

# Getting the Best From Your Solicitor

[www.lawscot.org.uk](http://www.lawscot.org.uk)



The Law Society of Scotland

# Getting the Best From Your Solicitor

# Step 1: Taking Steps to Find Out if You Need a Solicitor

1

Every year about one in ten people seek advice or help from a solicitor - many of them for the first time. Whatever your reason for consulting a solicitor, it helps to know what to expect. What will your solicitor need to know about you and your problem? What kind of information should the solicitor give you? How much it will cost? What do you do if you are dissatisfied with your solicitor?

This leaflet is a step by step guide to your rights and responsibilities as a client. It should help you to make sure you get the best from your solicitor.

- Step 1** | Deciding if you need a solicitor
- Step 2** | Finding a solicitor
- Step 3** | Your first appointment  
with your solicitor
- Step 4** | Your solicitor and your case

The Law Society of Scotland gratefully acknowledges the assistance of the Scottish Consumer Council in producing this leaflet.

1

2

If you do not already have a solicitor, the Law Society of Scotland can help you. The Society runs an internet information and referral service. It can provide you with information about some of the situations which arise in life where the services of a solicitor may be helpful or, indeed, necessary.

Dial-a-Law is a library of over 40 messages on specific areas of the law as they apply in Scotland. The messages cover 8 main areas of the law - Family Law, Criminal Law, Property Law, Consumer Law, Employment Law, Wills & Executries, Mental Disabilities and Insolvency. There is also information about choosing a solicitor and preparing for the first meeting.

## Step 2: Finding a Solicitor.

3

You can reach Dial-a-Law at [www.dial-a-law.org.uk](http://www.dial-a-law.org.uk). The service will enable you to access information at a time which suits you. You will then be able to decide, in your own time, if you need to speak to a solicitor and you will be able to take the time you need to prepare for a first meeting.

Solicitors often specialise in particular areas of the law, for example, in buying and selling houses or in family or criminal cases. It is important that you find the right solicitor for

1

2

4

your needs. You can get the names of solicitors in your area from the Law Society of Scotland, Citizens Advice Bureaux or other local advice centres. Solicitors are also listed in Yellow Pages. In addition, Dial-a-Law can give you the names of appropriate solicitors in your local area.

Sometimes people worry about how much a solicitor is going to cost. If you are concerned about costs, you might like to telephone a few solicitors, to tell them what your problem is and to get an idea of what they may be able to do for you, and an estimate of their charges. It is important to have confidence in your solicitor from the start, so make sure you choose a solicitor whom you trust and who is able to do the work at a cost agreed between you. Many

# Step 3:

## Your First Appointment with Your Solicitor

5

2

3

6

solicitors charge little or nothing for the first meeting where you can ask about the likely costs before deciding whether or not to go ahead.

You may also find that you qualify for help towards your costs through the Legal Aid scheme. There is more about the Legal Aid scheme on page 13.

### **Arranging the Appointment**

You can arrange an appointment by telephoning or calling at the solicitor's office. You should explain the kind of service that you need - for example, you want to claim compensation for an accident or you are seeking a divorce or you want to make a will. Give the receptionist a little bit of information so that he or she can ensure that you see a solicitor in that firm who can help you.

You should be able to get an appointment within a few working days, unless the matter is very urgent. If it is difficult for you to travel to the solicitor's office because you are elderly, disabled or ill, you should ask whether or not it would be possible for a home visit to be arranged.

It might also be advisable to ask what, if any, information you should bring with you to a first meeting, such as letters or proof of income or other documents.

Bear in mind that, from this first contact, you should be satisfied about the way the firm is dealing with your enquiry. It is important to have confidence in the firm if it is going to represent you. If you don't feel satisfied at this stage, you might want to consider going to another firm instead.

