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Caesar & Howie
The Central Scotland Law Group

Buying a House in Scotland - FAQ

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For more information or to speak to one of our trained Advisers please telephone our team on 0800 005 1755.

The Caesar& Howie Group
14/08/17

Do you always need a deposit to buy a house or can you get a 100% loan?

It depends on the mortgage market at the time – but 100% mortgages are pretty well a thing of the past. Better to assume you need a deposit of at least 10% - some lenders want even more. There is however a number of schemes allowing first time buyers in Scotland to obtain an interest free loan for the deposit. Again the availability of these schemes varies from time to time.

If someone in my family lends me 10% of a deposit to buy a house and I get a 90% loan can my family member be named on the title of the house so they would get their money back on a sale?

The lender will not usually allow them to go on the title. But you can set up a legal agreement between you and them which ensures they get their money back on a sale and even a share of the gain in the house price if you want. Such an agreement and the relative legal documentation should be put in place when the house is bought.

I want to buy a house with my girlfriend but we don't want to marry. Can both our names go on the title deeds?

Yes they can. There can be future complications if you fall out and want to sell but again that can usually be provided for on a simple agreement when you buy.

In Scotland I'm told once an offer for a house is accepted – that's that and you can't be gazumped. Is that true?

Gazumping is pretty well unknown in Scotland. This is probably because lawyers are involved right from the offer stage and "formal" or potentially legally binding offers are submitted at an early stage in the process. But when an offer is "verbally accepted" that is not legally binding, a binding contract is only achieved when the various clauses in the offer are agreed in writing between the lawyers. That can take a little time – some weeks nowadays. Occasionally offers do "fall through" but not many.

How long does it take to buy a house in Scotland?

Well it depends. If the seller has all the documents available, the title is ok and it is a cash purchase it can take as little as perhaps a fortnight. However hardly any purchases are like that. The "date of entry" is the date everything settles and it is agreed by the buyer and seller in the contract negotiations. Sometimes both parties want this date to be early sometimes they want it to be late. The average time between an offer going in and the house changing hands is usually anything between 8 - 12 weeks or so.

Are carpets and curtains included in purchases?

It depends on what the parties want. Carpets and curtains are like say fridges and freezers "moveable items" and they are not transferred automatically to the buyer. The buyer should specify what moveable items he wants in his offer and the seller will either agree to leave them or not. There can be a bit of negotiation over these items - sometimes buyers even pay extra for certain items. It is all down to what the parties want.

How much is Stamp Duty and when should it be paid?

In Scotland Stamp duty has been replaced by Land and Buildings Transaction tax. Often in the national papers you may see comments on Stamp Duty in general terms. In effect the tax is payable in the same way in Scotland and England, but the rates differ. These rates are published from time to time. It is payable to the inland Revenue before the buyer registers the title in the land register – so effectively it must be paid to the buyers solicitor before the transaction is finalised. Rates of this tax can be found here <https://www.revenue.scot/land-buildings-transaction-tax/tax-calculators>

What do I actually get when I buy a house – do I get some documents saying I own it?

At the settlement date your solicitor gets a document called a “disposition” – which is a document of transfer to the buyer. However it is immediately sent by the buyer’s solicitor to the Land Register where it is recorded. The Keeper of the Land Register then issues a “Land Certificate” to the buyer’s solicitor. That shows the buyer is the owner of that house – but the actual certificate is sometimes held by the buyers lender. Even if the buyer does not actually hold that certificate he or she is the recorded owner – and if a certificate goes astray it can easily be replaced by a duplicate.

How do I know if I buy a house that there is not going to be a public house or something built next door to it?

Your solicitor’s offer for the property will include a clause requiring the seller to provide a certificate stating the up to date planning status of the property. The solicitor will check that during the conveyancing process. The certificate only shows the planning status at that time – it is no guarantee of changes in the future.

I want to buy a house with my money but let my brother live with me rent free for a few years whilst he is at University. Are there any legal issues involved – does he get “squatters rights” or anything?

Not in Scotland. You can have anyone stay with you informally and they cannot gain any right to stay in the property – unless they are spouses or civil partners where different law applies.

What happens if after I move into the house I discover dry rot or something which costs a lot to repair – I can get compensation from the seller?

Generally houses are sold “as seen” and there is no right to compensation if the house is not of the standard you thought. That is why buyers must satisfy themselves as to condition, either from the Home Report, or perhaps even from a survey they instruct themselves. Sometimes the contract allows claims for defects of certain types reported to the seller within a short time of the date of entry – usually seven days. But this usually relates to things like central heating not working – not the fabric of the building.