

## SELLERS

Selling your home can be one of the most stressful experiences you can go through and our Team is here to help and support you through the process. We offer a comprehensive range of services covering every aspect of selling your home and our direct approach ensures that your property is exposed to all our prospective purchasers.

### OUR INCLUSIVE PACKAGE INCLUDES:-

- Full colour sales brochures
- Prominent window display space in both Portree and Kyle.
- Regular follow up and progress reports
- World wide web – dedicated site with full property details and photographs – [www.iosea.co.uk](http://www.iosea.co.uk)
- Inclusion on national websites Prime Location and Find a Property
- No hidden extra costs.
- A flat rate commission fee of 1% for properties over £100,000 & 1.5% for those under this figure.
- We make a charge of £250 VAT should you decide after marketing that you wish to withdraw the property from our books. This fee simply covers our outlays.

N.B. All charges are subject to plus V.A.T.

### PREPARING YOUR HOME FOR SALE . . . .

The most important sale you ever make surely deserves a bit of thought and planning and not necessarily a lot of expense. Preparing your home for sale is a popular topic for television programmes and you are often bombarded with advice of what to do and what not to do – most of which is common sense. Remember ‘first impressions’ count for so much. It has been said that a sale is usually made or lost by the time the front door has opened!

As the seller you will need to instruct a home buyers report. This is a legal requirement in Scotland and is prepared for you by a Chartered surveyor. The report consists of 3 parts and includes:

- A ‘Single Survey’ which is a report prepared by a surveyor on the condition and value of the house.
- An Energy Report (likely to be prepared by the surveyor who has inspected your house) will provide you with an energy efficiency rating of a house together with an Energy Performance Certificate and useful advice to cut fuel bills and increase the home's energy efficiency
- A Property Questionnaire that contains further information about the house such as alterations that have been made, factoring costs, council tax banding, *and is completed by you the seller.*

A realistic ‘asking price’ needs to be established – we are here to help and can assist you with this taking into account the valuation given by the surveyor who completed your Home Report. Now you are almost ready! When you are living in a house day in and day out, it is sometimes difficult to see things objectively or through ‘fresh eyes’ and that’s when it is important to ask your Estate Agent to be honest with you and advise you on what should be done to improve your chances of obtaining the best possible selling price. The general rule is to depersonalise and de-clutter your home so viewers can easily imagine themselves living in it.

Back to those first impressions . . . is there somewhere for viewers to park their car safely on arrival . . . is your house clearly numbered or named so they don’t have to work too hard to find your property? And don’t forget that a ‘For Sale’ board will not only help viewers find the property and also alert potential purchasers who may be passing that you are ‘on the market’.

Once inside ensure that your house is light and airy, keep curtains well off windows and make sure that your hall areas are as clear as possible. Your living areas should be made to look as spacious as possible and this may mean removing a chair or two and clearing tabletops and worktops of unnecessary items. The kitchen areas should be immaculately clean and try to avoid any dishes in the sink. A vase of flowers on the dining room table always gives a good impression, as does a strategically placed plant. Beds should be well made and clothes should be tidied away in drawers and wardrobes. The minimalist approach in the bathroom is the best and the toilet seat firmly down. If you are thinking of decorating prior to sale it is advisable to go for light plain colours – ‘magnolia’ always gives a neutral palette for others to work with. Floor coverings are again, best kept plain, but if you do have patterns on your floor coverings it is doubly important to have those plain walls and curtains.

Finally, smile, you may be thinking 'oh no here we go again' - make all your viewers feel welcome and appreciated, they may be the ones to make you the offer of a lifetime! Good luck.

## **BUYERS**

### **Introduction**

The purchase of your home or a plot of ground on which to build your home is probably the most expensive investment you will make and this guide has been prepared to assist in providing an understanding of the Scottish Legal System for the purchase of heritable property. It is by no means an exhaustive treatise of the subject and should be regarded as no more than an explanatory leaflet. You should always consult a solicitor before committing yourself in any way for the purchase of property and direct to him or her any queries on the process which are for reasons of brevity not covered in this explanatory leaflet. It should be noted when purchasing property in the north and the north west of Scotland that these areas constitute the designated crofting counties and are largely subject to Crofting Law and Crofting Tenure. It is imperative therefore that the solicitor acting for you in the purchase is familiar with the operation of Crofting Law and in particular how it affects your intended purchase. All the partners and legal staff of this firm are familiar and practised in Crofting Law and will be very pleased to act for you in your purchase.

