

MORTGAGE COSTS

Mortgage lenders have taken to requiring far more of solicitors than they used to. It got to the point of each lender producing a substantial list of its own particular requirements covering several pages. Thankfully, in most cases that has largely been standardised in a handbook agreed between the Law Society and the Council of Mortgage Lenders. That handbook covers 14 pages of detailed requirements. In addition each lender often still has its own particular requirements - and they usually cover several extra pages!

Some of what is often now demanded of us, in addition to normal conveyancing requirements, includes:

- checking and copying your passport to ensure that you are who you say you are;
 - having personally to witness your signature to the mortgage deed;
 - having fully to explain what a mortgage is, and what the implications may be;
 - checking that the property is fully insured against those risks required by your lender;
 - checking that you have sufficient and suitable life assurance policies in place;
 - checking that no one else lives in the property, or that such person postpones any possible interest in the property to that of the lender;
 - ensuring that you have completed all forms required by the lender;
 - considering the lender's surveyor's report and ensuring that it contains no false assumptions;
 - checking that you produce any guarantees and reports that relate to the property;
 - ensuring that you obtain those specialist reports required by the lender, and act on them;
 - ensuring that loans on other properties are repaid;
 - warranting that we are liable not only to the lender, but also to anyone who buys from the lender;
 - ensuring that we keep full records for at least six years after completion and produce the entire file when called for, *even if part is confidential to you; please note!*
- etc. etc. The list is by no means exhaustive. Altogether we have to consider over 125 points.

Much of what is required of us could, and should, be done by a prudent lender for itself!

There are two reasons why lenders deliberately put the additional burden on solicitors:

- They reduce the cost of their own administration by being able to cut down on their staff;
- If things go wrong they want to claim against the solicitor: we now insure against clients' losses of up to £2,000,000 per claim.

No wonder indemnity premiums are rising. No wonder solicitors' bills are following suit. Nevertheless, in spite of reducing their own costs and shifting their work and risks on to us, lenders will not pay a penny towards the legal fees incurred: *our bill against the lender must be paid by you, the borrower.* We make no apologies for that, but send you our commiserations!

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These notes relate only to the Law in England and Wales. They are by no means exhaustive but we hope that they will help avoid some of the difficulties which may arise. Please raise any queries with us as soon as possible.