

Home Seller's Guide

The expert hand, with the human touch



“ Two great property transactions: Irwin Mitchell have been fantastic through my two property transactions recently. They are just set up to do this right but also have a great personal service. ”

Daniel

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Introduction

Once you have agreed a sale of your property you'll have to go through certain steps before completion of the sale can take place and your buyer takes legal ownership.

This guide will explain what will happen, how you are affected, and provide guidance on potential problems. Selling a property normally has three stages:

Part A - Investigations & negotiations

Part B - Exchange of contracts

Part C - Completion & registration

Please keep this guide to hand as we'll refer to it as the transaction proceeds. If you misplace it, please ask for another.



“Excellent service and a very attentive solicitor who was always available to support and assist with any questions throughout the process. Would definitely recommend.”

Morad

Part A - Conclusion of negotiations to exchange of contracts

Once you have instructed us to act on your behalf, we'll contact the buyer's solicitors and send them the draft contract and other documents for review. We'll also work with you to answer any of the buyer's enquiries about the property.

The following key points are explained in detail on the following pages:

Contract negotiations	Title deeds & documents	Existing mortgages
Other occupiers	Property information forms	Agreement & title
Accepting a reduced deposit	Chains	Payments
Fixtures and fittings	Costs	Wills

Contract negotiations

Remember that neither you nor the buyer are legally committed to go ahead with the transaction until contracts are exchanged. Don't commit yourself to anything without speaking to us first. Negotiations aren't binding until contracts are signed by both parties **and exchanged** by the solicitors.

A contract is an agreement which will be recognised in a Court of Law. The words "Contract" and "Agreement" are used interchangeably throughout the industry.

Title deeds & documents

If you hold any title deeds and documents, please forward them to us.

Your lender may sometimes hold the old title deeds if you have a mortgage. However, we can usually get up-to-date office copies of the title documents electronically from the Land Registry.

If you have a mortgage, please let us know the name of your lender and your mortgage account number (if you haven't already). This will enable us to request a mortgage redemption statement.

Some lenders charge penalties if you redeem your mortgage early – this is often the case for fixed term mortgages. Please check if this applies to you and let us know as soon as possible.

If you have a second or subsequent mortgage, please let us have the name, address and account number of the second or subsequent lenders.

If your name has changed since you bought the property (because you have got married or for any other reason), please let us have your marriage certificate or evidence of your name change. We'll return it as soon as we've taken a certified copy.

If there is a mortgage on the property, we must pay off the mortgage with the proceeds of the sale on the day of completion. This also applies to any second or subsequent mortgage. You will sometimes need to pay off a second mortgage before the sale proceeds become available.

We'll give you a copy of the mortgage redemption statement before completion. The figure may include an early repayment penalty and administration fee.

Please tell us immediately if you feel the figure is incorrect. Please agree any necessary corrections with the lender and send us written confirmation **before completion** or we will have to send the amount on the statement. This is because completion is dependent on us giving an undertaking (promise) to pay off your mortgage(s) on completion.

Existing mortgages

You should continue paying your monthly payments until your mortgage is repaid.

We'll apply for a redemption figure for all mortgages which are secured against the property. This will help us see if there is any equity or shortfall. If you already know that there is likely to be a shortfall please let us know.

You will need to send us money to cover the estimated amount of any shortfall before exchange of contracts. We'll also need proof of where this money has come from.

Other occupiers

We need the full details of anyone who occupies or uses any part of the property (other than you and children under 17 years old before completion). This could include:

- Tenants or family members or friends living with you
- Anyone who uses a garage on the property
- Anyone who takes a shortcut across your garden
- Anyone who grows vegetables in your garden
- Anyone who uses a pipe or cable that crosses your land.

If the title of the property is in your sole name but you have lived there with a wife, husband or partner, we need their full name.

Property Information Form

You will need to complete a set of standard forms and supply copies of other documentation in order for us to be able to provide a pack for the buyer's solicitors.

