

SELLING A HOUSE: CONVEYANCING



MURRAY BEITH MURRAY WS
SOLICITORS AND ESTATE AGENTS

Introduction

Selling a property can be a tense, nerve-racking experience. Our Residential Property Team at Murray Beith Murray is extremely experienced in the field of Property Sales in Scotland. We offer sound, safe advice in relation to property values and marketing anywhere in Scotland, and generally help to guide you safely through the pitfalls of selling your home.

Many people are unsure where to start when selling property. The questions and answers in this leaflet are typical of a sales transaction and may serve to clarify some of the possible areas of confusion. Our trained legal staff will, of course, be happy

to answer any other questions that you may have.

Once a written offer is received, is it binding?

No, Scots Law requires both an offer and an acceptance before a contract becomes binding. In fact, most offers contain a great deal of clauses, some of which will be acceptable and some not, and some of which will require amendment before becoming acceptable. It is only once ALL of the clauses of a contract are agreed between parties that it becomes binding on them. This usually takes between ten and fourteen days and involves an average of three to four letters.

Conveyancing Process

As part of the sales process we will require your title deeds. If you have a mortgage these will be held by your mortgage lender and this will enable us to check that the titles are in order, prior to them being sent to the purchaser's solicitor. Scotland is currently undergoing a transition in the registration of title deeds and to the Land Register for Scotland from the old Sasine registers. This process began in 1979 and is still ongoing today. By having your title deeds we are in a position to ascertain what reports will be required at an early stage.



I have heard horror stories about sales falling through due to lack of Building Warrants. Will this affect my property?

When making their initial visit to the property, our Property Sales staff will point out any obvious alterations of which they are aware may require Warrants, etc, but obviously a trained surveyor may discover others. Our legal staff will advise you on the best way to deal with this but if you are aware yourself of any alterations, then it is wise to mention them to our Property Sales staff at the outset. This enables us to investigate what can be done to alleviate the problem.

Conveyancing Practice

In Scotland, contrary to the process that takes place in England, the seller is responsible for obtaining the Local Authority Certificates commonly known as "Property Enquiry Certificates". These certificates disclose information regarding planning, roads, water and also statutory

notices. It is a commonly accepted practice in Edinburgh that the seller will be responsible for all notices served on his or her property up to and including the day the Missives are concluded. It is therefore important that a statutory notice served on your building is dealt with promptly and that you keep all receipts for payment.

As part of the conveyancing process, we will obtain a redemption figure from your mortgage lender (this is the figure required to repay your existing mortgage), additional search reports (for example Coal Reports if your property is in a coal mining area) and deal with any issues raised in the Missives.

Do I have to sign anything?

It is important to understand that your solicitor acts as your Agent and as such has the power to bind you into a contract, even though you have not actually signed anything. Clearly, however, we will only commit you to a binding contract after taking your instructions to proceed. A few

days before the date of settlement your solicitor will ask you to sign a Disposition, which is the document that transfers ownership of the property.

What about Council Tax?

There is a general requirement, which is set out in the Missives (contracts for sale), that the selling solicitor will notice the relevant Local Authority of the change in ownership of a property for council tax purposes.

What about my mortgage?

Your solicitor will repay this from the sale proceeds and arrange for the appropriate Discharge of this to be prepared.

When do I get my money?

It is important that you hand a set of keys to your solicitor, for the property in time for the sale taking place to make sure that the sale can be completed swiftly.

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