



SQE Study Notes: Property Practice

ELEMENTS OF A PROPERTY TRANSACTION

The main focus of Property Practice is conveyancing and leases.

Conveyancing = transferring legal title to land from one owner to the other.

STAGES OF A CONVEYANCING TRANSACTION:

There are 6 stages in a conveyancing transaction:

- 1) Pre-market
- 2) Pre-contract
- 3) Contract exchange
- 4) Pre-completion
- 5) Completion
- 6) Post-completion

Pre-market:

There are number of steps that a Seller must complete before marketing a property.

Before marketing a property, the Seller must:

Obtain an **Energy Performance Certificate** – this details the energy efficiency of the property.

There are two ways in which a Seller may sell their property:

1. **Selling privately** – where the seller sells the property to a buyer directly.
2. **Using estate agents** – where the seller employs an estate agent to market and sell the property for them.

Once they find a Buyer, the Buyer and Seller will negotiate the purchase price. When the price is agreed the agent will send both parties a **memorandum of sale** (which is a document that outlines the agreement between the parties and will detail the solicitors who will be acting in relation to the conveyance).

Chain of transactions:

If there are two or more people buying and selling properties at the same time that are all related, which is usually the case, then there said to be a chain of transactions and this chain of transactions must be synchronised.

Example of a chain:

Mohammed Shah	Selling 7 Croxley View	Mohammed is moving abroad to work so he does not have a related purchase.
Gertrude Johnson	Buying 7 Croxley View from Mohammed	Gertrude will sell their current property to buy this property.
Gertrude Johnson	Selling 93 Upton Avenue	This is a related transaction for Gertrude as she wants to move from her current property to the one she is buying.
Kathleen Byrne	Buying 93 Upton Avenue	Kathleen is a first-time buyer, so she does not have any property to sell, thus ending the chain.

Pre-contract:

Pre-contract steps:

1. **Solicitors for both parties take instructions from their clients** – this allows the solicitors to understand the requirements of their clients.

For new clients, always carry out the following:

- * Identify the client through obtaining ID documentation
 - * Comply with the money laundering requirements – **carry out the necessary checks, report to the MLRO if needed.** AND
 - * Send a client care letter to the client.
2. **Synchronising transactions** – in most cases, the client will be moving houses when buying property. This usually happens on the same day so the move-in and move-out date for the two properties must coincide.

3. Seller's solicitor only:

- **Obtain a copy of the Seller's title/title deeds:**
 - * **If property is registered:** Download the title document (including title plans) from the Land Registry portal.
 - * **If property is unregistered:** Obtain the original title deed from the client.

If the property is in a mortgage, the original title deeds will be with the Lender – so you must write to the lender requesting the release of these documents. If this is the case, you also must give an undertaking to retain the original deeds pending redemption of the mortgage.

- **Draft and send Contract Package to Buyer's solicitors containing:**
 - * The draft contract in duplicate
 - * The completed Property Information Form (PIF) and Fittings and Contents Form (F&C)
 - * A copy of the Seller's title/epitome of title for unregistered land and title plan
 - * Other relevant documents, if any
 - * Guarantees, if any
 - AND
 - * Planning permission, if any.

4. Buyer's solicitor only:

- Investigate title
- Carry out pre-contract searches
- **Confirm how the Buyer client is to finance the purchase – this includes:**
 - * **If the Buyer is buying the property using own cash:** carrying out any due diligence/money laundering checks
 - * **If the Buyer is buying the property with the help of a mortgage:** receive the mortgage offer from the Lender and obtain the cleared deposit from the client.
- Arrange for the Buyer, Seller and any other relevant parties to agree to an exchange date.

Contract exchange:

The property purchase becomes legally binding when the contracts are exchanged. To make sure that exchange happens at the same time, the solicitors from both sides will exchange contract on the phone while following Law Society's formulae for exchange of contracts.

On exchange, each solicitor will **insert the date of exchange and completion date into the contract.** Once the exchange has been completed, neither party can withdraw, as withdrawing will attract penalties. The Buyer will then pay the deposit to secure the property, the balance of which will be payable on completion.

The Buyer will gain an **equitable interest** in the property on exchange.

Pre-completion:

Pre-completion steps:

1. **Both parties' solicitors prepare for completion**
2. **Buyer's solicitor drafts the Transfer Deed:**

The Transfer Deed will be drafted using:

- * **Form TR1** – when selling title to the whole of land
- * **Form TP1** – when selling title to **only part** of the land

The Seller's solicitor will review and approve the draft.

3. **Seller's solicitor prepares a form called Completion Information and Undertakings:**

This form will include:

- * General information about the completion
- * The Seller's solicitor's bank details
- * Undertakings to redeem the Seller's mortgage using the sale proceeds on completion.

4. **If the Seller has a mortgage:** Seller's solicitor obtains an up-to-date redemption figure.
5. **If the Buyer is financing the purchase using a mortgage:** Buyer's solicitor submits the Certificate of Title to the Lender and requests access to the funds (drawdown).

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