

**peterkins**solicitors

comprehensive guide to selling your house

# sale guide



Please complete the Sale Instruction Form which accompanies this Guide and return it to us as soon as possible. Read the Guide first to find out why we need the information requested.

getting ready to sell ● home reports ● offers / closing dates ● accepting an offer ● conveyancing  
handing over the keys ● buildings insurance / life assurance / capital gains



# get ready to sell

## The Home Report

If you want to market your property for sale you are required by law to have a Home Report. The Home Report is made up of three parts:

- **The single survey.** The Single Survey is prepared by your surveyor and provides you and any prospective purchaser with detailed information about the condition and value of your property.
- **The energy performance certificate.** The Energy Performance Certificate is also prepared by your surveyor and gives your property an energy efficiency rating and comments on its environmental impact in terms of carbon dioxide emissions. It will provide recommendations on ways to improve your property's energy efficiency and save on fuel costs.
- **The Property Questionnaire.** The Property Questionnaire is completed by you and will contain information for prospective pur-

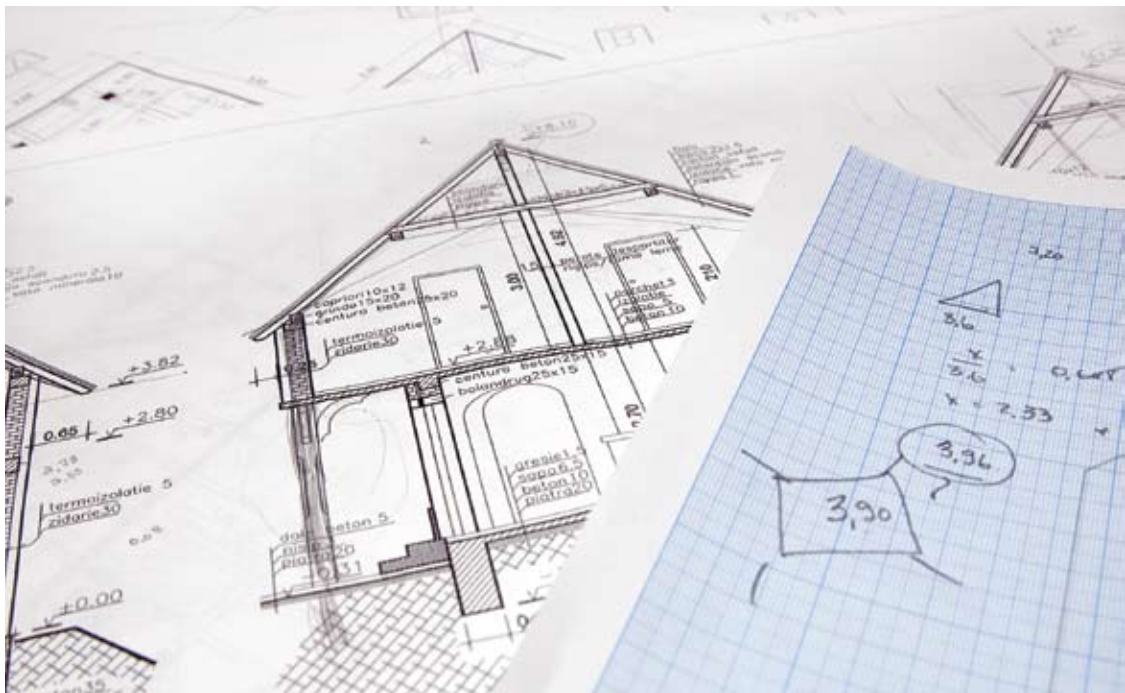


chasers, their solicitor and surveyor. It will provide information about your property such as any maintenance obligations, your property's council tax band, parking provisions, factoring arrangements, and any alterations that have been made to the property.

As the seller, you are responsible for the preparation and cost of the Home Report. We are here to help you every step of the way in

getting your Home Report prepared and your property onto the market as soon as possible.

