

The Drever & Heddle Guide to

Purchasing Property in Scotland



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The aim of this guide is to help make you more familiar with the procedures involved in purchasing property in Scotland and we hope that you will find it useful.

The purchase of a property can be divided into two sections:-

1. The Contract – Offer, Acceptance, Conclusion
2. The Conveyancing

Your solicitor will be your guide through both stages and will help to ensure that your purchase is as smooth as possible.

The Contract

Your purchase will begin with the submission of a formal written offer, which your solicitor will prepare on your behalf. You should note that verbal offers have no contractual effect in Scotland and the offer must be in writing.

Usually offers are submitted for a closing date which is set by the sellers. However, you should not wait for a closing date to be set before seeking advice regarding placing an offer as closing dates are not always set and offers can be accepted without the need for a closing date to be set. A closing date has no legal significance and an offer can be accepted between a closing date being set and the closing date itself.

If your offer is not accepted we will let you know by telephone as soon as possible.

Once the offer has been verbally accepted, a formal acceptance will follow shortly afterwards. This can either:-

- a. Accept the offer outright with no modifications. You are then legally bound into the contract; or
- b. Accept the offer subject to further conditions or modifications (this is called a “qualified acceptance”) If a qualified acceptance is received, it is then for you as the purchaser to either accept the new conditions and conclude the contract or to modify the contract further. When this process is completed a letter concluding the contract is produced by either the purchaser’s or the seller’s

solicitor and then both parties are legally bound by the contract.

You should note that, in Scotland, it is not necessary for you to sign anything for the contract to be concluded. You should therefore ensure that your instructions to your solicitor are clear and not misunderstood so that you are not bound into a contract before you are ready. In particular, if your offer is subject to any conditions (house sale, survey, finance etc) you must discuss this with your solicitor at the time of submitting the offer. **You should be prepared to be tied into a contract at any time and without signing anything, from the time of the submission of your offer.**

When you are informed that your offer has been accepted you should proceed to put in place your mortgage as soon as possible. If you foresee any delay or difficulty with this then you should let your solicitor know as soon as possible to avoid any problems.

Although a solicitor cannot give you financial advice regarding your mortgage once the offer of loan has been received a copy of this will be sent to your solicitor with information to enable him to request the loan funds for your purchase and complete the necessary documentation which you will require to sign. Your solicitor will be in touch with you when he receives this documentation from your lender.

The Conveyancing

This will usually be carried out while the contract is also being negotiated.

Your solicitor will examine the title deeds to the property which you are to purchase and will provide you with an appropriate letter reporting his examination to you. He will usually also provide you with a plan of the property which you will wish to purchase. You should pay special attention to the plan as this will form the basis of your title and ensure that it meets with your expectations of the property.

If there are any problems with the title or with any other matter your solicitor will discuss these with you and help you come to a decision about how you would wish to proceed.

About a week prior to the date of entry (the date itself will have been agreed with your solicitor at the time of your submitting your offer and will usually be about 4

weeks from the date of submitting your offer) you should provide your solicitor with the balance of the purchase price - your solicitor will let you have the necessary details for payment by cheque or bank transfer.

You should also ensure that you have arranged adequate insurance for the property to start on the date of entry.

On the date of entry itself, the actual exchange of keys may take place at the property or you will collect your keys from the solicitor's office. Your solicitor will let you know the arrangement and will let you know when settlement has taken place. They will thereafter send you out a fee note for their work carried out, the terms of which will have been agreed at the start of the transaction.

We hope that this has been informative but if you require any further help or advice regarding available property please contact our property team:- our Orkney Property Manager Mike Berston, our Caithness Property Manager Jane Mackay, or a member of the property team Shirley Ann Burgess and Sharon Bertram

If you have a question about the legal side of purchasing or you wish to make an offer for a property please contact one of our experienced Solicitors:- Archie Millar, Graham Sutherland or Eric Baijal. All our staff can be contacted as shown on the front cover of this booklet

This leaflet has been designed to comply with the Royal National Institute of Blind People's 'See it Right' Guidelines.

If you have any suggestions for improving it further, please let us know.