

# 'Coronavirus clauses' add a get-out option for buyers

Fears of a second wave and job losses are leading property hunters to seek flexibility – but this creates uncertainty too. By Melissa Lawford

Property transactions are being hit with new “coronavirus clauses” to mitigate chaos caused by any fallout from the pandemic. If there are complications after exchanging contracts, such as a person getting the virus and not being able to move or being furloughed and losing a mortgage offer, these allow the completion date to be delayed or a party to pull out of the purchase with no penalty.

When the housing market was suspended and the Government effectively banned transactions, these clauses became nearly ubiquitous in property sale contracts.

Now that restrictions have been lifted, cautious homebuyers with an eye on the bleak economic outlook or a second wave of the virus are insisting they are kept in. These clauses were recommended by the Government, as previously there was typically no allowance for unforeseen circumstances in property contracts.

For many, such clauses have been a necessary lifeline. But they also bring a new raft of uncertainty into contract law and look likely to remain.

Laura Conduit of Farrer & Co, a law firm, said: “It is pretty radical, not being able to give people that certainty. It is a big change for our industry.”

Richard Rogerson of RFR, a private property office, added: “It is very possible that we will experience further lockdowns or partial lockdowns in the UK. For residential sales contracts, this means that Covid clauses will remain a regular feature of the market.”

Now lockdown is easing, it looks like the market is returning to normal. The number of sales agreed in England on June 10 had recovered to 92pc of the level at the beginning of March, up from a low of less than 10pc, according to property website Zoopla.

But even when these sales are under contract, in many cases there will be no guarantee they will complete.

Clauses are still being inserted into contracts as there is the worry that a second spike of virus cases could once again plunge the market into chaos.

Meanwhile, the number of people who are on furlough or losing their jobs because of the outbreak continues to rise. This unprecedented



JAKE WILLIAMS FOR THE TELEGRAPH

*It's possible we will have more lockdowns so these clauses will remain a regular feature'*

kind of uncertainty means that the old model of exchange and completion now no longer works for many.

Mark Sellers of the Law Society, a professional association, said its guidance was for solicitors to assess all risks and include a coronavirus clause only if there was a serious risk to the transaction. They will not become ubiquitous, he added: “If you do that, you have contracts where you're never certain whether the transaction will complete.”

If there is a risk to any sale that is in a chain, the clause needs to be applied to every connected transaction, said Mr Sellers. Now that these clauses have become more common, exchanging and completing a purchase on the same day is “the most secure” option, he added. Some buyers are also opting to cut their down payments to minimise the financial risk if the purchase collapses, said Tom Bill of Knight Frank estate agents.

New-builds will be particularly affected, as completion dates after exchange are often not set and can be months in the future.

Andrew Boast of SAM Conveyancing said: “This gives time for changes such as furlough or contracting the virus to affect the buyer's ability to complete.”

Covid clauses should be the norm in new-build sales, he added.

▲ Clauses that were written into property purchase contracts during the market shutdown are now becoming more common, despite restrictions lifting



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