



# Conveyancing Guide

## Making your Home yours.....

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### Introduction to Conveyancing

Buying your new home can be a long and difficult process and the final step, the legal one, often seems the biggest. Buying a house is one of life's more stressful experiences. Most people find themselves in unfamiliar territory, especially first time buyers, when it comes to the legal side of purchasing property. Phrases such as Abstract of Title, Deed of Conveyance and other legal phrases can leave people confused and unsure of their meaning.

An understanding of the conveyancing process can help to reduce the stress of purchasing and assist in safeguarding your future ownership of your home. Cutting corners and saving money by doing your own conveyancing or employing somebody who lacks experience in property conveyancing can in the long run turn out to be very costly. The cheapest is not always the best and ultimately you could put your home at risk.

The term "conveyancing" is simply a technical one for the mechanism of transferring property. However, conveyancing covers much more than simply the buying and selling of private houses and flats. It also encompasses the buying selling or leasing of any land or property.

But, where do you start once you have decided to purchase your dream home? How do you tie up all those loose ends and make it all legal? Reading this guide will help but, for complete peace of mind, why not entrust your conveyancing to Corlett Bolton & Co.

### Introduction to the Team

Corlett Bolton & Co. identified the need to take the complex process of house conveyancing and present it in plain English. We hope this guide will do just that. By explaining technical terms, you will be able to understand the whole process. Corlett Bolton is a local firm with the people and experience to provide a quality service and help you avoid the numerous traps that can catch out the unwary.

### Corlett Bolton & Co.

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Directors: SM Bolton, NJ Merritt Consultant: J Karran



## Purchase

### Introduction

- 1 Once you have identified the house you would like to buy and had an offer accepted it is time to speak to your Advocate. It is important to realise that the seller and yourself are not legally committed to the sale/purchase at this stage. That only occurs when a written contract in two parts signed by the seller and yourself has been exchanged. Accordingly, you should not pay any money over to the seller, his estate agent or advocate. You only pay a deposit on exchange of contracts. To do otherwise risks losing that money. Remember, the Estate Agent and Seller's Advocate are only responsible to the Seller.
- 2 The first thing we ask you to do is to complete a Purchase Questionnaire. This provides the information for us to start the process from your side and includes when you would like to move in. As part of this first step we are obliged by law to obtain evidence of the identity of our clients. For this purpose, we need you to provide your current Passport or Driving Licence together with the original of a recent utility bill (gas, electricity, telephone) in your name at your permanent home and details of your source of wealth and source of funds. We regret that until we have received your identification and due diligence documents we can do no work for you.
- 3 We will also give you a letter of engagement. This will refer to this guide, set out any special terms and contain our quote for doing the legal work. It is important to appreciate that the money you have to pay us does not just cover our fees. As well as our fee, we have to pay various bodies for searches and also pay the Government for registering the transfer document (either at the General Registry or for Land Registration – please see later). These fees will be discussed with you when you instruct us or seek a quote. We will need you to sign and return a copy of the letter of engagement to us before we start work. If you are buying the Property with another person, we can advise on ownership arrangements; please enquire.
- 4 When you come and see us you may have finance arranged for your purchase. You may have spoken to your lender and received a formal offer letter. If not, we advise that this is put in place as soon as possible so we both know that the purchase can proceed. You should make sure that your offer letter sets out the terms you have agreed. Usually your loan will be secured by a mortgage on the property in favour of the lender. We can deal with this for you as well. One point for you to watch for is whether the lender will require you to take out life insurance or transfer to it an existing policy.
- 5 At the first meeting with us you should tell us any special requirements you have. For example, are you wishing to change the use of the property, say by running a business from it? We can help with any necessary application. We will also check with you whether you have arranged a survey of the property. A valuation survey will be carried out on behalf of your lender (and which you have to pay for), but this is not for your benefit. If anything is wrong, you have no comeback against the lender or its surveyor. If you have a survey done by an appropriately qualified person, it should reveal whether any significant defects exist and whether the property complies with current legislation. Again, we can advise on this. It is usually advisable to make

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your offer on the property “subject to survey.” If you do want a survey done, it may be best to await the results before we start work.

