

## Commentary

This is a typical question of the kind that invites you to show your knowledge base in the form of a memorandum passing between you and your supervising partner. The question is inviting you to set out your overall knowledge of and the steps in the usual procedure for domestic conveyancing in England and Wales.

You need to show that you understand the steps and that you can explain them simply and directly.

## Suggested answer

### MEMO

To Jack Goldwhite  
From Alice Brentwood

### Re: The steps in an ordinary residential transaction

Following on from your request for details of the steps in a typical conveyancing transaction I set out below the details you require.

There are 5 main stages to buying and selling:

#### 1. Estate agent stage

The seller markets the property through an estate agent. A buyer is found and the parties negotiate on the price. Once a price has been agreed the buyer will arrange a mortgage (unless he is a cash buyer) and also a survey to check for any physical defects in the property (*caveat emptor*, let the buyer beware). Note that the price agreed at this stage is subject to contract. There is no binding contract until contracts are exchanged and either side can pull out. The parties instruct their solicitors.

#### 2. Pre-contract stage

The seller's solicitor obtains the deeds, prepares a draft contract and sends it to the buyer's solicitor for approval. The buyer's solicitor will raise standard enquiries about the property e.g. are there any neighbour disputes? Is the seller aware of any adverse rights affecting the property? The buyer's solicitor will also carry out a search of the local authority to check for public rights which could affect the property e.g. a compulsory purchase order, tree preservation orders, whether the roads and drains serving the property are publically or privately maintained. The buyer's solicitor will check that the

buyer has a formal mortgage offer and can otherwise fund the purchase before proceeding to the contract stage.

### 3. Contract stage

Once both solicitors are ready i.e. all searches and enquiries are satisfactory, draft contract approved, mortgage offer received, the solicitors proceed to formally exchange contracts. There are 2 contracts in identical form, one signed by the seller, one signed by the buyer. They are dated, a completion date for the transaction is agreed (normally 2/3 weeks ahead) and the contracts are exchanged. It is now that the parties are legally bound to complete the transaction on the agreed completion date. If either side pulls out they will be sued for breach of contract. A deposit is paid to the buyer (normally 10% of the purchase price).

### 4. Pre-completion stage

The buyer's solicitor prepares the deed transferring the legal title and sends it to the seller's solicitor for approval. The buyer's solicitor carries out some final searches. Financial statements are prepared for the clients. The buyer's mortgage advance is forwarded to the buyer's solicitor in readiness for completion. The transfer deed is executed. The buyer also executes any mortgage deed. The parties prepare to complete.

### 5. Completion and removal van stage

The date of the actual move. The buyer pays the balance of the purchase price and the seller gives vacant possession (i.e. moves out). The buyer moves in. The transfer deed and any mortgage deed are dated and come into effect (i.e. 'delivered'). The seller sends the buyer the title deeds of the property and the transfer deed. The buyer must then be registered as the new owner at the Land Registry.