



# Re-Mortgaging Your Property

Most mortgages for house purchases are granted for a period of 20 to 30 years and previously many borrowers would carry on paying the same mortgage to the same lender for the whole of that time. But nowadays borrowers are more likely to re-mortgage their property on several occasions over that period. Re-mortgaging may enable you to take advantage of better mortgage terms from another lender, re-structure your overall borrowings or release capital from the property by taking out a higher mortgage. Increasing numbers of parents are now re-mortgaging their property to release money for the deposit on a child's own first home.

This Guide explains the key parts of the re-mortgage process and some of the terms used by your solicitor or lender which may be unfamiliar to you. For instance the whole legal process of buying and/ or selling land and property, and dealing with mortgages secured on property, is often referred to as "conveyancing".

Please read this Guide carefully; it is particularly important that you read the final section entitled "Email Security and Anti-Fraud Precautions".

## Do I need to appoint a Solicitor?

In England & Wales the professionals who deal with conveyancing are solicitors and licensed conveyancers. We have several teams of experienced personnel dealing with the sale and purchase of residential property, and re-mortgages, under the supervision of our conveyancing solicitors. In this Guide we refer to the person who handles the conveyancing associated with your re-mortgage as "your solicitor".

If you try to deal with the legal aspects of your re-mortgage yourself it is likely that you will face a number of problems. Both you and the new lender will require absolute certainty that your old mortgage will be redeemed (ie settled in full) and the new mortgage is properly registered against your property title. These requirements can generally only be met if your solicitor can give the appropriate professional undertakings and certify that you have good title to your property.

In practice the new lender will normally insist that you appoint a solicitor to act on your behalf and the same solicitor will also ensure the new lender's interests are protected.

## Should I be re-mortgaging?

The decision to re-mortgage is not one to be taken lightly, especially if you are proposing to increase the amount borrowed or extend the payment term of your mortgage. The UK mortgage market is huge and there are numerous different products and lenders available. Your solicitor will not be able to advise you on the most appropriate product for your specific needs and it is advisable to take advice from an independent financial advisor or mortgage broker authorised and regulated by the Financial Conduct Authority.

The new loan will be secured against your property so that, if you do not keep up the repayments agreed, the lender may seek to repossess the property and evict you from it – hence the standard warning that "your home may be at risk if you do not keep up your repayments on a mortgage or any other loan secured on it".

You should also ensure that you fully understand the various fees that may be payable to the new lender (eg valuation fees, arrangement fees etc) and any fees or penalties that might be due to your current lender(s), in addition to your legal fees.

## How does a re-mortgage work?

Your new lender will require a valuation of your property, and make an assessment of your income and ability to repay the proposed new mortgage, before approving your re-mortgage application. Once your application has been approved, your solicitor will check that you have a good title to the property and check the content of the new mortgage

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document. Assuming all is well your solicitor will then arrange for you to sign the new mortgage deed and for the new lender to issue the mortgage funds to us on an agreed date. Your solicitor will use those new mortgage funds to pay off all existing mortgages and loans secured on your property.

Your solicitor will simultaneously complete the new mortgage document and arrange for this to be registered against your property at the Land Registry. Any balance of the new mortgage funds will be paid out to you, after deduction of any relevant costs.

Different lenders have different requirements; some require us to make a number of property searches and other checks (even though you may have purchased the property and obtained a mortgage on it many years ago) whilst others do not. This will have an impact on our charges and the other fees that may be payable by you.

## **What happens if I have other loans secured on my property?**

Your financial advisor should be able to advise on the best options for you in this situation. If you have any other loans secured on your property (sometimes referred to as second or third charges) which are not being paid off as part of your re-mortgage your new lender will insist that your new mortgage must have the same legal priority over these second or third charges as your original mortgage (ie so that your new mortgage will rank as the First Charge on your title). This would ensure that your new mortgage would be paid off first in the event that your property had to be repossessed.

It will therefore be necessary for us to obtain a deed of priority from these other lenders. This will inevitably mean additional legal work and our charges will be higher. The relevant lenders will also require you to pay their administration and legal charges, which can amount to £200-300 plus VAT or more in some cases.

## **My property is leasehold – how will this affect my re-mortgage?**

If the title to your property is leasehold the new lender may require us to obtain information from the landlord or management company about any arrears of ground rent or service charges and to certify that the arrangements in the lease regarding the management of any common areas, repairs and insurance etc are satisfactory. The new lender may also want us to check that any alterations you have made to the property have either been approved by the landlord or do not require such approval, depending on the terms of the lease. The new lender will be concerned about these matters because the lease will contain provisions which entitle the landlord to forfeit the lease (ie apply to the court for an order for possession) if you have breached the terms of the lease.

The relevant parties will all generally charge a fee for providing us with the information or documents that we need. Once we have details of the fees being charged, we will contact you to obtain payment or to ask that you make the payment to them directly if that will be faster. The fees vary from company to company, but can be as much as £500.

## **What happens when I instruct you on the re-mortgage?**

The process will normally follow the steps set out below. In many cases we can proceed quite quickly once you have a mortgage offer.

