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HM Government

North West

Solicitors Guidance Pack



Solicitor Guidance: This guide has been designed to support you as the buyer's solicitor in the completion of the required Help to Buy documents.

The following pages represent a step-by-step guide to the completion of the Solicitors Form 1, the Confirmation of Exchange Form (CEF), Solicitors Form 2 and Certificate of Title.

The fields highlighted in yellow are to be completed by the buyer's conveyancer, and include notes detailing what information should be entered.

As incomplete or inaccurate forms lead to a delay in the issuing of Help to Buy documents, we've created this guide to avoid common mistakes.

All these forms must be submitted via our team inbox: info@helptobuynw.org.uk

Processing & Receipt Timescales are as follows:

Solicitors Form 1 – 3 working days – this must be sent in with a copy of the mortgage offer & CML Form

CEF Form – Must be sent into us within 2 working days of actual exchange

Solicitors Form 2 & COT – 2 working days

If you have any questions or concerns, please feel free to contact the team on the details below. We can also set up training upon request, or meet to further discuss the process and provide support.

info@helptobuynw.org.uk or 0300 790 0570

Help to Buy North West
Rialto Building
90-94 Upper Parliament Street
Liverpool
L8 7SY

Solicitor's Form 1

To: Help to Buy North West - Rialto Buildings, 90-94 Upper Parliament St, Liverpool L8 7SY

From: Solicitor's reference: [YOUR REFERENCE]
[SOLICITORS NAME, SOLICITORS ADDRESS]

SCHEME: HELP TO BUY

Dear Sirs,

BUYER: [BUYERS FULL NAMES]
PROVIDER: [BUILDERS NAME]
PROPERTY: [PURCHASE PROPERTY ADDRESS]

We confirm that we have been instructed to act on behalf of the Buyer named above in connection with the purchase of the Property. We also confirm that we have been instructed to act on behalf of the Buyer's mortgagee.

We confirm that we are in receipt of your Authority to Proceed dated [FIRST ATP DATE] and your Instructions to Solicitors and the accompanying documentation.

We confirm that:-

- 1 we will comply with the instructions that have been supplied to us;
- 2 we will ensure that the financial terms of the proposed purchase accord with those set out in the Authority to Proceed;
- 3 we have read the instructions and that we are not aware of any Incentives being provided to the Buyer which we are required to notify to you. [Save forand/as set out in the attached copy of the Provider's CML Disclosure of Incentives Form]*;
- 4 we have obtained a completed copy of the CML Disclosure of Incentives form from the conveyancer acting on behalf of the Provider and it complies with our instructions;
- 5 where the Authority to Proceed makes reference to the Buyer providing some of his/her/their own investment to the purchase, the Buyer has confirmed that that investment will be available upon completion;
- 6 the Buyer has received a mortgage offer from a Qualifying Lender and that we enclose a copy of the mortgage offer. We further confirm that the identity of the Qualifying Lender and the amount of the prior mortgage are as set out below:-

Qualifying Lender: [MORTGAGE LENDER]

Prior mortgage (net of fees): [£[LOAN AMOUNT NOT INCLUDING FEES]];

Mortgage fees: [£[MORTGAGE FEES]];

