



peterkins



Guide To Buying A Property

This brochure is a comprehensive guide to buying property in Scotland. It is designed to outline the key steps and to provide you with an overview of the process from the outset.

Getting ready to offer	3
Viewing properties: the questions you should ask	3
Property Schedule / Particulars	3
Home Reports	3
Making sure that finance will be available	4
Do you need your own survey?	5
Noting your interest	5
Making an offer and concluding missives	6
“Offers Over” and “Fixed Price”	6
Closing Dates	6
Negotiating the contract or “missives”	7
Contract letters are signed by us but are binding on you	7
Form of Offer	8
Buy-to-let, Investments and Second Homes	8
You need to arrange Buildings Insurance	9
Conveyancing	10
Checking the legal boundaries of the property	10
Checking the title conditions	10
Factoring / Management Costs	10
Checking the Property Enquiry Certificate	11
Checking the rights to use private services	11
Following instructions from your Lender	11
Registering your title	11
Settlement and getting the keys	12
What time of day?	12
Advice for joint Purchasers	14
How we take your instructions	14
Are you to have equal title shares?	14
Should your title include survivorship provisions?	14
Advice - Land and Buildings Transaction Tax	15
Advice - Make a Will	15
Our firm	16
Client testimonials	17
Checklist for viewers	18
Checklist for Purchasers	19

Getting ready to offer

Viewing properties: the questions you should ask

At the end of this Guide is a Checklist for viewers. This gives you some things to consider and some questions you should ask the Seller when you view a property. Answers to these questions will help you decide whether you are still interested in the property and what further enquiries you need to make or discuss with us.

When viewing properties and reading the Home Report, remember the legal principle that applies: it is up to you as the buyer to satisfy yourself about the condition of the property before you offer to buy it. Warranties or Guarantees are not normally available from the Seller. Even where they are available (e.g. for central heating systems) you should not rely on them. Purchasers sometimes find that services or moveable items included are not in as good condition as they had hoped. You will not normally have any redress against the Seller. You should be aware of this when considering how much to offer. You may want to keep some funds aside to cover any potential unforeseen costs.

Property Schedule / Particulars

You should ask the Seller or the Seller's agents for a copy of the Property Schedule. This will give you details of the items to be included in the price. If you wish other items to be included in the price you must let us know before we submit your offer.

Home Reports

A Seller who is marketing their property is required by law to provide you with a Home Report for their property. The Home Report is made up of 3 parts:

- The Single Survey. The Single Survey is prepared by the Seller's surveyor and provides you with detailed information about the condition and value of the property. The surveyor has to accept responsibility and liability for the report to the Purchaser.
- The Energy Report. The Energy Report is also prepared by the Seller's surveyor and gives an energy efficiency rating to the property and comments on its environmental impact in terms of carbon dioxide emissions. It will provide recommendations on ways to improve the property's energy efficiency and how to save on fuel costs.
- The Property Questionnaire. The Property Questionnaire is completed by the Seller and will contain information for you about the property. It will include information about the property such as any maintenance obligations, the property's council tax band, parking provisions, factoring arrangements, and any alterations made by the current owners to the property.

It is recommended that you do not rely upon a Home Report more than three months old. Your mortgage lender will not accept a Home Report more than three months old. If the Home Report is more than three months old you can ask the Seller to "refresh" or update the Home Report or submit an offer which is conditional upon the Seller updating it.



Making sure that finance will be available

Before you make an offer you must ensure that you will have the necessary finance available to pay the full purchase price on the contractual entry/settlement date. Penalties for late payment may be substantial. Before you make an offer you should:

- (a) ensure your deposit is readily available; and
- (b) obtain a Decision in Principle or Agreement in Principle from your chosen mortgage lender.

When you know that your offer is acceptable you must complete all mortgage and insurance application forms as quickly as possible. Remember that it takes time for your mortgage lender to process your application and issue the loan papers. It then takes more time for us to complete the legal security work. Your loan will not be available until the security work is complete.

Please note that an Agreement in Principle or Decision in Principle from a Lender is not a guarantee that a mortgage offer will be made to you.

You should also confirm with your lender that they will accept the valuation report to be provided by the surveyor who has prepared the Home Report. Some lenders may insist on instructing their own valuation before confirming that a mortgage will be available. If your lender requires to do their own valuation of the property you must let us know so that we can make your offer subject to survey or valuation. This will avoid any problems in the event that your lender's valuation is not sufficient or it raises any issues not addressed in the Home Report.

We strongly recommend that you instruct Peterkins to arrange your mortgage, insurance, life assurance and other necessary financial products. If you do, we can closely monitor your application and endeavour to ensure that your loan is available on time. If you deal with this yourself or through other financial advisers then we cannot do this. You must ensure that we receive the loan papers at least 7 days before the entry date. If your loan papers are received later than this there is a chance that your loan will not be available on time.

To arrange your mortgage through us, please contact our Mortgage Adviser:

Fiona Coady
Tel: 01224 428279
Email: fc@peterkins.com

Do you need your own survey?

Most Purchasers will rely upon the Single Survey for information about the condition and value of the property. However you must be satisfied with the terms of the report.

You are still entitled to have your own valuation or survey carried out before you make an offer. It is still also possible to make an offer subject to valuation and survey.

If you are buying the property as part of a private deal (i.e. the property has not been marketed) then you will need a survey or valuation report if the Seller is not willing to provide a Home Report.

Three types of survey are available:-

1. The Mortgage Valuation Report. This is NOT a survey. The surveyor carries out a very limited inspection of the property and prepares a report for the benefit of the bank or building society that is providing mortgage finance (your Lender).