- When you instruct us to act we will issue to you our client engagement documents which contain our fee estimate or quotation. You must sign and return these to show that you accept our terms. You will also be asked to supply the relevant identification evidence for money laundering and anti-fraud purposes.
- We will ask you to complete and return our re-mortgage questionnaire so that we have the basic information we require about the property and your new mortgage arrangement.
- We will obtain a copy of the title deeds for the property. This will usually be done electronically with the Land Registry.
- We will receive your mortgage offer from your new lender. Please liaise with your mortgage advisor up to the point when it is received by us, as we cannot influence when it will be issued.
- Some lenders will require us to obtain searches against the property. If so, we will contact you for funds to allow us to do this. In some cases, this will not be necessary as the lender will accept an appropriate insurance policy instead. The insurance policy is much cheaper and quicker to obtain, as some property searches can take up to three weeks.
- We will report to you about the lender's requirements when we receive the new lender's mortgage offer. You will need to sign and return the mortgage deed, which will also have to be witnessed.

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- Once we have the searches or the relevant insurance policy if necessary, and replies to any enquiries we were required to make in respect of your property, together with your signed paperwork, we will discuss an appropriate completion date for the re-mortgage with you.
  - When a completion date is agreed, we will obtain a redemption figure from your current lender (ie details of the exact sum required to settle the current mortgage debt in full on the completion date).
  - On the day of completion, we will receive the mortgage advance from your lender. We will redeem your existing mortgage, deduct our agreed fees and release the balance to you.
  - Following completion, we will register the change of mortgage with the Land Registry.

## **Why might the new lender require property searches to be undertaken?**

Different lenders have different policies on this issue – in some cases it is their standard policy to do so. If the property is in any way unconventional or the valuer identifies any specific concerns when he carries out the valuation the lender may require searches to be undertaken. High value mortgages may also trigger the requirement for these searches. Even if only purchased your property a few years ago, and therefore obtained and paid for these searches at that time, there might be changes which have occurred since that time.

## **What will it cost me if the new lender requires you to undertake property searches?**

If your lender requires these searches to be done we will confirm to you the likely cost. Depending on the local authority responsible for the property and which searches are required the cost is typically between £300 and £400.

## **When can you obtain an insurance policy (instead of these searches) and why?**

It depends on the lender - they all have different policies on this. If for instance your property is not conventional, has more land than usual, or there are potential issues with its location the lender may not accept a policy. An insurance policy (where you pay a one-off premium for a policy which will pay out an appropriate level of compensation to you/ your lender in the event that something prejudicial occurs which would have been revealed by the property searches) is likely to be cheaper and much quicker than commissioning the relevant searches. However policies may not be available in all cases.

## **What sort of searches might be required?**

A Local Search is obtained from the relevant local authority and will reveal:

- the planning history of the property;
- whether the road outside your property is adopted (ie maintainable at public expense);
- whether there are any local land charges registered against your property (eg if the local authority carries out pest control at your property and you fail to pay their fees, the local authority can register the debt as a local land charge against the property which is similar in effect to a mortgage);
- other matters which may directly affect your use and enjoyment of the property (and therefore its value).

A Coal Search is obtained from the Coal Authority and will reveal the existence of any mineshafts within the boundaries of the property, and also any past claims relating to subsidence. This search is only requested where there is a history of mining in the area. Similar searches are carried out in areas where brine extraction, limestone mining or tin mining (amongst others) have taken place.

A Drainage Search is obtained from the water company and will confirm whether the company supplies water, and whether waste water drains into the public sewers. It will also confirm whether there is a sewer running within the boundaries of the property.

An Environmental Search is carried out mainly to obtain a certificate confirming that the land on which your property is built is not considered to be contaminated.

Lenders may also request us to carry out a Flood search to establish if your property is in an area which has been, or might be, affected by flooding.

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## Do I need to tell you if my house has already been extended or some other substantial alteration has been undertaken?

If you have extended or altered your property in some way, we will need to check whether all the appropriate consents were obtained. Please let us know immediately as you may need to obtain retrospective consents or provide copies of consents already given. Failure to advise us at an early stage will cause a delay in your re-mortgage as we must advise your new lender on these issues.

## What should I look out for in the new Mortgage Offer?

When you receive your offer of mortgage, you should check this carefully to ensure it meets your requirements. We will receive our copy of the offer at the same time or one or two days later than you. If the offer does not correspond with your application you should query this with your mortgage broker or your new lender. Any discrepancies in your names (ie the persons named in the offer as the borrowers) or the address of the property should be queried immediately.

Are there any deductions to be made from the mortgage sum? Deductions might include retentions for repairs or the new lender's arrangement fees. These can sometimes create difficulties and for a further explanation of these deductions you should contact your mortgage broker, your new lender or your solicitor.

You must ensure that any acceptance or other forms are returned to your lender promptly and that any outstanding conditions are dealt with as quickly as possible. Some mortgage offers have strict time limits for acceptance. If these matters are not dealt with promptly delays are likely and the funds may not be released to us to enable us to complete your re-mortgage on the agreed date. This could create extra work for us (eg if we have to request a revised redemption figure from your current lender due to a delay on your part) and we will make an extra charge for this.