Term: [MORTGAGE TERM] years

- And that the balance of £[FULL DEPOSIT AMOUNT] is to be provided by the Buyer;
- 7 the Full Purchase Price of the Property is [£[FULL PURCHASE PRICE]];
- 8 the calculation of the Reduced Purchase Price (and therefore the Contribution and the Contribution Percentage) does not include the mortgage fees referred to in paragraph 6;
- 9 it is anticipated that exchange of contracts will take place [on [specified date]]/[within the next [specified period]]; **Max 28 days**
- 10 we have received written confirmation from the Buyer (and from each Buyer where there is more than one person) [that they have no interest in any Dwelling] **OR** [that the Buyer has an interest in a Dwelling but that it intends to sell or complete the sale of any Dwelling(s) that they have an interest in, on or before the date of completion. The Buyer has confirmed that it anticipates that exchange of contracts for the sale of such Dwelling shall take place on the date referred to at paragraph 9]**. We further confirm that we have received no notice or indication that contradicts such written confirmation(s) from the Buyer;
- 11 the Buyer has received copies of the Help to Buy Buyer's Information Sheet, the Equity Mortgage, and the Authority to Proceed and we have advised him/her/them of their contents in accordance with these Instructions to Solicitors. The Buyer received these at least seven days before completion. We have also drawn the Buyer's attention to the role of the Post Sales Agent as highlighted in the Help to Buy Buyer's Information Sheet;
- 12 [subject to final inspection*] the Full Purchase Price for the property does not exceed the market value of the Property as stated in the valuation report (or the mortgage offer, where the valuation report is not available) for the Qualifying Lender (a copy of which is attached);
- 13 within 2 working days of exchange of contracts we will provide you with the Confirmation of Exchange Form (which is annexed to the Authority to Exchange);
- 14 prior to completion we will provide you with the Solicitor's Form 2 in the required form;
- 15 upon completion the Equity Mortgage (in the form supplied to us by you will be entered into and, within 5 working days of completion, notice of charge will be provided to the Qualifying Lender (in relation to the Buyer's participation in the Help to Buy Initiative) in accordance with a method of service of notice as set out in the Land Registration Rules 2003 (as may be varied or amended from time to time).

Yours faithfully

Signature:

Name:

Date:

[Date and insert details of solicitor signing report]

*Amend as appropriate

** Delete as appropriate

The Solicitor's Form 1 must be returned unamended (save for the words in square brackets or those areas expressly marked for amendment) to the Help to Buy Agent. Amended forms will not be accepted by the Help to Buy Agent.



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90-94 Upper Parliament Street
Liverpool
L8 7SY
0300 790 0570
info@helptobuynw.org.uk

Annex 1

Confirmation of Exchange Form

From: **Buyers Solicitor Name - Buyers Solicitors Address**

To: **Help to Buy North West – Rialto Building, 90-94 Upper Parliament Street, Liverpool, L8 7SY (info@helptobuynw.org.uk)**

Date: []

Re: Confirmation of exchange of contracts

Scheme: HELP TO BUY

Applicant name(s)	HtB property address	Date of exchange of contracts
Buyers Full Names	Purchase Property Address – Plot Number & Development	[]

We confirm that the above buyer(s) has exchanged contracts on the above property and we are therefore providing the Help to Buy Agent with confirmation of exchange in accordance with clause 13 of Solicitor's Form 1.

Yours faithfully

Signature:

Name:

Date:

[Date and insert details of solicitor signing report]

Solicitor's Form 2

DRAFT UNDERTAKING FROM HELP TO BUY PURCHASER'S SOLICITOR OR LICENSED CONVEYANCER TO [HELP TO BUY AGENT] AS AGENT FOR THE AGENCY – THIS DOCUMENT IS SUBJECT TO VARIATION AT THE DISCRETION OF THE AGENCY

Dear **Help to Buy North West**

SCHEME: HELP TO BUY

We act on behalf of **[BUYER/S FULL NAMES]** (the "Buyer"), a qualifying applicant pursuant to the Authority to Proceed, in relation to the purchase of **[PURCHASE PROPERTY ADDRESS]** (the "Property"). The defined terms in this report and undertaking bear the same meaning as those contained in the Authority to Proceed issued to us by you on **[FIRST ATP DATE]**.

We attach a certified copy of the **[final Valuation Report received as part of the Buyer's first mortgage offer/the Buyer's mortgage offer confirming the valuation of the Property]***.

