

PENGILLYS

SOLICITORS ● MEDIATORS

Residential Property Purchase

Clear communications,
seamless transactions,
peace of mind



pengillys.co.uk

Your guide to Residential Property Purchase

The Purchase of a Property is often a time of both excitement at the thought of a new home and upheaval, dealing with moving house and the numerous issues this involves. Pengillys are committed to providing you with a professional and cost effective service which helps you achieve your goals and makes your move as easy as possible. In order to achieve this Pengillys operate on the basis that you will have a dedicated fee earner who will deal with your purchase from start to finish. The only time that your file will be dealt with by another fee earner is due to illness or holiday.

Whilst not exhaustive this guide is designed to take you through what is involved on your purchase.

These are the steps we will take on your behalf in a typical transaction:-

1. Draft Contract

On receipt of the Agents Particulars we will write to the Seller's solicitors asking for draft contract and supporting papers.

2. Enquiries

On receipt of the draft documentation from the Seller's Solicitor we will raise any relevant enquiries. We will also make any necessary searches. We will not inspect the property.

3. Mortgage Queries

Not only will we be instructed by you on the purchase but we are normally also instructed by your lender in respect of any required mortgage. Unless you advise us to the contrary we will assume that you are happy for us to report to your lender any issue we consider may impact on their ability to lend whether this relates to the Property or you. The steps we take in respect of your mortgage are covered in our separate mortgage guide.

4. Mortgage Lender Survey

Prior to exchange of Contracts we advise you to have a survey carried out. Your lender, bank or building society, will carry out a valuation for which you have to pay, but you should consider arranging a more comprehensive survey such as a home buyers report or full structural survey to ensure that the property is structurally sound.

At this stage we suggest that you also consider the following:

- **Your Local Planning Authority**

Check what, if any, development may be under consideration in the area adjoining the property as the Local Search will cover only the property you are buying and not any neighbouring or adjoining land. We can offer a search informing you of planning applications, which could potentially affect the property in the future. If you would like this search please let us know. Whilst not comprehensive you can inspect the Local Authority planning website that will give details of any planning application that have been submitted locally and can also view the Local Plan to see whether any land in the area has been designated for development.

The local search only provides limited information on environmental issues. As a purchaser it is important to know whether the property is affected by or close to various environmental hazards such as landfill, waste disposal or industrial sites or is at risk from radon gas etc. The Local Authority have an obligation to identify and place contaminated land on a register and to require remedial works to be carried out to clean the land up. The cost of such remediation could fall on you as the property owner. It is therefore considered good Conveyancing practice to carry out a specialist environmental search covering such matters.

It is possible to insure against the cost of cleaning up any contamination which may be discovered on the property and if you are concerned about the possibility of contamination being present and want such cover please let us know and we can make arrangements on your behalf. It is not possible to insure after contamination has been discovered.

For further information look at the following websites:

- www.countrywidelegal.co.uk/nightmares
- www.environment-agency.gov.uk
- www.contaminated-land.org.uk

- **Flood Risk**

If you are concerned about the risk of river or coastal flooding you can obtain a free floodcheck search via the internet at the environment agency website or phone the environment agency floodline on 0845 988 1188. If as a result of these checks you have any concerns please let us know. This will not cover other types of flooding such as surface water and you may wish to consider a specific flood search.

- **Water and Drainage**

From 1 October 2011 the local water company became responsible for all sewers that drain more than one property, and all drains outside the boundary of any property. Whilst this is very good news from a maintenance and repair point of view it does have a potential drawback relating to any further development of your property. If you wish to erect any additional buildings on the property (including an extension or a conservatory) and there is a drain either running under or within 3 metres of the proposed structure you will need to obtain the consent of the local Water Company to either divert or build over it unless the sewer only serves your property. This will be in addition to any other consents you require. You will find further information on your local authorities website.

- **Chancel Repair Liability**

It is possible that the property that you are purchasing is affected by an ancient liability called Chancel Repair Liability, which benefits some 5,200 medieval churches in England and Wales. This liability allows the church to require owners of land which was formerly owned by it to meet the cost of repairing the church's chancel. Such land is not necessarily situated close to a church as historically the church owned large areas of land much of which has now been built on. Under a recent change in legislation the Church is required to register any right to charge a chancel repair liability against the property although this registration can take place at any point prior to completion of your purchase. As such you may wish us to take out Chancel insurance which covers against potential liability.

- **Breach of Restrictive Covenant and Indemnity Insurance**

Sometimes investigation of title to the property reveals that there is a defect, for instance the property may have been extended in breach of a restrictive covenant imposed on it. In these circumstances your lender requires that we obtain insurance against any risk. The cost of this insurance is met by a single premium which may have to be paid by you. We will not have allowed for this in any quotation or estimate previously given to you. Please see our practice note on Indemnity Insurance policies for more information.

- **Change of Use**

If you intend to change the use of the property, for example from a residential property to a guest house, or carry out any building or development at the property please advise us immediately so that we can check the planning position and the deeds for any restrictive covenants for you. We will not advise you on the planning implications of the purchase unless specifically requested to do so by you.

- **Council Tax Rating**

If the property has had an extension in the past then it may be that it will be re-rated for council tax purposes following your purchase. You should contact the Council to enquire as to the new band of council tax if this is of concern to you.

