

# moving home

a legal guide



*Law Society of Ireland*

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## **your first move? see a solicitor**

**Buying or selling a home is probably one of the biggest financial transactions you'll ever make. It can be a stressful time and there are many pitfalls for the unwary. So it is important to involve your solicitor at the earliest possible moment, especially since the fee for the conveyancing work usually includes preliminary advice. This booklet aims to tell you what to expect from your solicitor and how to make sure you make the move as smoothly and efficiently as possible.**



## Your solicitor will look after the following matters:

- Preliminary advices, estimate of outlays (stamp duty, registration fees, legal fees, VAT, other outlays including search fees, etc), estimating budget for transaction, etc
- Pre-contract matters – title enquiries and planning searches
- Exchange of contracts
- Drafting closing documentation
- Title searches
- Ordering your loan cheque for closing
- Giving an undertaking to your bank or building society
- Closing
- Certificate of title to your lending institution
- Post-closing matters – paying off seller's loan, stamping and registration of purchaser's title, sending deeds to the bank

## The areas that you, the client, look after are, for example:

- Negotiating the terms (fees and advertising expenses) with the auctioneer and dealing with the property details and any contents included in the sale
- If you are purchasing a new property, dealing with the builder on property details, extras, and arranging for a qualified surveyor/architect/engineer to do periodic inspections and the snag list
- If you are purchasing a second-hand property, having a structural survey carried out by a qualified surveyor/architect/engineer before signing any contracts
- Dealing with your lending institution on non-title matters, for example:-
  - (a) Loan application/negotiation, getting loan approval in writing (which should be obtained before signing contracts)
  - (b) Establishing your identity for the purpose of opening a loan account (under money-laundering legislation)
  - (c) Property insurance, what value to insure for, what interests should be noted on the policy, how much it will cost
  - (d) Life assurance/mortgage protection insurance, what it covers, how much it will cost
  - (e) Indemnity bond (if applicable)
  - (f) Direct debit mandate

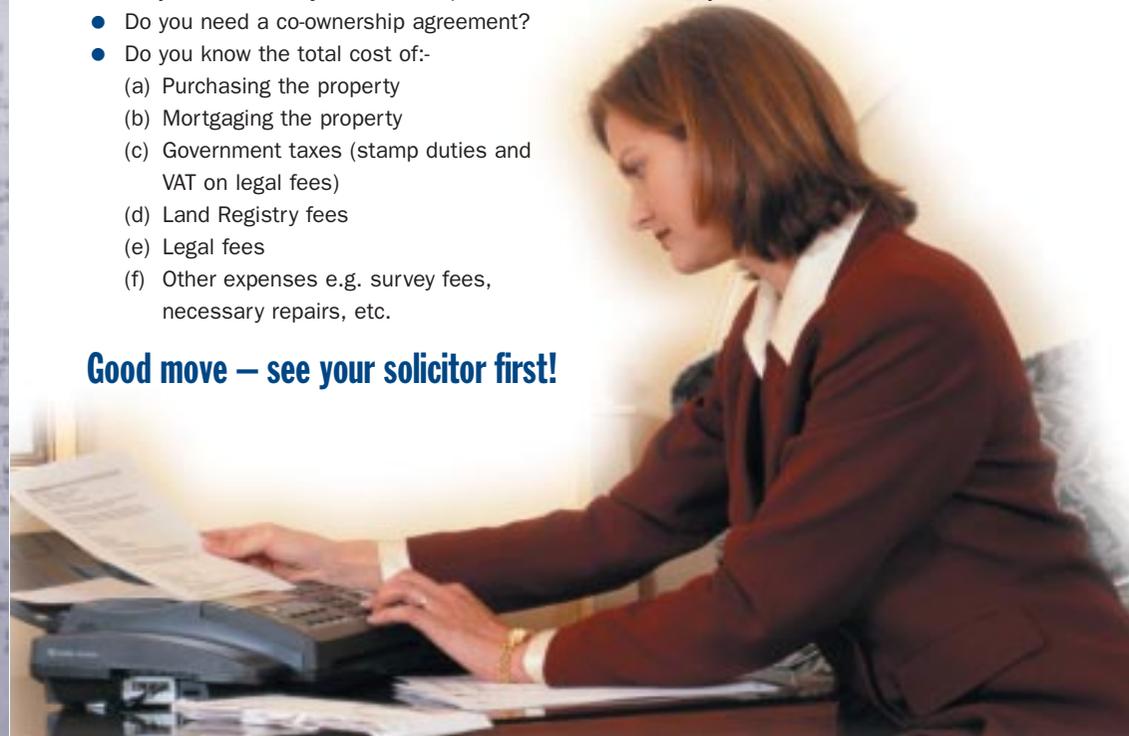
Note that your loan cheque will not issue or could be delayed until you have satisfied your bank or building society on these non-title items.