- a. The Property Information Form and Fittings and Contents Form give the buyer information about the property. Please let us know as soon as possible if any of the information you provide on these forms changes or you become aware of anything else that might be relevant, as your buyer has the right to know about any changes
- b. Please also give us copies of any notices that you have sent or received about the property and details of any disputes there may be
- c. Please send us copies of planning consents, building regulations approvals and completion certificates for any extensions or alterations to the property. Please also let us have copies of any compliance certificates for electrical work, new windows or boilers etc. This applies to work completed before or after you bought the property
- d. Contrary to popular belief, the deeds hardly ever say which fences, walls, etc. belong to or are maintained by you. It is usually necessary for you to give us this information to the best of your knowledge. Please tell us if you don't know
- e. If you found a buyer through an estate agent, you should confirm that the property details specified in the brochure and any terms agreed in the agent's memorandum of sale are correct
- f. If your property is leasehold, you will also need to complete a Leasehold Information Form and supply us with your lease, service charge details for the last three years, copies of any notices and other relevant information such as the landlord's insurance..

Contract & title

We'll prepare a draft contract for the sale and obtain an official copy of the property title from the Land Registry.

Please let us know if the sale includes additional parcels of land so we can obtain copies of their titles too. This may be an additional piece of garden land or a garage registered under a separate title number.

We'll then send these to the buyer's solicitors along with copies of:

- The Fittings and Contents Form
- The Property Information Form
- Any relevant guarantees or planning documents
- The Leasehold Information Form and supporting documentation.

If you have any doubts as to whether further information is relevant to your sale, please let us know and we will advise you.

Accepting a reduced deposit

The buyer usually pays a 10% deposit when contracts are exchanged. This can be difficult if they are relying on the sale of another property or a mortgage that's more than 90% of the purchase price.

This means that buyers sometimes ask if you would accept a reduced deposit (for example 5% instead of the usual 10%). Sometimes a buyer will even ask if contracts may be exchanged without payment of any deposit at all, or with a deposit of less than 5% of the purchase price.

A deposit represents part payment of the purchase price and acts as security for the buyer going through with the contract. Accepting a reduced deposit – or none at all - can be a risky decision.

If you are buying another property, you can use your buyer's deposit as a deposit on your own purchase. If the deposit you accept from your buyer is less than 10% of the price of the property you are buying, you will have to make up the difference between the deposits on the two transactions yourself (unless the seller of the property you are buying agrees otherwise).

The decision of whether to accept a reduced deposit or not is up to you, but we do advise against agreeing to anything less than 5%.

Chains

If you are selling and buying a property, we'll ensure that contracts are exchanged at the same time with the same completion date unless you tell us otherwise in writing.

It's normal to find yourself in a chain of transactions where your buyer has a related sale to someone who is in a similar situation and so on. Everyone in this chain will want to exchange contracts simultaneously and there is often a frustrating delay if someone in the chain isn't ready to proceed.

Always bear in mind that your transaction will only proceed as quickly as the slowest link in the chain and the longer the chain, the slower it is likely to move.

Payments

- Continue paying council tax and water charges as normal
- If you move out before the day of completion, you should notify your local authority and water supplier of the date the property was last lived in, and claim any refund which may be due
- Notify any energy providers of the date you vacate and give them a meter reading.

Payments – leasehold properties

If you pay a service or maintenance charge under the terms of your lease, we will need the last three years' service charge accounts.

If the landlord or management company arranges the buildings insurance we will also need a copy of any buildings insurance policy, especially the current policy schedule and premium receipt. This must show the current cover and the date to which you have paid your premium contribution.

We will also need copies of any notices that you have served on your landlord or vice versa.

We will write to the landlord and/or management company to ask for their replies to a prescribed form of Leasehold Enquiries (LPE1). They will charge a fee to provide this information.

Please let us have receipts for all the last payments made to the landlord or any management company before completion of the sale. These payments may include:

- Ground rent
- Maintenance charges or contributions
- Service charges
- Insurance premiums.

If they are payable in advance, we'll recover a proportion of the amount you have paid from the buyer on completion. If the payments are made in arrears, the buyer can deduct the relevant proportion of these payments from the purchase price.

Either way, we will calculate the adjustment for you and agree it with the buyer's solicitors.