- **Radon Gas Risks**

You may be aware of the potential risks caused by the existence of radon gas in certain properties. The local search will usually reveal whether a particular property is actually at risk. In the local area for example properties on Portland, in Weymouth at Upwey close to the Ridgeway, or at Preston / Sutton Poyntz have been identified as potentially affected by radon since according to the Health Protection Agency between 5% and 30% of homes in those areas are above the action level. As a result basic radon protective measures may be necessary. Weymouth and Portland Borough Council has carried out limited sampling in these areas and none of the results of those samples was above the action level.

If you are concerned at all about this, you can carry out your own radon search on the HPA website at www.ukradon.org for a small fee. Further information can be obtained from the HPA website at www.ukradon.org or by emailing them at radon@hpa.org.uk. If you require any further information regarding this please let us know prior to exchange of contracts.

The next steps:

5. Mortgage Offer

You should study your mortgage offer including any conditions the lender may impose carefully and ask us to clarify any points which are not clear to you. As we expect you are aware, if you do not make the appropriate repayments or observe the mortgage terms the lender may take court proceedings against you, and obtain an Order giving them the right to take possession of your property and to sell it to recover any money owed to them or any other remedy which may be appropriate. We would advise that if the property has to be sold and there are insufficient funds to cover all the money owed (negative equity) the lender is entitled to pursue you for any outstanding sums. If the offer is made on an interest only basis you are strongly recommended to ensure that you have a repayment vehicle in place equal to the amount borrowed and equal to the length of the mortgage. If your mortgage is covered by an endowment, pension or PEP/ISA etc. it is essential that you maintain your payments to the company with whom you have the investment and, that you ensure adequate cover is effected from exchange of contracts to redeem the mortgage and ensure the investment product will mature within the term of your mortgage. Such investments rarely guarantee that there will be sufficient funds to pay off the mortgage when they mature, and you should therefore monitor the performance of the investment product regularly.

6. Contract Overview

Once we have received your mortgage offer, searches and replies to enquiries we will report to you on the paperwork. This may be either by face to face meeting or written report and once you are happy with the paperwork you will sign the Contract, Transfer and any Mortgage. Contracts will then be exchanged once everyone in the "chain" of transactions is in the same position. You should not make a final decision about a completion date until everyone in the "chain" is ready to exchange Contracts. **Please do not book** your removers until contracts have been exchanged although you should check what dates are available.

7. Deposit

On exchange, a deposit not exceeding 10% of the purchase price will be payable to the Seller's Solicitor, and a completion date is agreed.

8. Insurance

You should ensure that the property is insured in time for exchange of Contracts if you and not your lender are arranging the insurance; or if your lender only insures from completion.

9. Exchange of Contracts

If following exchange of Contracts you seek to change your mind, the Contract contains certain penalties, including the loss of the deposit, which you will suffer.

10. Joint Ownership

If you are buying the property with someone else we will let you have joint ownership guide and questionnaire to complete.

11. Transfer of Funds

Following exchange of Contracts we request your mortgage advance, and carry out additional searches. We will request your mortgage monies to be in our possession as cleared funds by the day before completion to enable us to send out the purchase monies within the contract deadline. We will also provide you with an account and completion statement setting out any additional funds we require from you. Again we will ask for cleared funds to be in our account at least the day before completion.

12. Completion

On the completion day we will pay the balance of the purchase price to the Seller's Solicitors.

13. Stamp Duty

Following completion we will arrange to pay any Stamp Duty Land Tax (if any) which is payable and register the property in your name at the Land Registry. If the property you are buying is a second property we would recommend you take appropriate tax advice regarding any tax liabilities you may incur either on income or capital.

14. Land Registry

When we register you as owner of the property at the Land Registry we have to provide them with your correspondence address. If this changes it is vital that you inform the Land Registry. Please let us know if you would like us to note an email address as well.

15. Conclusion

At the conclusion of the transaction we will close and store the file in accordance with our terms of business.

We hope that this short guide has helped you in understanding more about what steps are involved when purchasing your home. We would be pleased to meet with you to discuss any questions that you may have.

Please call us on 01305 768888

We will then put you in touch with a member of our experienced Property team.

Please visit www.pengillys.co.uk where full details of our Property team are available.

For further details about Pengillys and how we work, please refer to our Terms of Business and Privacy Policy which are available on our website or on request as printed documents.

FRAUD WARNING

Please note we will **not** change our bank details throughout the course of the transaction. If you receive an email from us asking you to send monies to a different account to that noted in both the completions statement and this report please telephone us on 01305 768888 and ask for the accounts team.

Similarly, please do not email us bank details for payment of any proceeds of sale. If you do so, it is entirely at your own risk and we will endeavour to verify those details by telephone before making payment but accept no responsibility if monies are transferred to an incorrect account.

Property Purchase Checklist:

- | | |
|---|---|
| <input type="checkbox"/> Instruct Pengillys | <input type="checkbox"/> Deposit payment arranged |
| <input type="checkbox"/> Provide ID and monies on account | <input type="checkbox"/> Property insurance arranged |
| <input type="checkbox"/> Mortgage application (if needed) | <input type="checkbox"/> Completion date agreed |
| <input type="checkbox"/> Survey done | <input type="checkbox"/> Contracts exchanged |
| <input type="checkbox"/> Mortgage offer received | <input type="checkbox"/> Mortgage and stamp duty monies transferred |
| <input type="checkbox"/> Contracts finalised and signed | <input type="checkbox"/> Completion |

PENGILLYS

SOLICITORS • MEDIATORS

Our Offices:

Weymouth

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Dorchester

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Dorchester
Dorset DT1 3SS

We can also advise on:

Personal matters
Family and relationships
Legal disputes
Business matters

pengillys.co.uk