If you decide to sell your property as part of a private sale (i.e. you do not market the property) you will not need a Home Report unless the Purchaser insists that you get one. You will still need to obtain an Energy Performance Certificate if the property does not already have one.



## Completing your Property Questionnaire and Important Information to let us know about

When completing the Property Questionnaire for your property you must answer all the questions carefully. If you are unsure about any of the questions or how to answer them please contact us for assistance.

If you are selling your property privately it is important to provide us with any of the following information and documents.

### Is your property part of a Conservation Area or a Listed Building?

You should have been made aware of this when you bought your property and this information would have been contained in the Property Enquiry Certificate.

If you are unsure about this question the Council may be able to confirm the position.



### Have you altered or extended the property?

Have you:

- built a garage or a house extension?
- replaced windows or installed patio doors?
- made any other alterations (internal or external) to the house?

You must disclose these in the Property Questionnaire. Please also send us any planning permissions, building warrants, completion certificates and any other consents that you obtained for this work. If you have done work without consents please contact us immediately to confirm the details of the work and to discuss the position.

If work has been carried out without consent it is better for us to know about it as soon as possible so that we can advise you what to do.

### Is the central heating in proper working order?

A Purchaser will usually expect you to warrant that the central heating system will be in proper working order on the date of entry and for a period of five working days thereafter. Please answer the questions in the Property Questionnaire so that we can give you appropriate advice.



### Does your property already have an Energy Performance Certificate ("EPC")?

An EPC is valid for 10 years. If you bought your property after 1 January 2009 your property should already have an EPC. If not, the surveyor can prepare one at the same time as your Single Survey.

### Is the property served by any private services?

If your property is served by a private water supply or private drainage system (septic tank) you will need to give details in the Property Questionnaire.

For private water supplies the Purchaser will require you to obtain an up-to-date report from the Local Authority confirming that the water supply meets the current minimum statutory requirements.

For private drainage systems all such systems now require to be registered with SEPA. If your system has not been registered with SEPA or you are unsure of the position please let us know immediately.

### Is there a factor or managing agent for your property?

If your house is part of a modern development of houses or flats, there may be parts that are owned in common with proprietors of other properties (such as landscaped areas, common staircases,

etc.). Often a factor or managing agent is appointed to look after these areas. They will collect regular payments from the various proprietors to cover both the maintenance costs and their own charges. You may also pay towards a common buildings insurance policy as part of these charges.

If this applies to your property please complete the details in the Property Questionnaire.

### Have you carried out timber specialist works?

If any specialist treatments have been carried out to eradicate woodworm or wet or dry rot please send us the reports and guarantees and any other documents relating to the treatments. Please also provide details of the works in the Property Questionnaire.

### Have the boundaries of your property changed during your ownership?

It is very important that you let us know if any of the boundaries have changed. You may have agreed a new boundary with your neighbour, sold off an area of your garden or rearranged the ownership of your garden.

If any of these apply to you please give details of the change in the Property Questionnaire and let us know about them.

### Have you received any notices?

You may have received notices from:

- the Local or other Authority, telling you about some proposal or asking you to do something to your property or garden;
- a neighbour, notifying you about alterations or extensions that he proposes to make to his property;
- an adjacent flat proprietor or manager notifying you of potential liability for a share of the cost of common repairs;
- a service provider, telling you about pipes or cables it proposes to install.

If you have received any such notices or any other kind of notices you must disclose them in the Property Questionnaire and if possible provide us with copies of them.

get ready to sell

## Completing our Sale Instruction Form

In addition to the information disclosed in the Property Questionnaire it is important for you to tell us about the following:

### Where are your title deeds?

Usually your title deeds are held by the Bank or Building Society (your Lender) that has a mortgage over your property. As soon as the property is put on the market we ask your Lender to send the title deeds to us so that we can check them. Some lenders make a charge for sending your title deeds and they may debit a charge to your mortgage account.