“ I used Irwin Mitchell to do the conveyancing on my recent purchase and sale. The team were fantastic. Always contactable, very responsive and dealt with everything very efficiently. Irwin Mitchell made the whole process a lot less stressful knowing they were on it and not holding things up. Highly recommend Irwin Mitchell for conveyancing. ”

Natalie

Estimated Charges/Retentions

In some circumstances, the accounts won't be published for the period up to the sale. Any service charges for this period will be based on estimates.

Once the accounts are published, there could be a further demand for any shortfall if the actual service charges were higher than the estimate (or a refund if actual charges are less than the estimate). Your buyer's solicitor may ask for a retention to cover any potential charges for this period.

This means that we'll hold back part of the buyer's payment until the accounts are published. We'll pay any shortfall out of the retention and give you whatever's left.

This process could take 12 months or more, but we'll discuss it with you if it arises.

Fittings and contents

As the seller, you must remove all furniture and contents but leave fittings behind, subject to anything you may have specifically agreed with your buyer and/or set out in the Fittings and Contents form, which will be attached to the contract.

Fittings are generally anything that's permanently attached to the property or that would damage the property if removed. For instance, carpets and curtains are contents and removable but fitted cupboards, fireplaces and pelmets are fittings and should remain.

Informal arrangements for fittings and contents can be confusing and frustrating for everyone involved. We recommend that any different arrangements or uncertainties are clearly agreed in writing and included in the agreement itself.

If there are any fittings, floor coverings, furniture, appliances or other items included or excluded, please supply us with an inventory or include them on the Fittings and Contents form. Please let us know if you have agreed to include any extras so that these can be added to the contract along with the price.

Costs

If the transaction does not proceed to completion, you will be charged based on the amount of work already carried out, plus VAT. You will have to pay for any payments that have already been made on your behalf.

We'll always tell you if any extra work is needed and we'll let you know immediately if we need to change our cost estimate. This might happen if there are unexpected difficulties or if your requirements or circumstances change significantly.

Please note that our Terms of Business require our costs and any disbursements to be paid on completion. Any shortfall must be paid before completion takes place.

Please note that we'll need one week between exchange of contracts and completion. This helps us to make sure the transaction runs smoothly and to safeguard your interests. If completion is arranged for less than one week after exchange of contracts, then we'll charge an additional £150 plus VAT.

If we need to send money by electronic transfer on completion, we'll charge an additional fee plus VAT for each transfer to cover our administration costs.

As standard, we return any surplus funds over £500 to you by electronic transfer and the transfer charge applies here too. This is due to the potential delay and security risk of sending cheques. If you would prefer a surplus over £500 to be sent by cheque anyway, please let us know.

Wills

We strongly advise that you make a new Will or revise your existing Will as soon as possible. Our Tax, trusts & estates team is experienced with all aspects of will-writing and can help make sure that your wishes for your estate are accurately carried out. Please let us know if you would like to find out more.

Part B - Signing the agreement and exchange

Once we've answered all the buyer's enquiries, the buyer's solicitors will approve the agreement or contract that we drafted.

We'll forward the contract to you. Please check that the price and all other terms are correct (including any separate price for fixtures, fittings, furniture, floor coverings or other items).

When you are happy to proceed, please sign the contract and return it to us. If you're also buying another property yourself, we will hold the signed agreement on the file until we are ready to exchange contracts on the purchase as well. We will need clear instructions as to the date you wish to move before we can exchange contracts.

Your signature does not commit you to the sale. You are only committed once contracts have been formally exchanged by the solicitors acting, which we will only do after we have your express instructions to do so.

Completion date

This is the date on which you must move out. If you have a related purchase, this is normally when you would move in to your new property as well.

- It is a good idea to try to agree a completion date with your buyer and your seller (if any) when you receive your agreement, and to let us know the date agreed. A definite completion date which everyone can meet is much better than trying to arrange completion at the last minute.
- It is normal to agree a completion date between seven and 28 days after the exchange of contracts. We can achieve a shorter period if everyone co-operates and there is a short chain. We'll try to complete in less than seven days if you require this, but we'll charge an additional fee as stated in our Terms of Business.
- Completion cannot be on a Saturday, Sunday, Bank Holiday, or any other day when the Banks, Irwin Mitchell, or any other solicitors in the chain are closed.

Only make definite arrangements for your move once contracts are exchanged and a completion date has been fixed.

