



**THE LAW SOCIETY  
of SCOTLAND**

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

## **Law Society of Scotland – Buying and Selling a House**

### **Buying a Property**

Solicitors can ease the strain and help to avoid the pitfalls of the complete house-buying process, from noting interest in a property to concluding the deal. Their local knowledge can also be useful in helping you find a property.

*The First Step.* A solicitor can ‘note interest’ in a property you like. This shows you are interested in the property and want to be kept informed of developments, such as the fixing of a closing date for offers.

*Information about the Property.* From 1 December 2008, sellers must provide a Home Report for buyers. These include a Single Survey (which gives the condition and value of the property), an Energy Report (which contains a house’s energy efficiency rating and carbon dioxide emissions) and a Property Questionnaire (which includes general information such as a property’s council tax band, factoring arrangements, the existence of any local authority notices and information about alterations that have been made).

A surveyor instructed by the seller will provide the survey contained in the Home Report pack. In many cases this will be sufficient for an interested party to submit an offer. However the potential buyer may have to commission another survey at the request of a mortgage provider or if the original survey was carried out some time ago. Your solicitor can provide further details and advice.

*Arranging the Loan.* There are many types of mortgages available, which can be confusing. Some solicitors can offer advice on what is best for you and then arrange the loan.

*Making an Offer.* A formal offer to purchase in Scotland is a complicated document containing a number of clauses for your protection. Your solicitor will prepare and sign this document for you and give guidance on offer price and other conditions.

*Negotiating the Purchase.* Further negotiations are likely after an offer has been accepted, for instance, the date of entry, details of additional items included in the sale and issues such as permits for alterations.

*Checking and Transferring Ownership.* Your solicitor can advise on any ‘title burdens’, or conditions that must be obeyed by the owner, such as common repairs, rules on keeping animals or uses for the property. A new title deed will then be prepared and signed by the seller, transferring the title into your own name.

*Other Matters.* Your solicitor will be able to give you advice about other important matters, such as insuring the property and its contents and drawing up a will, which is highly recommended. Also, he or she can provide you with a quotation for the cost of the house-buying process, including legal fees.

## **Selling a Property**

Most solicitors can handle the sale of a property from start to finish, including advice on advertising and the conveyancing. It is best to consult a solicitor even if you are selling a property yourself.

*Home Reports.* From 1 December 2008, sellers are required by law to provide a Home Report for buyers. These include a Single Survey, an Energy Report and a Property Questionnaire Your solicitor can provide further details and advice.

*Negotiating the Sale.* Your solicitor will negotiate the selling price and other matters – such as the date of entry – before negotiating and accepting any offer to purchase on your behalf. This exchange of letters signed by the solicitors is referred to as "missives". Once their terms are finally agreed there is a concluded and binding contract.

*The Paperwork.* Further checks have to be carried out by solicitors after an offer has been accepted, for instance in relation to building work or repairs. Then new title deeds can be drawn up transferring ownership of the property. Your solicitor can take care of all this, while also collecting the money from the sale, arrange to discharge and repay your existing mortgage if you have one and, if necessary, arranging for the surplus to be put towards the purchase of your new home.

*After the Sale.* Your solicitor will also be available for advice after the deal has been completed.

The introduction of Home Reports from 1 December 2008 marks a major change in how properties are bought and sold in Scotland. Buyers and sellers should be assured that the professionals involved - solicitors and surveyors alike – are regulated by their membership organisations The Law Society of Scotland and the Royal Institute of Chartered Surveyors (RICS). This should reassure members of the public that they can access sound and impartial advice when buying or selling their home.

### **Useful websites:**

The Law Society of Scotland: [www.lawscot.org.uk](http://www.lawscot.org.uk).

Scottish Solicitors Property Centres: [www.sspc.co.uk](http://www.sspc.co.uk)

Royal Institute of Chartered Surveyors (RICS):

[www.rics.org/Networks/Regions/UK/Scotland/](http://www.rics.org/Networks/Regions/UK/Scotland/)

Home Reports: [www.scotland.gov.uk/Topics/Built-Environment/Housing/BuyingSelling/Home-Report](http://www.scotland.gov.uk/Topics/Built-Environment/Housing/BuyingSelling/Home-Report)