### **Before you see your solicitor**

At your first meeting with the solicitor, he or she will want to find out what your legal problem is. You want your solicitor to understand quickly and clearly the nature of your problem and the solution you are hoping for. Preparing for your meeting will help. Get together all the relevant letters or papers

(if you can't decide which are relevant, bring them all) plus anything you were asked to bring with you when you made the appointment. Think of the information you will need to give and the questions you want answered. It often helps to write down a list of questions and reminders and take this with you to the meeting.

### **At the meeting**

If you take a friend or relative to the meeting, explain to the solicitor who they are and why you want them to be with you. At the meeting, ask how long it will last so that you don't suddenly find that all your time has been taken up before you have had a chance to make all your points. Your solicitor will ask you a lot of questions at the meeting. He or she needs to know all the facts about your problem before being able to assess the situation. Try to answer any questions clearly and accurately

and if you have any relevant documents with you, show these to the solicitor. You may find it helpful to get out your list of questions and tick off each point as it is covered.

You should make sure that you get all the information you require from your solicitor. Don't be afraid to ask for information, and ask for a full explanation of anything you do not understand. Your solicitor is there to help you and to work on your behalf. At the end of your meeting, you should feel that you have been able to explain everything to him or her and that he or she has taken the time and trouble to explain things to you fully and clearly. Find out if this solicitor will be dealing with your case throughout. If not, ask to meet the person who will.

### Talking about costs

Costs are important to everyone and you should ask your solicitor at the first meeting how much you are likely to have to pay in total for his or her services. Most solicitors will try to give you the best estimate they can and will tell you about how the bill is worked out. Some solicitors charge a fixed fee for the whole job, others charge according to how much time they actually spend doing the work for you. (This includes time spent with you, so remember that you will be adding to the final bill each time you contact the solicitor). Remember, however, that a solicitor will not always be able to tell you exactly how much the work is going to cost but, if the final bill differs from any estimate, he or she should give you an explanation. If you are concerned about the costs, you could agree a fixed spending limit with your solicitor at your first

meeting. If that limit is reached the solicitor will then have to contact you before doing any more work on your behalf.

It is also worth considering whether or not to ask your solicitor to send you bills on a regular (say monthly) basis. This might help you to budget if you are concerned about receiving a large bill once the work has been done.

Also, it is not uncommon for solicitors to ask clients to pay some money in advance or before the work is complete to cover outlays. Sometimes your solicitor will have to pay other expenses e.g. for medical reports or registration fees, so, when budgeting, remember that you will also be responsible for these costs.

In some situations you may have to pay the other side's legal bills as well as your own. Your solicitor should advise you whether or not this is likely and, if so, how much the charges are likely to be.

### Legal Aid

You may qualify for financial help with your legal expenses, including your solicitor's bill. However, Legal Aid, as it is called, does not cover every type of legal problem and it is means tested so you will only qualify if your income and savings are below a certain level.

Even if you do qualify for Legal Aid, it may not cover all your legal costs. You may still have to pay something towards the cost of the case yourself and, if you win your case, you may have to repay some of your Legal Aid.

Your solicitor will explain all this to you and will tell you whether you are likely to qualify for Legal Aid. If you are, and if your solicitor does Legal Aid work, he or she will be able to help you with the application to the Scottish Legal Aid Board. If your solicitor and his or her firm do not do Legal Aid work but he or she

advises you that Legal Aid might be available for your type of case, you can ask to be referred to a solicitor who does Legal Aid work.

More information about Legal Aid is available from your local Citizen Advice Bureau or other advice agency or alternatively you can contact the Scottish Legal Aid Board directly on 0131 226 7061. Dial-a-Law also provides information about Legal Aid.

### Putting it in writing

You will have a lot to remember after your first meeting. You may wish to make notes during the meeting and you should ask your solicitor to write to you confirming the following points:

- ⦿ That he or she has taken on the work;
- ⦿ The advice you have been given;
- ⦿ The name of the person in the firm who will be dealing with your case day by day;
- ⦿ The time the whole business is likely to take and how often you will be updated;
- ⦿ Any action the solicitor is taking on your behalf;
- ⦿ An estimate of cost and any agreed spending limit;
- ⦿ Any more information the solicitor needs from you at present;
- ⦿ The person in the firm to contact should you be dissatisfied about your solicitor's service.