If you do not have a mortgage the title deeds may be with you or with the solicitor who purchased the property for you. If so, please hand in the title deeds to our offices or let us have the details of your former solicitor.

### Do you have more than one mortgage?

You should check the amount you have to repay to your Lender(s) before marketing your property for sale. If there is to be a shortfall between the amount required to repay your mortgage(s) and the price achieved for your property then you will know in advance the amount required. You should also check with your Lender to find out if they will apply any early repayment or administrative charges to your account.

You may have more than one mortgage on your house, perhaps because you have made improvements and borrowed money from a different Lender than the one who provided your original house purchase loan or perhaps because you have a secured business loan or guarantee obligation.

It is important you tell us if you have a second mortgage so we can contact the Lender and arrange to have the mortgage discharged.

Please confirm the details on the Sale Instruction Form.

### Could you be restricted in any way from selling your house?

The Purchaser will require us to obtain a search against you. The purpose of the search is to confirm to the Purchaser that you are not registered as bankrupt and that no-one has registered an inhibition against you.

An inhibition is a court order that can be registered against you by a creditor. It prevents you from selling your house without the consent of the creditor. If you think that you might have an inhibition registered against you, it is very important that you discuss this with us before we accept an offer.

For search purposes we need to know your addresses over the past five years. Please provide this information on the Sale Instruction Form.





## Offers / Closing Dates

A Closing Date is a specific date and time that is fixed for receiving offers. Closing dates are only set if more than one party wants to offer. All interested parties are told to send their offer to us by that time.

You do not have to accept the highest, or indeed any, offer submitted at a Closing Date.

The Law Society have issued Practice Guidelines about offers and Closing Dates and we have to follow these.

If you instruct us to negotiate a deal with one party, then we cannot afterwards negotiate or conclude a deal with another party unless and until negotiations with the first party have fallen through. If you instruct us to intimate a Closing Date we cannot then cancel the Closing Date and accept an offer received in advance of that date unless we bring forward the date and give all the parties a reasonable chance to offer.

### Accepting an offer

Letters passing between ourselves and the Purchaser's solicitor constitute the contract. These letters are called "missives" and comprise:

- the offer issued to us by the Purchaser's solicitor;
- an acceptance or a qualified acceptance issued by us on your behalf (a qualified acceptance is a letter accepting the offer but subject to certain amendments or qualifications being made to it); and possibly
- one or more additional letters until both sides are in agreement.

When an offer (or acceptance that is subject to qualifications) is accepted without qualification, a binding contract is in place. This is often referred to as a "concluded contract" or "concluded missives".

### Contract letters are signed by us but binding on you

In Scotland, solicitors sign the contract letters or missives on behalf of their clients but only after taking instructions from their clients. Please remember this when you tell us to accept an offer or any of the subsequent contract letters. We sign the acceptance letters as agents on your behalf and they are then



binding on you even although you have not signed anything.

### If you are joint sellers

If the title to your house is held in the names of two or more people then you are joint sellers. To take separate instructions from each of you is very time consuming for us and also for you. In these cases we ask you to give us written authority to take instructions from either (or any) one of you. The Sale Instruction Form has a section about this. Please consider it carefully before completing and signing the Form.

Remember that if you give this authority then the contract will be binding on you even if the instructions were given by one of the other joint sellers.

If you want us to take separate instructions from each of you please confirm this on the Form.

If you are joint sellers who are selling the house because you are to separate or divorce then there are specific Law Society guidelines which we must follow. In these cases, we cannot accept an offer on your behalf until you have signed an Agreement which confirms how the sale price is to be distributed between you.

### Contract confirms agreed date for receiving price and giving entry

The missives will specify an entry date. This is the date on which:

- the Purchaser must pay you the sale price; and
- you must vacate the house and give the keys and a valid title to the Purchaser.

The missives will also include the following:

- damages from the Purchaser in the event of late or non-payment of the sale price;
- items to be included in the price

### Buildings insurance

You must keep your buildings insurance in place until your sale has settled and we have received the sale price. DO NOT cancel your buildings insurance until this stage.