### **Pre-Contract**

6. It is the Seller’s Advocate’s job to send us a draft Contract. This is in a standard form, but any special conditions are added. The form is written in legal language. We will take you through it and explain what it means. If the Property has rights over other property or adjoining property has rights over it, the Contract should disclose them. It will also set out whether the Property is subject to covenants (these are restrictions affecting it such as not to use it for trade purposes or build in front of a certain line). Again, we will explain what they all mean. At this point we should also receive details of the Seller’s title to ensure that the Seller has the right to sell the Property. (This document is called the Abstract of Title). We make sure that there is proof of a good title at least 21 years old.
7. We also undertake searches on your behalf. We will agree with you which searches are undertaken. The organisations, who hold information concerning the property you want to buy, charge for the replies. A separate sheet in this guide sets out the current fees. We do not usually search the gas, water, electricity and telephone authorities unless you tell us. We do recommend searches of the local authority and the Department of Local Government and the Environment for planning and building control purposes and also the Treasury in respect of rates. Please be aware that replies can sometimes take some time. We will have asked you in our Purchase Questionnaire when you would like to move in. If you have a deadline, we can arrange urgent searches but this may cost more. We will also ask you for a payment on account of search fees of £400 when you return the signed letter of engagement. If this causes you a difficulty, please let us know. Your final invoice will be credited with this payment. Once we have the replies, we will let you know what they have revealed.
8. A further step we take is to ask the Seller and the Seller’s Advocates what are called “Enquiries before Contract”. These are a long list of questions about the Property to try to ensure that there is full disclosure about everything to do with it. We will also ask for a list of the fixtures and fittings at the Property indicating those included in the sale and those excluded. The Seller may also want to be paid for heating supplies left at the Property. We will give you our Enquiries and the replies, together with the fixtures list and discuss anything you cannot understand.

### **Contract**

9. Once we have agreed the draft Contract, received satisfactory replies to our searches and Enquiries before Contract and advised you of any relevant matters, we can proceed to exchange of contracts if you are happy to do so. We will need to make sure your survey is satisfactory, you have an acceptable mortgage offer and have put in place life insurance if required. We will make sure the contract reflects the agreed terms including the fixtures and fittings included in the sale price. When you sign the contract, we will require a banker’s draft for the deposit (usually 10% of the purchase price) payable to us. If you are selling a property, we will ensure

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that contracts on your purchase and sale are exchanged simultaneously. The deposit you receive on your sale can usually be used towards the deposit on the Property you are buying.

10. The contracts, signed respectively by the seller and yourself, are then physically exchanged and your deposit is paid over to the Seller's Advocate. At this point you have bound yourself to buy on the contract terms. Neither party can withdraw. You will need to insure the Property against the usual hazards from the day of exchange (This is usually specified in the contract). At this point, the day of completion (when ownership is transferred to you) will be fixed. On completion, you will also be required to pay over the balance of the purchase money.

### **Preparing for completion**

11. After exchange of contracts, we will ask further questions of the Seller's Advocate. Some of these may relate to the title (see para 3.8) and some will relate to completion (for example, to confirm any existing mortgages will be cancelled). The Seller's Advocate may supply a draft conveyance for our comment or we may draft one for their approval. This document transfers ownership of the Property to you. In the run up to completion, you will make arrangements to take over the services (gas, electricity and telephone) and make sure final readings will be taken on the day of completion.
12. We also undertake searches at the General Registry to make sure the title to the Property is as described by the Seller's Advocate. (All the title deeds to Properties are recorded at the General Registry. We search to make sure nothing has been registered against the title which would affect the sale. Not all advocates do these searches).

If everything is in order, we will send to you before completion a full financial statement. This sets out the following:-

- the balance of the purchase money
- our fees plus VAT
- Registry fees
- Search costs (credit being given for the £400 paid on account)
- any other expenses including apportionment of rates.

Please note that your Conveyance will have to be registered and for this the Government impose what are called recordal fees.

13. We will need a banker's draft for the total sum payable to us or a personal cheque at least 5 working days before the completion date. If money is to come from another source, for example, a sale of your house or a new mortgage, we can make the necessary arrangements but will need the balance by either of the above means. If we cannot complete on the due date, you must appreciate you will be in breach of contract. In certain circumstances this can lead to loss of your deposit. If you become aware of any difficulties regarding the completion monies, please let us know as soon as possible.