### First meeting

The following checklist may be helpful, especially for your first meeting.

By the time I leave the solicitor's office I should be able to answer the following questions:

- ⦿ How much is the service going to cost if I go ahead?
  - ⦿ How long is it likely to take?
  - ⦿ Have I fully understood what the solicitor said?
  - ⦿ Has he or she fully understood the problem?
  - ⦿ Have I explained all the facts to the solicitor?
- ⦿ Has the solicitor agreed to write to me confirming that he or she is taking the work on?
  - ⦿ What is happening next and do I need to do anything further at this stage?
  - ⦿ How often can I expect to hear from my solicitor?

# Step 4: Your Solicitor & Your Case

17

4

4

18

## Keeping in touch

Your solicitor should keep you regularly informed about progress and any new developments. At each stage you should be asked whether and how you want to proceed. Your solicitor should let you know if something has happened which may increase the costs. If so, he or she must ask you for your approval before going ahead.

For your part, you need to let your solicitor know at once of any changes which could affect your case. If you are on Legal Aid you must keep your solicitor advised of any changes in your financial position, as these may alter your entitlement for Legal Aid.

If you haven't heard from your solicitor for a few weeks and are concerned about anything, get in touch with him or her. You can either

write, ring up or ask to make an appointment. It is important for you to get in touch with your solicitor when you feel it is necessary.

Remember, though, that asking your solicitor to do more work will add to your costs. Where no fixed fee has been agreed, your solicitor should let you know regularly approximately how much your case has cost so far. You can also ask for a written statement of your costs at any time.

## Changing your solicitor

If you are paying for your solicitor yourself and you are not happy with the way he or she is handling your case, you can transfer the work to another firm. However, if you are not paying all your own costs, for instance if you are

on Legal Aid or if your Trade Union is paying your legal costs, you need permission to change solicitors. In these circumstances, you should contact the Scottish Legal Aid Board or your Union.

If the solicitor dealing with your case decides to transfer it to another solicitor in the firm, he or she should advise you that someone else will be dealing with the matter. If you are not happy with the new solicitor you can take your business to another firm. However, you will still have to pay the first firm for any outstanding fees or outlays due and that firm can retain the file of papers until you have done so. You should bear in mind that any new solicitor is going to have to spend time getting familiar with the details of your case. Don't forget, if you have started a case yourself (if you are making an accident claim, for example, but not if someone else is suing you for an unpaid debt), you can decide to stop the case at any

time. Just tell your solicitor. Remember, however, you may have to pay not only your own costs but possibly the other person's costs as well. Ask your solicitor for advice.

### **Using an advocate or solicitor-advocate**

In some cases, you may need to employ an advocate as well as a solicitor. Advocates are lawyers who have particular qualifications which allow them to represent people in particularly complex court cases. This is necessary, for example, in some cases which go to the Court of Session in Edinburgh and in serious criminal cases. If you need to employ an advocate, your solicitor will explain why and discuss with you which advocate would be suitable. Where possible, your solicitor will arrange for you to meet your advocate before any court hearing.

An increasing number of solicitors are also now qualified to appear in the High Court or Court of Session. They can also appeal before the Privy Council and the House of Lords. They are called solicitor-advocates and can see the whole case through themselves. If you feel that you may need the services of a solicitor-advocate you should ask whether there is one in the firm before choosing which firm to use.

