



Fletcher Longstaff

The Home Of Conveyancing

On The Move

A Guide For First Time Buyers

 www.fletcherlongstaff.com

Introduction

Buying your first home can be a daunting experience. There are lots of things to sort out, such as surveys, checking boundary responsibilities, exchanging contracts and, of course, any associated fees. During this process you'll usually need a legal professional to act for you in the process known as "conveyancing": this is a process that takes care of the legal side of moving, which ultimately ensures that the legal title to the property passes from the seller to the buyer.

But what kind of things should your lawyer be expected to do? And what things are your responsibility? The Legal Ombudsman is here to help. Based on the type of issues and complaints we see, we have put together this user guide of what to think about and look for when using a conveyancing lawyer, to help ensure the legal side of moving home runs smoothly.

What can you do to help the process run smoothly?

Clients can help matters themselves by communicating clearly with their lawyer. Lawyers aren't mind readers. They will only know that you have a specific concern about something if you tell them.

For example, if somebody is buying a house specifically because of the view out on to a field, the lawyer won't know that unless they are told. As such, the lawyer won't automatically carry out an optional planning search against the field, because they won't know that the view is one of the main reasons for the purchase.

We've seen cases where six months after moving in, a buyer has found out about new houses being built on the field, but the lawyer didn't check this because they didn't know how important the view over the field was to the buyer.

Another example would be if somebody bought a house specifically because it had a double garage and they thought it ideal for running a car repair business. In this case it would be important to tell the lawyer that this was their intention, so that they can check on any restrictive covenants in the title deeds or land registry records that might prevent a business being run from the property, as well as any planning requirements or restrictions.

Your responsibility is essentially to communicate and let the lawyer know key details of the purchase and anything that you are concerned about or want checking out.

What kind of advice should your lawyer provide?

Generally a lawyer's role is to look into the legal aspects of a house purchase. This includes things like:

- ➔ Checking that appropriate planning permissions are in place and that there are no current planning issues being enforced or investigated.
- ➔ Checking that the seller has entitlement to sell the title in the property.
- ➔ Raising enquiries with the seller about matters such as boundary responsibility.
- ➔ Checking and advising on any restrictive covenants which might impact on the buyer's enjoyment and use of the property.
- ➔ Checking and advising on any ongoing financial obligations that come with the property, such as service charges (which can relate to houses as well as flats) and private drainage charges etc.

A lawyer should manage your expectations from the outset and explain what their role does and doesn't cover in plain language. Usually, a lawyer DOES NOT have responsibility for the following things:

- ➔ Building/structural issues with the house – that would be for a surveyor.
- ➔ Working order of appliances and boiler – that would be for the surveyor and/or a gas engineer.
- ➔ Working order of plumbing – that would be for the surveyor to advise on and to recommend further specialist reports if necessary.
- ➔ Advising on feasibility of future building projects such as a loft conversion or conservatory – the lawyer can advise on any legal restrictions that may apply, but building practicalities would be down to a surveyor or builder.

Again this comes down to communication. It is a good idea for the lawyer to be clear about what you can expect from the start. Many lawyers have a general information sheet that they send out: ask for one when you first instruct your lawyer.

It is also important for you to communicate by asking any questions that you have, or raising any concerns as soon as possible. The lawyer can then look into it as appropriate or advise the buyer on who can help.

It is important to ask questions as early as possible. Once contracts are exchanged, it is generally too late to do anything because the buyer will then be legally committed to the purchase.

What do surveys cover?

Buying a house is probably the most expensive purchase that many of us will ever make, so it is normally prudent to get a survey on the structural condition of what you are buying.

Lawyers aren't responsible for surveys, but many will give their clients an information sheet outlining the different types of surveys available so that their client can make an informed decision. The Royal Institute of Chartered Surveyors (RICS) website contains a wealth of useful information about the different types of survey. We've also listed some of the most common surveys here:

- ➔ A Lender's Valuation Report is for the benefit of the lender and is fairly basic in scope. Its purpose is to satisfy the lender that the value of the house covers the mortgage loan and a lender will not loan the money until this has been completed. Sometimes the valuer doesn't even enter the house; instead doing what is known as a 'drive by valuation'. The cost of this survey is paid for by the potential borrower.
- ➔ A Homebuyers Report goes into more detail and provides buyers with key information on core aspects of the house, highlighting any urgent/major issues that the buyer needs to be aware of.

- ➔ A full Building Survey goes into greater detail still, and the report can be tailored to meet the bespoke needs of a buyer. A Building Survey is the most expensive option however, and is often more suited for older houses or houses built using non-traditional construction methods.

What checks should you be doing yourself?

Technical checks are best left to paid professionals such as lawyers and surveyors. However, there are a few 'common sense' steps that you can take. These include:

- ➔ Going back to the property a few times to look for any practical issues which might not be apparent from the paperwork; such as a shared drive or a right of way/footpath passing through the garden etc.
- ➔ Look out for any obvious signs of problems with walls, roofs or windows, which you may want to discuss with your surveyor.
- ➔ When you are looking at the house, remember that the lawyer doesn't personally visit the house, so he might not know about things like a bus stop outside or overhead power lines, for example. Keep an eye out for these things when you look around and think about whether they cause any issue for you.
- ➔ If you are thinking about extending the house at some point in the future, a quick call to the local planning department might highlight any concerns or put your mind at rest about possible future plans.
- ➔ It can be a good idea to have a look at the street at different times and on different days. What looks like a nice quiet street on a Sunday afternoon might be very busy with parked cars from local workers at 9am on a Monday morning, for example.
- ➔ Ask your lawyer to explain their fees and disbursements.

Finally, one very important thing for a buyer to check is the plan. During the conveyancing process the lawyer will usually send the buyer a title plan – showing the boundary of the property outlined in red. Most lawyers will usually ask the buyer to check this as standard, but it is a good idea for the buyer to take the plan along to the property to make sure that the shape on the plan accords with the physical situation on site.

The lawyer doesn't attend the property to inspect. The plan defines what is being purchased. For example, this can be important when there is land that might look like part of the highway, which anyone can use and subsequently limits what you can do.

This check can help to avoid any subsequent confusion about what is and isn't included in your property records. We have seen a number of complaints where the buyer hasn't checked the plan that has been sent to them. Any concerns should be raised with the lawyer at the earliest opportunity.

What if you still have problems with your lawyer?

We hope this guide helps you to navigate the world of first time buying without any hitches. But sometimes things can go wrong, and if they do, we are here to help.

Our role at the Legal Ombudsman is to resolve complaints between legal service providers and their customers in a way that is fair and reasonable in the circumstances of each case. We are independent and impartial. We don't take sides, or make assumptions about who might be right or wrong in any particular case. We aim to resolve complaints quickly and informally but where there is something to put right and agreement can't be reached, then we have official powers to order what needs to be done.

If you have an issue with your conveyancing lawyer, you should try to resolve it by complaining to them first and giving them eight weeks to respond. If they do not respond within eight weeks, or you are unhappy with their response, you can then bring your complaint to the Legal Ombudsman.

If we think that the service provided was poor and something needs to be put right, we can instruct them to do any of the following things:

- ➔ Apologise to you;
- ➔ Give back any documents you might need;
- ➔ Do more work for you, if this will put right what went wrong;
- ➔ Refund or reduce your legal fees; or
- ➔ Pay compensation if you have lost out or been badly treated