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14. We will make arrangements for you to attend our offices well before the completion date to sign any mortgage documents (This is to ensure the loan money is paid over in time for completion). If this presents difficulties please let us know so other arrangements can be made.
15. Shortly before completion, you should arrange to inspect the Property to check that it is in good order and that all things included in the sale are there and in good order. Please let us know if this is not the case as it is much easier to resolve such matters before completion.

### **Completion**

16. On the completion date, we meet the Seller's Advocate and hand over our cheque for the balance of the purchase price and any rates paid by the Seller for the rest of the year. In return, we get the Conveyance (signed by the Seller), the keys to the Property and any other documents relating to it.
17. We then normally ask you to come to our offices to sign the Conveyance and receive the keys and other documents. We then arrange registration of the Conveyance at the General Registry (and the mortgage if we are also acting for the lender). It is important that these documents are registered (and your lender will insist that the mortgage is) to protect your ownership. We can only do this if all monies due have been paid to us.
18. After registering the documents we send you a certificate of registration together with copies of the deeds which comprise the title to the Property. We also send you the results of our enquiries and searches. We recommend that you keep these documents safe. They will be important when and if you wish to sell your house.
19. In all areas of the Island there is what is called compulsory land registration. If your house is already Land Registered the mechanics of the buying process are different. Instead of the Seller's Advocate providing proof of title, a copy of the land registration entry is provided. Instead of a conveyance, a transfer is used to change ownership and instead of registering the conveyance at the General Registry, the transfer is registered with the Land Registry. The other steps in the process are broadly the same, although there is no need to search the General Registry for the previous documents of title as the Government guarantees the title of registered land.

Even if your property has not yet been Land Registered you can opt for the title to your house to be registered voluntarily (not as part of the conveyancing process). You will have a title guaranteed by the Government and this may appeal to purchasers when you come to sell. Please discuss this with us to find out more.

### **Other matters**

20. Please note that our quote to you will involve all the steps described above with the exception of land registration. If you wish to cut costs, please discuss this with us, as we are able to offer a quality service but one which omits some of these steps. Please also note that we assume in our

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- quote that, for example, there are no major problems with the Property's title. If we come across a problem like this, we will need to charge extra but will discuss this with you first.
21. Please remember to include in your budget the legal costs and estate agent's fees of selling your existing home (if you have one) and the legal costs of a mortgage if you are borrowing money (Please check with your lender what the likely cost is).
  22. If for any reason the purchase does not complete, we will charge a reduced rate depending on the work we have done (for example, if contracts are not exchanged, we are likely to charge 2/5 of our quote together with fees, etc. paid on your behalf plus VAT).
  23. Please check when making your offer to buy, whether the Seller is buying another property. If he/she is, then please be aware that exchange of contracts is likely to depend on whether your Seller can exchange on his/her purchase. If you are also selling, then your purchaser may not be able to exchange until he/she has exchanged on his/her sale. A chain of sales/purchases like this can cause difficulties of timing so your ideal completion date may not be achievable.
  24. If you are buying from outside the Isle of Man, please discuss this with us as there may be other rules to comply with (for example, work permit).
  25. If you are also selling a property, we would like to act for you on this and can offer a quality service at a reasonable rate.
  26. It is also possible for us to act for your Seller and lender and we may be instructed to do so. We will act unless we believe there is a conflict of interest. If there is, we will ask one of the parties to obtain independent advice. Please let us know whether this would cause you any problems. If we do act for another party (usually the lender) we must provide a quality service to both. To do this we may need to provide information (including information which would otherwise be confidential) concerning you and the circumstances surrounding the transaction to the lender (and vice versa). Your signing our letter of engagement will confirm your consent for us to do this and allow us to act for the lender as well as you. It is important to have this consent before we can act.
  27. Finally in this section, if you have made a Will your purchase of another property may affect it. We strongly advise that you discuss this with us so we can ensure your wishes can be carried out. If you have not made a Will, then again we would strongly advise you to do so. Why not discuss this with us as well.