Contracts are usually exchanged by solicitors by telephone. Once exchanged, the agreements are dated, completion dates are inserted, and the transaction becomes legally binding on both sides. Deposits are transferred between solicitors immediately after exchange and the solicitors will need to be holding the cleared deposit before they will exchange. Make sure you are happy with the price and arrangements **before exchange**.

Part C - Exchange of Contracts to Completion

Vacant possession

It is important to move out of the property you are selling on or before the day of completion. You must remove everything not included in the sale, including any rubbish in sheds, garages, attics etc.

The proceeds of sale cannot be used until the property is empty. Even if the Buyer does not insist on this, the Buyer's lender (if any) might.

Keys

You should give one set of keys to the estate agents before the day of completion. We'll then authorise the estate agent to release the keys to the Buyer once we have the sale money.

Don't hand keys directly to the buyer unless we've confirmed that we've already received the whole balance of the money due on completion.

Services

There isn't normally any charge for disconnecting and reconnecting the energy supplies. You should always terminate the electricity and gas supplies in your name when you leave the property to prevent any unnecessary charges. It is up to the buyer to apply for a supply in their name when they need it.

There is, however, usually a reconnection fee for the telephone line. It is better to transfer the telephone connection to your buyer instead of disconnecting it.

Please check with your electricity, gas and telephone companies that this information is accurate and up-to-date for your property.

Forwarding address

Please tell us your new address if you haven't already. Please also let us know if you move out before completion.

Transfer

All the legal owners of the property will need to sign a transfer deed (normally a TR1) in the form required by the Land Registry and setting out all the basic details of the sale. You will need to sign the transfer in the presence of an independent, adult witness (not somebody related to you by birth or marriage) and return it to us undated in good time for completion. We will date it on the day of actual completion, and send it to the buyers solicitors.

Financial statement

We will provide you with a completion statement setting out the various payments we have made upon your behalf and details our costs.

If there is a mortgage on the property, we will repay the mortgage with the proceeds of sale on the day of completion. If there are any second or subsequent mortgages, these will also be repaid on the day of completion. **If you have used an estate agent** we'll obtain a copy of the commission statement and arrange to pay this for you following completion unless you instruct us otherwise.

On completion

Normally all you have to do on the day of completion is move out, remove all your belongings and hand in the keys if you have not already done so. You don't normally need to visit our offices or sign anything on the day.

If completion is delayed beyond the agreed completion date and the buyer is not to blame, you may be required to pay interest to the Buyer. The rate is prescribed in the contract. You may also have to pay the Buyer compensation to cover expenses such as storage or hotel costs.

The buyer's solicitor can also serve a notice to complete, requiring completion within a period of 10 working days. If you fail to complete within this time, the buyer can withdraw from the sale, demand that you return their deposit, and be entitled to further damages. It is very important that we receive any necessary funds the day before completion and you are ready to vacate on the agreed completion date to avoid such delays.

Standing orders/direct debits/insurance

Make sure to cancel any standing orders or direct debits for mortgage payments, charges or other outgoings for the property in time for completion.

Buildings insurance

- If you have arranged your own buildings insurance, please cancel it when we tell you that the sale is complete unless you have arranged for the Buyer to take over the policy
- If your Lender had arranged your buildings insurance, it will usually be cancelled once your mortgage is repaid
- You don't have to do anything if the property is leasehold and the policy is held by the landlord or management company.

Contents insurance

If you have a contents insurance policy, you may want to either cancel it (asking for a refund of premium if available) or transfer it to your new address when you move. Please check whether your contents are insured while in transit, either under your own policy or your remover's.



“ A very professional service, excellent, up to date knowledge. We have used them for three different services and have always proved to be a great company with excellent communication and an understanding of individual circumstances. ”

David

Your own experts when you need them

Irwin Mitchell can help you and your business with much more than just conveyancing. We have highly experienced lawyers specialising in everything from Wills and inheritance tax issues, pre-nuptial agreements to employment law.

Please contact us at any time for advice on any legal matter and we'll be happy to put you in touch with the right people.

Find out more about how we can help at www.irwinmitchell.com/private

To talk to a specialist adviser today simply contact us on
0370 1500 100 irwinmitchellprivatewealth.com



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