Your mortgage offer may have a statutory cooling-off period. This will normally run for a period of 7 to 14 days from the date that the mortgage offer is produced by your lender and is intended to provide you with the opportunity to think and reconsider. We always recommend that you take independent financial advice before accepting a new mortgage offer particularly if you applied for a re-mortgage without previously taking such advice. Provided you are happy to proceed with the terms of the mortgage offer you should sign and return any acceptance documentation to your new lender as quickly as possible.

## Why have you asked our son/daughter to consent to the mortgage?

Your Lender will not make the mortgage monies available until all the conditions on the mortgage offer have been fulfilled and all the named borrowers have signed the mortgage deed. Under the terms of the Mortgage Offer any persons who are aged 17 years or over, who are to occupy the property either with you or in your absence (whether family or not) may be required to sign letters of consent to the mortgage, or a deed of disclaimer. This is to ensure that these occupiers have no legal or other interest in the property which might create problems for the new lender if the property ever had to be repossessed..

## When is the re-mortgage completed?

Completion of the re-mortgage takes place when the new mortgage advance is received by us. On that same day we will redeem (ie pay off) your existing mortgage. If any other loans secured on your property are being consolidated as part of the re-mortgage we will also redeem those.

## What will happen following completion?

Shortly after legal completion has taken place, your new lender will contact you with details as to when, where and how to make your mortgage repayments. You should check with your new lender when your first mortgage repayment will be due.

Your solicitor will send the mortgage deed and relevant accompanying paperwork to the Land Registry for your new mortgage to be registered against your title. Appropriate evidence that your old mortgage has been discharged will also be issued to the Land Registry so that reference to your old mortgage will be removed from your title. Nowadays many major lenders (eg the main UK Banks and large building societies) do this electronically and we will not be involved, but in other cases we will prepare the legal discharge form for your old lender to complete.

We will account to you for any balance of the new mortgage advance due to you, once all the necessary fees and charges have been settled. On those occasions where you are expecting a substantial cash surplus to be available after completion we will discuss with you how and when the relevant payment will be made to you, having regard to the matters referred to in the section below on email security.

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## EMAIL SECURITY AND ANTI-FRAUD PRECAUTIONS

### PLEASE READ THIS SECTION CAREFULLY FOR YOUR OWN PROTECTION

If you communicate with us by email, or ask us to email you, it is important that you understand that email is not a completely secure method of communication. Although we take all reasonable precautions to safeguard our own IT systems it is possible for others to intercept emails that pass between us. This means we cannot guarantee client confidentiality in these circumstances.

In some cases criminals have used email interception to defraud legal firms or their clients. Residential Conveyancing appears to be a high risk area for this type of fraud because large sums of money are regularly transferred between legal firms, and between legal firms and their clients and vice versa, for these transactions. The fraudster operates by intercepting genuine email correspondence between legal firms and their clients; at the appropriate point in the transaction the fraudster will issue one or more bogus emails which appear to come from a legal firm or party involved. These bogus emails can take various forms but will generally request that money is transferred to a stated bank account for the purposes of the transaction. The request will often appear very plausible but the account details provided are false. If the fraud is not detected the transfer is made to the fraudulent account and may not be recoverable. You should note that when you request a funds transfer your bank will not generally check for a match between the account name and account number supplied by you, nor will banks accept any responsibility if they make the transfer to the account number as you directed. Some of these frauds are very sophisticated, and people have lost considerable sums of money as a result.

The risk to our clients is generally lower in re-mortgages because it is very unusual for us to request large sums of money from our client in these cases. However to help prevent this type of fraud:

- We will not normally notify you of our bank account details by email. If we require funds from you for a transaction we will ask you to telephone us, using the telephone number on our initial engagement letter, to obtain these account details directly from your solicitor;
- We are members of the “Safe Move” scheme – we will explain to you how you can use the scheme to verify that any bank account details supplied to you for this firm are genuine;
- We will NEVER send you an email notifying you of a last-minute change in our bank account details;
- Contact your solicitor immediately if you receive emails which appear to come from us (or any other party or legal firm) requesting you to pay money to a specified account. Do NOT use the telephone number on the suspect email as this may be false and the criminals might maintain the deception by answering it as if you have rung this firm. Do not authorise any requested financial transfer until you have verified that the request is genuine;
- We will verify any bank details you supply to us by email (where money is to be transferred to you). We will normally telephone you to check these details and if we cannot contact you we may delay the transfer until we can do so;
- We now verify any bank details supplied to us by other legal firms using a reputable external agency recommended by the Law Society.

This Guide is not intended to be comprehensive. It highlights and explains the common legal issues relevant to this topic. It should also help you to understand any steps we take on your behalf and the terms we and other professionals involved in your matter may use. Please read this Guide carefully and contact the lawyer dealing with your matter if you do not understand anything in it. We will not repeat the advice or information provided in this Guide when we meet you or write to you unless we need your specific instructions on some aspect of it.