



Additional Enquiries. Don't tell lies, not even tiny 'white lies!'

So you are selling, or thinking of selling your property, congratulations, time to move onto greener pastures. Now what is the next step? Sit, back and wait for the sale money to come in? Not quite, as most sellers will find they will be required to answer additional enquiries.

Prior to this the seller will have been asked to complete 'protocol forms'. These forms require the seller to answer questions about the time that they have resided in the property and provide any supporting documents that may help answer questions.

Once the protocol forms have been completed by the seller and sent to the buyers solicitors then the upon review of the sellers answers the buyer may wish to raise additional enquiries in relation to matters not dealt with in the standard enquiries. It is therefore normal for the buyer's solicitors to raise one set of additional enquiries on behalf of the buyers in respect of the property. This mostly relates to good title. If the seller has all documents required for selling with good title and with no breaches such as lack of planning or building regulations then this is a simple, painless process. However if the seller has missing information then additional enquiries becomes one of the most frustrating stages in the sale and purchase transaction. If not dealt with properly it can slow down the transaction for weeks, sometimes months.

What sort of questions will I be asked?

When it comes to selling a property the buyer's solicitors may ask a whole variety of questions, these can range from asking you to provide planning permission documents, asking for information about your boiler, and even asking if you have had any noise problems with your neighbour.

Whatever questions are raised it is important for the seller to answer them as quickly and as accurately as possible, as to not do so could risk causing a delay, which may result in the buyer pulling out of the transaction.

Do I have to answer a question?

Strictly not, but in practice yes. You have to be quite brave as a seller not to reply to additional enquiries raised within the scope of the Law Society Protocol. It would put many buyers off buying your property.

Where you do answer them then you are liable for the statements you make. You must therefore answer the questions to the best of your knowledge and truthfully. If you do not answer the questions correctly then you may be liable to the buyer. Liability amounts to misrepresentation, so an inaccurate but honest reply is unlikely to give rise liability.

The case of *Doe & another v. Skegg & another* (2006), highlights the importance of giving truthful replies to enquiries. In this instance the seller had problems with their neighbour's son trespassing in their drive and harassing them, and even threatened legal action via a letter unless the son desisted from such behaviour. When additional enquiries were raised, the seller however answered "no" to the questions relating to disputes or complaints or whether any letters had been received or sent affecting the property. Once the purchase was completed, the purchaser moved in and became aware of the behaviour of the neighbours son. The purchaser successfully claimed damages for fraudulent misrepresentation; the Court held that the sellers knew that they ought to disclose the existence of the dispute but did not do so because they feared it would affect the sale of the property. The Doe case is a perfect demonstration of the importance of you, the seller, answering additional enquiries honestly.

Additional enquiries are not something to be casually answered but are important, and require the seller to take time over their answers, so when you are asked additional enquiries make sure you take your time and answer to the best of your ability.

