

HASTIN<sup>LEGAL</sup>&S

PROPERTY

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# Homebuyer's Guide

What to expect from us as your solicitors



## The Missives

The missives are the starting point of your purchase and the contract between you and the seller for the purchase of your house and are made up of formal letters passing between the two sets of solicitors. They normally comprise an offer by ourselves on your behalf identifying the property, the price and a date of entry, being the date on which you will get the keys to your new home. The style of offer which we use also refers to what we call the “Scottish Standard Clauses” which is a set of clauses designed to apply to most transactions and to flush out any oddities about the property at an early stage. When we submit an offer we will copy this to you along with a copy of the Scottish Standard Clauses.

We would then expect to receive a qualified acceptance from the seller’s solicitors. This may contain a number of qualifications to the offer. We will discuss these with you and decide whether or not the qualifications are acceptable or whether we need to modify them. In fact, you can often have several letters going back and forward between the solicitors adjusting the terms of the missives. The critical point is reached when one or the other of the two sets of solicitors says in the course of one of the missive letters “We now hold the bargain as concluded” or similar wording to that effect. At that point the full terms of the missives have been agreed and the deal has become final and binding on both parties. It is not binding until we get to that stage and until then either party can walk away from the transaction.

That does not often happen but there can be delays in tying up the missives while we wait on receiving an offer of loan from the lender or try to tie up the missives for the sale of your current house. We will do our best to conclude the missives as soon as we can but we will only do so once we know any concurrent sale is secure and that your funding is in place.



## The Mystery of the Conveyancing Process

The seller's solicitors will send us title deeds to the property. We will check through the title deeds to make sure that the title which you are going to get to the property is "valid and marketable" (i.e. good). We also check to make sure that any necessary rights of access or for drainage etc are in place. We will also normally copy the relevant Title Sheet or main title deed to you for your information.

We also check to ensure that all the appropriate local authority permissions exist for any alterations to the property. We then draw up the deed conveying the property to you, along with the necessary Land & Buildings Transaction Tax Return. The seller's solicitors will check our draft deed and then return it to us and deal with any queries which we may have raised. We then send them the principal deed in your favour for signature by the seller.

If you are having a mortgage over the property we will also have to draw up the appropriate deed for that (called a Standard Security). We will either send that out to you for signing or arrange for you to call in to sign it. We need to send confirmation to the lender that the title to the property is safe for them to lend against and also asking for the loan funds for the date of entry.

The seller's solicitors will exhibit to us a Property Enquiry Certificate for the property which details whether or not the property is connected to the usual mains services, whether there are any outstanding Building Warrants, Planning Applications, Planning Notices or Listings affecting the property and whether the roadway is taken over and maintained by the Local Authority.

We will send you a Completion Statement indicating how much money we require from you to settle the transaction, including our fees, VAT, Land & Buildings Transaction Tax (if any) and registration costs. We need to have cleared funds from you by the date of entry; this can be by cheque at least a week in advance to allow time for it to clear or by bank transfer the day before. Please note that there is a daily limit to the amount you can transfer through internet banking.





## The Price

The current Law Society guideline is that solicitors should settle most conveyancing transactions by cheque, rather than a telegraphic transfer of funds, but the latter is becoming more common. Quite often we do not receive a client's mortgage funds until the day of settlement or, if we are relying on funds coming from a sale to fund a purchase, settlement by bank transfer is not easy. Once a bank transfer is instructed all the bank guarantees is that the funds will hit the recipient's account at some point during that day, i.e. at any time up until 5pm. If we are waiting on those funds arriving to then transfer out, there is a cut-off time for instructing transfers of about 3pm so the situation can arise where there is a need to transfer funds out before funds have come in and that is simply not possible.

However, if transactions are settled by cheque, albeit that we may ask the other solicitors to hold as undelivered until we confirm that either we have received your loan funds or settled a sale transaction, then a telephone call can be made and the cashing of the cheque authorised. This avoids a potential delay of several hours in the banking system which can occur with telegraphic transfers.

In exchange for the price we will receive the signed deed transferring the property to you, the remainder of the other title papers for the property and you will get the keys!

We then submit the Land & Buildings Transaction Tax form, pay any tax due and send the deed transferring the title to Register House in Edinburgh to register the transfer of title. This may only take a few weeks but, in certain circumstances, can take a lot longer. When an updated Title Sheet is issued we will copy this to you, retain a copy along with any alteration documentation or other important papers or send it to a lender if required.

This is only a brief synopsis of what we do in any purchase. However, no two transactions are the same and we quite often have other issues that arise.

They say that moving house is one of life's more stressful experiences. We hope that from a legal point of view we try to make it as stress free as possible.

If you have any queries please do not hesitate to contact us by telephone or email.

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