### **Identifying the Property**

The property you wish to purchase may take the form of a house, a plot on which to build a house or a croft and peculiarities will apply to one which do not necessarily apply to the others.

### **House**

The purchase of an existing dwelling house is a very similar process to the purchase of a dwelling house anywhere else in Scotland or the United Kingdom and will largely be guided by the appeal to you of the property and the price at which it is offered. If it is your intention to use the house as your main residence but also for a business use such as a bed and breakfast it is important to ensure that there is no prohibition in the title deeds which would frustrate your intentions. Your solicitor will of course check this for you but it is important that you advise him of your proposals as early as possible.

### **BuildingPlot**

The purchase of a building plot is somewhat more complex. Assuming your intention is to build a property, you should ensure that prior to purchase the building plot you have identified will be able to erect thereon a dwelling house and particularly a dwelling house which meets your expectation and requirements. In purchasing a building plot regard must be had to the suitability of the site for development, access, the availability of services such as water, electricity etc. and particularly that the plot is being sold with Outline Planning Consent. Before committing yourself to a purchase and particularly if you have a definite style of house in mind it is sensible to consult with the local Planning office to ensure the type of house you envisage building will be granted the approval of the Planning Department. It is advisable to employ a project manager to monitor the building of your property especially if you are not close-by to watch the progress yourself.

### **Croft**

A croft is an area of land designated for agricultural use and there may or may not be a dwelling house on the croft. Crofts fall into 2 distinct categories namely tenanted crofts and owner occupied crofts. *Owner-occupied croft:-* The purchase of an owner-occupied croft is more straightforward than the assignation of a tenanted croft and in effect you are purchasing a large area of land with or without a dwelling house thereon which is however subject to crofting tenure. Your purchase of the croft does not require the approval of the Crofters Commission as is the case when acquiring the tenancy of a tenanted croft. Nevertheless the croft will almost certainly be subject to crofting tenure and if you are not utilising the croft for agricultural purposes you may very well be required by the Crofters Commission to grant a tenancy to someone who will work the croft. *Tenanted croft:-* In the case of a tenanted croft what is being acquired is a large area of land with or without a house thereon which is held on a crofting lease. The outgoing crofter is assigning to you his lease of the croft. A crofting lease is completely different to a commercial or urban lease and you should consult a solicitor on its terms and implications. Subject to certain criteria it constitutes a secure form of tenancy and you can pass on succession to a member of your family. The important aspect to note is that when seeking to acquire the assignation of a tenanted croft the assignation must be approved by the Crofters Commission who will require some detail of your background to assess your suitability as a crofting tenant and your proposals for the future use of the croft.

### **Funding The Purchase Price**

It is necessary to have all your funds for purchasing in place prior to offering. An offer that is submitted subject to finance is not a 'clean' offer and therefore would not be considered.

### **Note of Interest**

Once you have found a property you are interested in you may also want to consider registering an official note of interest. This is done by your legal representative on your behalf, and should there be any update regarding the sale of the property your solicitor or lawyer would be notified of the updated position, who would update you accordingly. A note of interest does not mean that you will automatically be invited to submit an offer when the situation arises. Some sellers may agree to go with an offer and not consider others. Again your solicitor or lawyer will advise you.

## **Survey**

Home reports are applicable to properties for sale in Scotland. The report consists of 3 parts and includes:

- A Single Survey which is a report prepared by a surveyor on the condition and value of the house.
- An Energy Report (likely to be prepared by the surveyor who has inspected your house) will provide you with an energy efficiency rating of a house together with an Energy Performance Certificate and useful advice to cut fuel bills and increase the home's energy efficiency
- A Property Questionnaire that contains further information about the house such as alterations that have been made, factoring costs and council tax banding.

You can request a copy of the home report to review anytime, but more usually this is done once you have found a property that has been viewed and you are interested in. The report may be suitable for you or your mortgage lender's purposes, however there may be occasions when you consider a more in-depth report is needed, such as a specialist damp report or structural survey. Your solicitor will guide you on which course of action is more suitable to your particular case. Additional reports may levy a charge for the purchaser and therefore you may wish to establish if the seller is agreeable to your proposed offer price first and as the estate agent we can assist you through this process, or again you may discuss with your solicitor. You will need to be satisfied with any of the reports contents before proceeding. It is possible to submit an offer 'subject to survey' however this is not considered a 'clean' offer and therefore would only progress in the conveyance process once the clause is removed.