- Getting balance of money to close (other than loan cheque)
- Getting money to pay legal fees and outlays on closing
- Providing keys of the property for closing
- Continuance of insurance until sale is closed and vacant possession given
- Pre-closing inspection of the property/giving vacant possession
- Attending to utilities – electricity, telephone, gas, TV aerial/cable, etc

## Purchasing Why should I see my solicitor first?

- Both financially and personally, the purchase of a home could be one of the most important decisions you are likely to make.
- A bad buy could have major adverse consequences for you and your family.
- Title – are there any problems with the title? Would you have any trouble in re-selling?
- Remember that if you purchase a property at auction, you will be required to sign a binding contract there and then and pay a non-refundable deposit. Therefore, you should always consult your solicitor well in advance of the auction to allow time for the title to be checked beforehand and to arrange necessary finances.
- Are there any problems with the structure? You should arrange for a qualified surveyor/architect/engineer to carry out a survey (on a second-hand property) or to carry out periodic inspections and do a snag list (on a new property).
- Will the loan come through without difficulty or delay? You should check with your bank or building society that they have everything they need from you.
- What happens if you cannot make your loan repayments?
- Contents – what will be left in the property?
- Do you know what rights your spouse or co-purchaser will have over the property when purchased?
- Should you purchase in your own name or in joint names with your spouse or others, and if so, should you purchase the property in shares or as joint owners?
- Do you know what joint ownership involves in the event of your death?
- Do you need a co-ownership agreement?
- Do you know the total cost of:-
  - (a) Purchasing the property
  - (b) Mortgaging the property
  - (c) Government taxes (stamp duties and VAT on legal fees)
  - (d) Land Registry fees
  - (e) Legal fees
  - (f) Other expenses e.g. survey fees, necessary repairs, etc.

## Good move – see your solicitor first!



## Selling Do not place your home for sale until you see your solicitor first!

### Why should I see my solicitor first?

There are many reasons – what may seem to you to be a simple straightforward sale can go badly off the rails unless it is properly planned.

As the fee which you will pay your solicitor for the conveyancing work usually includes preliminary advice, you should take the time and trouble to see your solicitor before you do anything else. Among the many matters on which preliminary advice could be sought by you from your solicitor are:-

- Location of title documents – obtaining these – and having the contract for sale drafted in advance.
- Agreement on a timeframe for the sale, i.e. auction date and closing date for giving vacant possession.
- Review of title to identify any potential title difficulties, e.g. alterations or extensions without either planning permission or consents under building regulations.
- Whether you should accept an offer which is "subject to loan" and, if so, on what terms.
- Identification of contents to be included or excluded from the sale.
- Advice as to whether you can commit yourself to purchase another property before the sale of your own home is completed – and, if so, what financial and other complications are involved.
- Estimate of the total costs and expenses which you will incur in the sale.

If you put the "cart before the horse" and take steps to sell your home before consulting your solicitor, you are risking delays and difficulties, and could, as a direct result, incur unnecessary expense, delay and worry.

### Wise move – see your solicitor first!