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## Sale

1. Once you have accepted an offer on your existing house it is time to seek out a suitable Advocate to complete the transfer of ownership. Naturally, we hope you will choose us.

As indicated in the section on purchases, it is important to realise that the purchaser and yourself are not legally committed to the sale/purchase at this stage. That only occurs when a written contract, in two parts, signed by the purchaser and yourself, has been exchanged.

2. We will ask you to fill out a Seller's Questionnaire to enable us to obtain information which the Purchaser will want. We will also want:-

- copies of the title deeds (which you should have received when you purchased – this is called the "Abstract of Title")
- copies of all planning and byelaw consents (for example, for alterations to the Property)
- copies of any guarantees for work done, insurance policy in respect of defective title, etc
- the searches, enquiries and replies done on your behalf when you bought
- the rates demand and receipt for payment.

3. As part of this first step we are obliged by law to obtain evidence of the identity of our clients. For this purpose, we need you to provide your current Passport or Driving Licence together with the original of a recent utility bill (gas, electricity, telephone) in your name at your permanent home. We regret that until we have received your identification documents we can do no work for you.

Please also note that we need to be informed about all relevant matters affecting your Property, for example:-

- disputes with neighbours
- notices served or threatened by public or other authorities
- whether you have a mortgage
- what items you do not wish to be included in the sale (please see the contents form attached) or if you wish to be reimbursed for bulk supplies (for example, oil)
- whether there is any litigation (past, present or threatened) affecting the Property.
- Regarding your mortgage, you will need to get an estimate of the money needed to repay it from your lender say seven weeks hence (This is the usual period taken to complete a straightforward sale/purchase). You will need to budget for estate agent's fees as well, together with our costs. We will discuss money matters with you when we first meet.

4. We will also give you a letter of engagement and ask you to complete a Vendors questionnaire. This will refer to this guide, set out any special terms and contain our quote for doing the legal work. We will need you to sign and return a copy of the letter of engagement and any due diligence requested to us before we start work.

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## Pre-Contract

5. It is the Seller's Advocate's job to send the Purchaser's Advocates a draft contract. This is in standard form but any special conditions are added (for example, excluding certain items from the sale). We will draft this based on the title documents you supply. If you do not have title documents, we will need to make a search at the General Registry. This will be an extra cost. The form is written in legal language. We will take you through it and explain what it means.
6. We will send the draft contract and copy title documents to the Purchaser's Advocate. The Purchaser's Advocate will send us Enquiries before Contract. These are a long list of questions about the property to try to ensure that there is full disclosure about everything to do with it. We will draft answers on your behalf and then send them to you to ask you to confirm them. The Purchaser's Advocate will also undertake searches of organisations who hold information about the Property. Please be aware that replies can sometimes take time. It is only when the Purchaser's Advocate has received the various replies that he/she will be prepared to exchange contracts.
7. If the Purchaser is borrowing money to fund his/her purchase, a surveyor will attend at your Property to do a survey. The Purchaser may also have his/her own survey as well. The sale cannot proceed until these surveys have been done. It is important for you to tell us anything which may affect the outcome of the survey, for example, building works you have undertaken, whether alterations have been properly authorised (planning permission/building regulations), whether you have been notified that the building, for example, is in a conservation area or whether trees are protected.

## Contract

8. When the form of contract is agreed and all the purchaser's searches done, and enquiries answered, we can prepare for exchange. If you have any particular requirements regarding the date and/or time of completion, please let us know before exchange of contracts. We can then make the necessary provision in the contract. We will ask you to sign a copy of the contract and we will exchange this for the Purchaser's signed copy. At this point we will receive the deposit from the Purchaser (usually 10%). The money cannot be paid over to you at this point unless specific provision to the contrary has been made. If it is to be used towards the deposit on your next house please let us know. Once contracts are exchanged, you are bound to sell your house - neither you nor the Purchaser can withdraw. The contract will also specify a completion date (when ownership of the Property transfers).
9. After contracts are exchanged, we will usually draft the document which transfers ownership (the deed of conveyance). Sometimes the Purchaser's Advocate will do so. The conveyance transfers the legal estate and contains any relevant matters (such as rights of way enjoyed by the Property, restrictions on use - private dwelling house, etc) which affect it. We will agree the document with the Purchaser's Advocate and answer any questions they may have on the title. We will confirm, for example, that any mortgage on the Property will be discharged. If there is

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any problem with your title, we may have to prepare additional documents. This will be charged for but we will advise you as soon as we know there is a problem.