In consideration of the Agency having made equity loan funding available to the Buyer (the Contribution as referred to below), which the Buyer has agreed and directed is to be paid directly to **[BUILDERS NAME]** (the "Provider") and the Full Purchase Price (as referred to below) having the Contribution deducted from it at completion so as to enable the Buyer to pay the Reduced Purchase Price (as referred to below) on the completion date, we confirm and acknowledge that you will rely on the following:-

- 1 We have compared the details provided to us in relation to the purchase of the Property against the relevant Authority to Proceed and can confirm that:-
 - 1.1 the Full Purchase Price is: **[FULL PURCHASE PRICE]**
 - 1.2 the Reduced Purchase Price is: **[FULL PURCHASE PRICE LESS THE EQUITY LOAN AMOUNT]**] (which for the avoidance of doubt excludes any mortgage fees of the Qualifying Lender)
 - 1.3 the Contribution is: £**[EQUITY LOAN AMOUNT]**]
 - 1.4 the Contribution Percentage is : **[EQUITY LOAN PERCENTAGE]** %
 - 1.5 [the Incentives (including any cash back) are: **[£VALUE OF INCENTIVES]**] (which for the avoidance of doubt represents no more than 5% of the Full Purchase Price)
 - 1.6 any cashback is (to be paid to the Buyer at completion): £**[VALUE OF CASHBACK]**;
and these accord with the said Authority to Proceed.
- 2 We have confirmed the identity of the Buyer as required by your Instructions to Solicitors.
- 3 We have confirmed the existence of a prior ranking Qualifying Lender who will be taking a first charge over the property and that Qualifying Lender is **[MORTGAGE LENDER]**.

- 4 We confirm that the amount of money to be advanced by the Qualifying Lender referred to in paragraph 3 above does not exceed the Reduced Purchase Price.
- 5 We confirm that the calculation of the Reduced Purchase Price (and therefore the Contribution and the Contribution Percentage) does not include any mortgage fees of the Qualifying Lender.
- 6 We confirm that the amount stated in the first charge as being secured by the prior ranking charge is £[**LOAN AMOUNT NOT INCLUDING FEES**]

7 *Please include the applicable statement from the list below in paragraph 11:*

[We confirm that the prior ranking first charge does not include an obligation on the Qualifying Lender to make further advances or to permit tacking.] **OR**

[We confirm that the prior ranking first charge does include an obligation on the Qualifying Lender to make further advances or to permit tacking but that we have received confirmation from the Qualifying Lender that they will not make such further advances or permit tacking without the consent of the Agency] **OR**

[We confirm that the prior ranking first charge does include an obligation on the Qualifying Lender to make further advances or to permit tacking and although we have been unable to obtain direct confirmation from the Qualifying Lender that they will not make such further advances or permit tacking without the consent of the Agency, you have confirmed that a general confirmation to this effect has been provided to the Agency.] ******

8 *Please include the applicable statement from the list below in paragraph 12:*

Where a Valuation Report is available the Full Purchase Price does not exceed the market value:

[We confirm that (although we express no opinion on matters of valuation) the Full Purchase Price does not exceed the market value of the Property as stated in the Valuation Report obtained by the prior Qualifying Lender (a copy of the Valuation Report is attached) **OR**

In the event no Valuation Report is available but a mortgage offer has been provided and the Full Purchase Price does not exceed the market value:

[We confirm that (although we express no opinion on matters of valuation) the Full Purchase Price does not exceed the market value of the Property as stated in the mortgage offer **OR**

Where either a Valuation Report a mortgage offer is available but neither of the above statements apply AND specific written approval of the Help to Buy Agent has been obtained (see Para 2 of the Additional Instructions):

[We have received your written approval to the Valuation Report or mortgage offer a copy of which is attached]

