer normally contains further conditions. These letters form the "missives". Once a final letter indicating agreement on all points is received, the missives are "concluded" and a binding contract exists for the sale and purchase. A contract for the sale or purchase of a property is not legally binding until all conditions are agreed (i.e. conclusion of the contract). Your Solicitor will require to discuss each of the missives with you to ensure that you are fully informed and to obtain your instructions to proceed. You cannot normally alter the terms of the missives once concluded except with the consent of both buyer and seller.

OUTLAYS

These are sums which your Solicitor has to pay out to the government agencies and other bodies on your behalf in the course of your purchase or sale.

Stamp Duty Land Tax (for residential properties) is the tax payable by the purchaser at the rate of 1% on the whole of the purchase price where the price exceeds £125,000 up to £250,000. For purchases between £250,000 and up to £500,000 the rate of tax is 3% of the total price and for purchases over £500,000 tax is payable at 4% on the price.

Recording Dues are charges by the government agency, which records all transactions to do with land, on the basis of the value of the property or the loan secured on it. The buyer and seller pay their own dues.

Search Dues are charged when the record of all transactions to do with your property is brought up to date. As Search also carried out to ensure that you are not legally inhibited from dealing with the property. The seller normally meets the costs.

The Property Enquiry Certificate is produced by the Local Authority or a suitable qualified Company to confirm matters relating to planning, Building Control etc. and is exhibited to the Solicitor of the purchaser. The seller is normally required to meet the cost of the Certificate.

A Coal Mining Search is a Report required in coal mining areas and advises of any coal workings or mine shafts in the vicinity of the property.

STANDARD SECURITY/MORTGAGE DEED

This document binds you for repayment of the mortgage and normally gives the lender the power to repossess or sell your house in the event of non-payment of the mortgage. Your home is at risk if you fail to maintain any payments required in respect of any Standard Security.

LAND TRANSACTION RETURN

All purchasers are by law required to complete and submit a Land Transaction Return to the Inland Revenue in respect of any house purchase or land Transaction even if no tax is payable. Failure to submit

or correct the documentation may result in a financial penalty.

DISPOSITION

This is the Title Deed transferring ownership of the house. It is signed by all owners and their spouses in (if any).

DATE OF ENTRY

This is the date on which the purchase price is paid over and on which you pick up the keys. This will be specified in the offer of purchase or sale.

MATRIMONIAL AND FAMILY HOMES AND AFFIDAVITS

If the house being sold is in the name of one person only, then a statement (Affidavit) would normally be required to be sworn before a solicitor or Notary Public confirming that the house is not a matrimonial home and no spouse or civil partner has rights to live in the property. If the house being sold or bought is, or is intended to be a matrimonial home or family home then the consent of the other spouse or civil partner in the sale or the granting of any standard security is required. If the Title will be held in the name of one spouse or civil partner only, it is essential to advise your Solicitor of this as soon as possible.

TYPES OF SURVEY

There are generally four types of Survey, namely:-

- (a) **A MORTGAGE VALUATION.** The Surveyor is giving a basic valuation of your house for the purpose of your Building Society. He may also make some comments about the condition of your house. Your rights of recourse against the Surveyor in relation to any defects and the conditions of the house reported to you may be restricted.
- (b) **A HOUSE BUYER'S REPORT.** This is a detailed report costing approximately twice as much as the mortgage valuation and may be instructed for properties which could have potential problems (e.g. older properties) and upon which you may wish to have a right of recourse against your Surveyor.
- (c) **STRUCTURAL SURVEY.** This report goes into the structure and stability of the property and would be commissioned in addition to either mortgage valuation or house buyers report. This would normally be necessary when it appears that the house is affected by subsidence or some structural problem.
- (d) **SPECIALIST SURVEY.** This is a report to determine the existence of rising damp, dry rot/wet rot, woodworm or similar infestations. As a seller you should advise your Solicitor of previous treatments carried out and give him any guarantees and the relevant specifications or works carried out.