10. Once the document is agreed, we produce a "clean" copy and then ask you to make an appointment with us to sign it. We then send it to the Purchaser's Advocate. At this time we also send to the Purchaser's Advocate a financial statement which indicates the sum required to complete the purchaser including any rates paid by you for the rest of the year.
11. In the run up to the completion date you should make arrangements to remove your possessions (leaving those things included in the sale - generally built in wardrobes, shelves, cooker hobs, kitchen units, television aerials, shrubs and trees), arrange to have final meter readings taken on the completion date (cancelling the service from that date), inform Manx Telecom of the date you are vacating and have the oil tank dipped if the Purchaser is paying for the oil left. You should also arrange to cancel your home and contents insurance for the day after completion and cancel any standing orders for rates or mortgage from that date.
12. On the completion date and once the money has been paid over, you have to hand over the Property to the Purchaser. All of your family and possessions will need to vacate. It is very important that you do not allow the Purchaser to move into the house or hand over the keys until completion has happened.
13. When completion happens, usually at our offices, the rest of the purchase price (plus balance of the rates and price for oil sold) will be handed over in exchange for the signed conveyance and keys.  
We will then account to you in respect of the purchase money. Out of those funds we will make the following payments:-
  - to your lender to discharge any mortgage on the Property;
  - to your estate agent for the sale of the Property (unless you tell us otherwise)
  - our account plus VAT together with sums we have had to pay out (for example to cancel a mortgage)
14. We will send you the balance (unless you are buying another property). Please ensure that we have a forwarding address. If you want to keep the money on deposit please let us know and we will make the necessary arrangements.
15. Please note that your Purchaser may need to sell a house to buy yours. If he/she is, then please be aware that exchange of contracts is likely to depend on whether your Purchaser can exchange contracts on his/her sale. If you are also buying, then your seller may not be able to exchange until he/she has exchanged on his/her purchase. A chain of sales/purchases like this can cause difficulties of timing so your ideal completion date or time may not be achievable.
16. It is also possible for us to act for your Purchaser and their lender and we may be instructed to do so. We will act unless we believe there is a conflict of interest. If there is, we will ask one of the parties to obtain independent advice. Please let us know whether this would cause you any problems. If we do act for another party (usually the lender) we must provide a quality service

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to both. To do this we may need to provide information (including information which would otherwise be confidential) concerning you and the circumstances surrounding the transaction to the lender (and vice versa). Your signing our letter of engagement will confirm your consent for us to do this and allow us to act for the lender as well as you. It is important to have this consent before we can act.

17. In all areas of the Island there is what is called compulsory land registration. If your property has already been Land Registered the mechanics of the selling process are different. In those areas, assuming the title to the house you are selling is registered at the Land Registry, instead of ourselves providing proof of title, a copy of the land registration entry is provided. Instead of a conveyance, a transfer is used to change ownership. The other steps in the processes are broadly the same.
18. Please note that our quote to you will involve all the steps described above. If you wish to cut costs, please discuss this with us, as we are able to offer a quality service but one which omits some of these steps. Please also note that we assume in our quote that, for example, there are no major problems with the Property's title. If we come across a problem like this, we will need to charge extra but will discuss this with you first.
19. Finally in this section, if you have made a Will your sale of your house may affect it. We strongly advise that you discuss this with us so we can ensure your wishes can be carried out. If you have not made a Will, then again we would strongly advise you to do so. Why not discuss this with us as well.
20. If for any reason the sale does not complete, we will charge a reduced rate depending on the work we have done (for example, if contracts are not exchanged, we are likely to charge 2/5 of our quote together with fees, etc. paid on your behalf plus VAT).

For further information on these or any other property law issues, please contact us on (01624) 676868

*This publication is intended only to provide a brief guide. It does not purport to be comprehensive or to provide legal advice.*

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