- 9 We confirm that we have provided the Qualifying Lender with notice that the Buyer is participating in this Initiative and we have provided the Qualifying Lender with the Guidance Notes for Mortgage Lenders.
- 10 We confirm that exchange took place on [EXACT EXCHANGE DATE] and that the completion date is [EXACT COMPLETION DATE].
- 11 We have complied with the Council of Mortgage Lenders' Handbook in relation to the first loan from the Qualifying Lender which is to be secured by the first charge over the Property including submission of a fully completed disclosure of incentives form.
- 12 That we have investigated title to the Property and on the Agency's behalf have carried out the other steps required of us so that we can and hereby do give the certificate set out in the Appendix.
- 13 We undertake to ensure that the form of Equity Mortgage that we have been supplied with:
- 13.1 contains information which corresponds with the information set out in the Authority to Proceed.
- 13.2 bears the Contribution and the Contribution Percentage as specified above;
- 13.3 is properly executed by the Buyer; and
- 13.4 is dated contemporaneously with the purchase of the Property.
- 14 where we have received confirmation from the Buyer (or any one of the Buyers where the Buyer is more than one person) that it has an interest in a Dwelling or we are on notice that the Buyer has such an interest in a Dwelling we undertake not to complete the Equity Mortgage or the purchase of the Property until the sale of such Dwelling has taken place, so that from the date of completion the Buyer will no longer have any interest in any Dwelling other than the Property;
- 15 We undertake to:
- 15.1 (within five working days of the later of completion of the purchase of the Property) provide you with certified copies of the completed Equity Mortgage; and
- 15.2 serve written notice of completion of the Equity Mortgage on the prior Qualifying Lender in accordance with the Land Registration Rules 2003 (as may be varied or amended from time to time); and
- 16 (within five working days of the later of completion of the purchase of the Property or the date of receipt of the signed lease/transfer from the Developer) provide you with a certified copy completed AP1 form as submitted to HM Land Registry.
- 17 We undertake as soon as reasonably practicable and (where applicable) with the relevant Land Registry priority period to

- 17.1 register the Equity Mortgage at the Land Registry as a second charge (ranking immediately after the first mortgage to be granted by the Buyer in favour of the Qualifying Lender);
- 17.2 make such further necessary application to ensure that the Land Registry restriction referred to in the Equity Mortgage appears on the title to the Property; and
- 18 We undertake as soon as reasonably practicable (and in any event no later than 10 working days following receipt from HM Land Registry) to send to the Help to Buy Agent a certified copy Office Copy Entries confirming that the Equity Mortgage has been registered against the title to the Property.
- 19 That we have advised the Buyer on their obligations arising under the Help to Buy Buyer's Information Sheet, including the Personal Worked Example, the Authority to Proceed and the Equity Mortgage in accordance with the Agency Instructions to Solicitors and further that the Buyer has received the Personal Worked Example in the form annexed to Help to Buy Buyer's Information Sheet specific to the Property.
- * Delete as appropriate – the second option should only be used where a full valuation report is not available.
- ** You must be in a position to confirm one of the statements set out in Paragraph 7 – please delete the non-applicable statements.
- *** Delete as appropriate –
- The Form 2 paragraphs 1 – 19 must be returned unamended (save for the words in square brackets in paragraphs 7 and 8 as indicated) to the Help to Buy Agent. Amended forms will not be accepted by the Help to Buy Agent.
- **** The Certificate of Title set out in Appendix 1 needs to be completed and signed for this Solicitor's Form 2 to be deemed validly submitted for the purpose of satisfying the requirements for the payment of the equity loan funding.

APPENDIX 1

CERTIFICATE OF TITLE

TO:	Help to Buy North West - Rialto Buildings, 90-94 Upper Parliament St, Liverpool L8 7SY
The Borrower:	BUYER/S FULL NAMES
Property:	PURCHASE PROPERTY ADDRESS
Scheme	Help to Buy
Title Number:	
Mortgage Advance:	£ (EQUITY LOAN AMOUNT) which represents [EQUITY LOAN PERCENTAGE]% of the Full Purchase Price
Price stated in transfer:	(FULL PURCHASE PRICE)
Completion Date:	(EXACT COMPLETION DATE)
Conveyancer's Name & Address:	(SOLICITORS NAME, SOLICITORS ADDRESS)
Conveyancer's Reference:	(SOLICITORS REFERENCE)
Conveyancer's bank, sort code, and account number:	NOT REQUIRED
Date of instructions:	(DATE OF FORM COMPLETION)

We the conveyancers named above give the Certificate of Title referred to in IB (3.7) of the SRA Code of Conduct 2011, published by the Law Society as if the same were set out in full subject to the limitations constrained in it.

Signature:

Name:

Date:

[Date and insert details of solicitor signing report]