Your Solicitor will help you decide which type of survey you wish to instruct.

THE PROCESS OF BUYING AND SELLING

After any offer has been received or submitted on your behalf there will be an exchange of missives leading to conclusion of a binding contract.

Only once missives are concluded can you say with any certainty that you have bought or sold your home. You can then depend on the purchase or sale proceeding except in exceptional circumstances (e.g. bankruptcy of the purchaser or seller), various title problems which are incapable of being resolved, the death of a purchaser or seller (which may delay the completion of the purchase or sale).

If you are buying a property we strongly recommend that any life policy taken out to cover your mortgage or borrowing commitment is in force at the time of conclusion of missives.

Your deposit together with any conveyancing charges and Stamp Duty Land Tax and Registration Fees payable on the purchase should be lodged with the Solicitor 10 days in advance of the entry date.

We would normally expect the keys to be available by 12 noon on the date of entry, however, the contract will determine the exact time, although it is possible that delays can occur which are outwith the control of your Solicitor (e.g. a delay in the Mortgage Lender releasing funds). As a purchaser you should inform your Solicitor as to when and where you would wish to collect your keys and as a seller you should arrange to deliver a set of keys to your Solicitor to release to the purchasers Solicitors and advise if there is any difficulty in allowing entry to the purchaser by 12 noon.

In addition, it is extremely important that you should advise your Solicitor if you are likely to be away from home or uncontactable in the week before the date of entry. If you move to a temporary address pending completion of a purchase or sale it is essential that your Solicitor is advised of your new address and contact telephone numbers.

TITLE DEEDS AND OTHER DOCUMENTS

When selling your house your Solicitor will require to order up your Title Deeds from your Mortgage Lender. The Lender may charge a fee for this service even though the sale does not proceed. Your Solicitor will need to know the name of your Lender and the loan account number.

Joint purchasers should ask their Solicitor about the effects of "Survivorship Destinations" in the Disposition to be granted in their favour. Survivorship Destinations can be included in the title deeds to ensure that title to the property will automatically pass to the surviving titleholder. As Survivorship Destinations may not be removed without the consent of the other purchaser(s) these will be incorporated only when specifically requested by joint purchasers.

When selling, your Solicitor requires to obtain a Property Enquiry Certificate, which can take anything up to one month. If you accept an offer with an entry date shorter than one month then you must discuss with your Solicitor whether the Certificate will be available prior to settlement. If not, this may delay settlement or involve you in legal liabilities.

DO'S AND DONT'S

1. ALTERATIONS AND EXTENSIONS.

It is essential that you advise your Solicitor of any alternations of which you are aware or suspect either as a purchaser or seller and even if you did not carry out these alterations yourself. Failure to advise your Solicitor of this may delay the settlement of the transaction and may cause unforeseen costs.

Alternations may include removal of internal walls, extensions, double-glazing installations, or installation of a shower.

Larger alternations may also affect your Council Tax banding and you should notify the Local Authority of these as well as informing your Solicitor.

You should also advise your Solicitor of any matters (such as planning applications or alternations) affecting adjoining property within your knowledge.

2. SECOND SECURITIES

If as a seller you have other loans with a finance company e. which may be secured loans or a short terms loan with a Building Society, you should advise your Solicitor of this at the very earliest opportunity. Failure to do so could cause severe legal complications. If you have an overdraft or short term loan as well as your mortgage from your Bank or Building Society, they may wish to have this extra borrowing repaid from the proceeds of you house sale. There will be serious difficulties if the sale proceeds are insufficient to repay all relevant loans and you must discuss this with your Solicitor at the earliest opportunity. Please therefore check with your Bank if this is the case and advise your Solicitor accordingly.

3. It is the sellers' duty to notify the public authorities e.g. gas, electricity, telephone and also the council tax authorities of the intended move. Failure to do so could result in the seller being liable for the accounts until notification has been received. Please ensure that you immediately advise the relevant authorities on the date of entry.