# conveyancing

*The term "conveyancing" describes the procedures we go through to make sure that you fulfil your obligations under the contract.*

## Giving a valid title

You will have to sign a title in favour of the Purchaser. This is usually available for signing shortly before the entry date. If you are not going to be available at this time to sign the title you must let us know in advance so that we can make alternative arrangements for signing of the deed. You may be liable for damages if a valid title cannot be delivered on the date of entry.

## Providing evidence that the property is not affected by occupancy rights

If you are married or in a civil partnership but title to the property is in your name only, then you need the consent of your wife/husband/civil partner to grant title to the Purchaser. This consent is usually incorporated into the title itself but may sometimes be dealt with in a separate document. Your wife/husband/civil partner may want to take independent legal advice before signing the consent.

If you are unmarried and not in a civil partnership (or if you are married or in a civil partnership but the property being sold is not the matrimonial home or family home), then the Purchaser requires evidence to confirm this. In this situation you need to sign a Declaration confirming that you are unmarried/not in a civil partnership or that the property is not a matrimonial/family home.

## Providing a local authority enquiry certificate

We obtain a standard enquiry certificate from the Council to reassure the Purchaser about maintenance of roads, water and drainage services and various other matters. The Council checks to see if it has

recent information on record relating to the property. If it has any information which might give cause for concern this may be disclosed in the certificate. Frequently missives will stipulate that if the certificate discloses any matters which adversely affect the property in a significant way, then the Purchaser will be entitled to walk away from the deal without penalty. We will order this certificate as soon as an offer is received or upon conclusion of missives and it may take up to two weeks to be available, (depending on the provider).

## Repaying your mortgage(s)

As soon as missives are concluded we will ask your Lender(s) to confirm the exact amount required to clear your mortgage account(s). We will

send you a copy of their response. You should check the figure stated against your own records to make sure it is correct. Let us know if you think it is incorrect. If necessary, we will obtain an updated statement just before the entry date.

We will pay the amount required to clear the mortgage direct to your lender from the sale price.

You should continue to make your monthly payments to your lender and also the payments for any related life assurance policies until we have confirmed to you that the mortgage has been repaid.

Do not cancel any life assurance policies without taking professional advice.

We will also prepare the document discharging the security over the property and have this signed by your lender and registered.



## settlement

Settlement should happen on the date of entry but the exact timing on that date is usually uncertain. It often depends on the time the Purchaser's solicitor receives loan funds and also on the time you actually vacate the house. We recommend that you aim to vacate the house by 12 noon on the date of entry. It is also helpful for you to let us have one set of keys the day before. You can then leave the rest of the keys in the property when you vacate it.



settlement

### life assurance

We will not cancel any life assurance policies which are related to your mortgage. We recommend that you do not cancel them without getting advice about the matter. Often it will be beneficial to keep them. You may want to use them in connection with another mortgage. For advice on this matter please contact our Financial Adviser: Andrew Mitchell – Tel 01224 428276 or Email [am@peterkins.com](mailto:am@peterkins.com)

### capital gains tax

If at any time since you purchased the property it has not been your principal private residence then there may be capital gains tax implications and you should seek professional tax advice from an accountant.

#### Remember to notify change of address to:

- the local authority,
- TV licensing authority,
- gas, electricity and telephone service providers,
- all insurers with whom you have policies,
- all banks, building society and credit card companies with whom you have accounts,
- the electoral register

buying?



selling?

cross the t's and dot the i's

# peterkins solicitors

100 union street  
aberdeen  
ab10 1qr

01224 428100

60 market place  
inverurie  
ab51 3xn

01467 672800

3 the square  
huntly  
ab54 8ae

01466 799352

39 main street  
alford  
ab33 8px

019755 62939

145 mid street  
keith  
ab55 5bj

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members of ASPC

authorised and regulated by the Financial Services Authority