### **If something goes wrong**

Even in the best firms, things can sometimes go wrong. Very often a problem is caused by no more than a break-down in communication. If you are dissatisfied with the services of your solicitor, firstly speak to him or her and ask for an explanation. Most complaints and misunderstandings can be settled informally in this way. If, after speaking to your solicitor, you are still not satisfied, ask for the name

of the person within the firm who handles complaints. Many firms now have a Client Relations Partner who will try to resolve the matter for you. If you are still dissatisfied, then you can take your complaint to the Law Society of Scotland. They will try to help you resolve the dispute with your solicitor or will carry out a formal investigation if the matter is not resolved. The Law Society of Scotland has the power to make a solicitor refund fees, pay compensation or pay for the problem to be put right if it thinks your complaint is justified. The Society can also take disciplinary action if a solicitor is guilty of professional misconduct.

Your local CAB or advice agency will also be able to give you information about making a complaint, or, alternatively you can write directly to the Client Relations Office at the Law Society of Scotland. The address is at the end of this leaflet. Information is also

available on the Society website at [www.lawscot.org.uk](http://www.lawscot.org.uk). The leaflet is available in several different languages.

If your solicitor has been negligent you may need to seek advice from another solicitor about whether you should take court action against him or her. The Society can provide you with the name of a solicitor who may be able to advise you.

If you think you have been overcharged or that your solicitor's bill is well above the estimate, again you should firstly take this up with the solicitor's firm. If you are still dissatisfied about a bill, there are two ways of taking your complaint further.

In any dispute about a solicitor's bill, you can ask the "Auditor of Court" to have the account "taxed" to reduce the amount you have been charged. You have the right to ask your solicitor to do this but it may cost you money. You should ask your solicitor to explain the procedure to you. Alternatively, you can ring the Client Relations Office at the Society. They can give you information about this procedure. Your local CAB or advice agency can also give you details of how this system works.

If you are unhappy with the way the Law Society has handled your complaint, you have the right to take the matter up with the Scottish Legal Services Ombudsman. The Ombudsman has the power to investigate, consider and report upon the way the Law Society has considered a complaint. The Ombudsman can also consider the Society's refusal to investigate a complaint. A complaint to the Ombudsman has to be made within six months of the Society's investigation being completed. The address for the Ombudsman is at the end of this leaflet.

### Some useful contacts:

Local Advice Agencies can help you decide whether you need a solicitor and how to choose one. Look up Citizens Advice Bureau in the phone book or there may be another advice agency in your area which can help.

If you wish to contact the Law Society of Scotland's Dial-a-Law, the internet address is [www.dial-a-law.org.uk](http://www.dial-a-law.org.uk).

If you wish to make a complaint to the Law Society of Scotland, write to the Client Relations Office, Law Society of Scotland, 26 Drumsheugh Gardens, Edinburgh, EH3 7YR.

**Tel: 0131 226 7411**

The Scottish Legal Services Ombudsman is at 17 Waterloo Place, Edinburgh, EH1 3DL.

**Tel: 0131 556 9123**

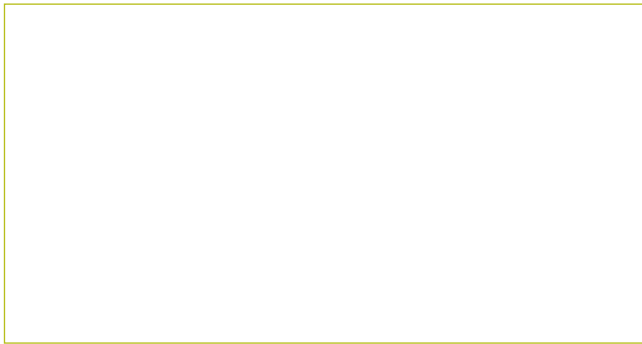
[www.slso.org.uk](http://www.slso.org.uk)

Designed and produced by TIME DESIGN

[www.lawscot.org.uk](http://www.lawscot.org.uk)



SCOTTISH CONSUMER COUNCIL



**The Law Society of Scotland**

26 Drumsheugh Gardens, Edinburgh EH3 7YR

**Telephone:** 0131 226 7411; **Facsimile:** 0131 225 2934

©The Law Society of Scotland