There are several exceptions to properties needing a home report and you will be advised if this is the case and the reason why, if this relates to the property you are interested in. Examples would be a property that is classed as 'Unsafe' or 'To be demolished' where they are unsuitable for occupation and require complete redevelopment.

## **The Offer**

Having identified your chosen property, determined the financing of the purchase and being satisfied with any surveys the next step in the progression of purchase is the preparation and submission of a formal offer. The offer will be prepared on your behalf by your solicitor and will typically contain provisions including the price to be offered the date of entry (the date on which you obtain the keys to the property and pay the purchase price) any apportionment of price between heritable and moveable having regard to Stamp Duty implications and a host of conditions designed to protect your position dealing with aspects such as the exhibition of Property Clearance Certificates, the existence of Servitude Rights for drainage and sewage, the nature of burdens affecting the property, the existence of any right of pre-emption in favour of a third party, confirmation that the property is not subject to Crofting Tenure, in the case of a property less than 10 years old that there is an existence NHBC or comparable documentation that all construction work including extensions and alterations to the property are supported by the relevant Planning Consent, Building Warrant and Completion Certificate etc. etc. If the offer is in principle acceptable to the seller the seller's solicitor will respond with a Qualified Acceptance usually accompanied by the title deeds to the property which may then highlight matters hitherto not apparent. Your solicitor will carefully discuss these with you before proceeding to conclude a bargain. If the offer is subject to survey on receipt of the Qualified Acceptance your solicitor will attend to instructing a survey on your behalf and will make the survey report available to you for consideration before the contract for purchase becomes binding. Once Missives or the contract are concluded neither party to the contract (i.e. the seller and the purchaser) can unilaterally withdraw from the contract without serious implications. It is therefore essential that you are satisfied with the terms and conditions of purchase before instructing your solicitor to conclude Missives.

## **The Conveyancing**

After conclusion of the Missives your solicitor will then examine the seller's title, check property Clearance Certificates, Planning Documentation, Servitude Rights, Property Searches etc and will prepare the Disposition conveying the property into your name. He will also ensure that any securities for loans granted by the seller are being discharged and will call upon the seller's solicitors to produce any other deeds or documents which is necessary for him to examine. Once your solicitor is satisfied that you are obtaining a clear, valid and marketable title to the property unencumbered by any outstanding securities or unacceptable conditions of title he will proceed towards the next stage of the purchase which is settlement.

**Settlement**

On the date of entry specified in the contract the ownership of the property transfers into your name. In exchange for the payment for the purchase price the whole titles to the property including the conveyance transferring ownership into your name, discharges of any securities granted by the seller and the keys of the property are delivered to your solicitor. Sometimes the procedure can vary and settlement can be effected against payment of the full price, payment of part of the price with an agreement to pay interest on the outstanding balance or consignment of the price in whole or in part on deposit receipt. The particular circumstances of each transaction will dictate the method of the settlement and will be closely addressed by your solicitor at the due time.

**After Settlement**

Following settlement the title conveying the property into your name along with the discharge of any security the seller may have had and if you are having a building society or bank assist you in the purchase the standard security by you in favour of the building society or the bank will be sent to Register House in Edinburgh so that these deeds may be registered in the Registers of Scotland. On completion an Inland Revenue return must be made on any property in excess of £125,000 (1% of the purchase price up to £250,000 and 3% thereafter). Recording is effected on receipt of the title deeds but the processing of the titles may take up to 6 months. On return of the recorded deeds most solicitors are happy to retain these on your behalf for safekeeping in their titles safe. If, however, you have a loan over the property the title deeds will be held by your bank or building society for the duration of the loan.

**Crofting**

Crofting tenure is peculiar to the 7 crofting counties in the north and west of Scotland and it is imperative when buying property in this area that you do so with the assistance of a solicitor versed in Crofting Law. The question of Crofting Tenure has already been addressed. In purchasing a house or building plot particularly where there is an intention to create a security in favour of a bank or building society it is imperative that the house site and garden ground or the site of the proposed dwelling house has been decrofted.

**Summary**

The foregoing is designed as a simple guideline only to the purchase of heritable property in this area. We hope you find the information of assistance and will be happy to discuss this with you in more depth and answer any questions prompted by a reading of it.