2. The Home Buyer's Survey and Valuation. The surveyor carries out a much more thorough inspection of the property similar to the level of inspection for a Single Survey in the Home Report.

3. The Building Survey. The surveyor tries to establish the full physical condition of the house and he may employ relevant tradesmen to check the roof, plumbing and other services. The surveyor can only carry out this type of survey if, and to the extent that, the Seller will allow access for it.

Noting your interest

Let us know as soon as possible if you are interested in a property. We will then "note your interest" with the selling agents. This does not put you under any obligation to make an offer or take your interest further. It simply informs the selling agents that you may be interested and that we are acting for you. Noting interest does not guarantee that the Seller will give you an opportunity to offer but it does usually mean that the selling agent will tell us if he sets a Closing Date. You can note interest in any number of properties at the same time.



Making an offer and concluding missives

“Offers Over” and “Fixed Price”

“Offers over” is only a very general indication of the price the Seller is looking to achieve for the property. The price to offer will depend on a number of factors including: the valuation in the Home Report, the amount of interest in the property and the length of time it has been on the market. We will advise you on the amount to offer depending on these factors and the market at that time.

A “fixed price” property indicates the price the Seller would be willing to accept. It does not imply an undertaking that the first such offer will be accepted though. We will advise you on the best way to proceed should the property be advertised as a fixed price.

Closing Dates

If more than one person is interested in offering for a property the selling agents will normally set a Closing Date, although they are not obliged to do so. This is usually a specific date and time that is fixed for receiving offers. The Law Society has issued Practice Guidelines about Closing Dates and we have to follow these. This means that if we make an unsuccessful offer for you at a Closing Date we cannot then make a revised offer or amendment unless the Seller’s solicitor expressly invites us to do so.



Negotiating the contract or “missives”

Before instructing us to make an offer, please make sure you have (1) made all the enquiries you want to make; and (2) told us everything you think we should know.

In Scotland the letters comprising the contract are referred to as “missives” and comprise

- the offer issued by us on your behalf;
- an acceptance or a qualified acceptance issued by the Seller’s solicitor (a qualified acceptance is a letter accepting our offer but subject to certain amendments or qualifications being made to it); and
- usually, one or more additional letters until both sides are in agreement. When an offer (or an 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 are binding on you

In Scotland, solicitors sign the contract letters or missives on behalf of their clients but only after taking instructions, normally verbally, from their clients. Please remember this when you tell us to make an offer or to accept any of the subsequent contract letters. We sign the offer and acceptance letters as agents on your behalf and they are then binding on you even although you have not signed anything.



Form of Offer

We use a form of Offer using Standard Clauses used throughout Scotland for the purchase of residential property. This Offer has been designed to take account of the interests of both Purchaser and Seller and is intended to speed up the process of concluding a contract. The terms reflect what we would normally expect to achieve after negotiation in the traditional manner.

You should be aware that this Offer includes a damages provision against you and in favour of the Seller. This provides that if you do not pay the price on the date of entry you may be liable to the Seller for damages. If you have not paid the price within 14 days of the agreed date of entry the Seller can resell the property.

In either set of circumstances you could be liable for such damages and penalties as:

(a) interest at 4% per annum above the Royal Bank of Scotland base rate until payment of the price in full or a period of up to 12 months;

or

(b) the sum of all losses arising from your breach of contract (which could include)
(i) any difference between the price agreed with you and price the property is resold for; (ii) any estate agency, marketing and other advertising expenses; (iii) any further legal expenses; (iv) any expenses in connection with the cancellation of removal of furniture, storage of furniture and transfer or retransfer of furniture incurred; and (v) any bridging loan costs.

In short, the damages for late or non-payment of the purchase price could be severe and could be unquantifiable at the time of making your Offer. You must therefore ensure that you will have finance in place to meet your contractual date of entry.

The Offer also provides that the Seller will be liable for any losses that you incur if settlement is delayed by fault on their part.

Buy-to-let, Investments and Second Homes

If you intend to lease the property after purchase please tell us before you instruct us to Offer. You cannot lease a property until you have registered with the Council as a landlord. You may also be subject to legislation relating to houses in multiple occupation (HMO's). If you are a buy-to-let Purchaser we recommend that you also read our guide – "A Guide to Leasing for Landlords" - to make yourself fully aware of the legal responsibilities you will have as a landlord.

If the property is not your main residence you will be liable for Capital Gains Tax on any uplift in value when you eventually sell the property. For any advice on Capital Gains Tax you should speak to your accountant before purchasing or selling your property.

You will also have to pay supplementary Land and Buildings Transaction Tax (LBTT) on the purchase price of any Buy-to-Let property or second home. Please see more information on this in the later section on LBTT (Page 15).



You need to arrange Buildings Insurance

You have an insurable interest in the house from the date on which the missives are concluded, even although the contract may require the Seller to maintain insurance cover until the entry date. It is therefore important to arrange insurance promptly either yourself or through your mortgage lender.

If you are obtaining a mortgage we will need to see evidence of insurance cover before we can obtain your loan funds.

We can arrange Buildings Insurance for you. Please contact our Mortgage Adviser:

Fiona Coady
Tel: 01224 428279
Email: fc@peterkins.com



Conveyancing

The term “conveyancing” describes the procedures we go through to make sure that the Seller gives you a valid title and you give your mortgage lender a valid security. This section provides a brief overview of what we do:

Checking the legal boundaries of the property

We will send you a Title Report or copies of the relevant sections and plans from the title deeds. These will tell you what is included in the title to the property. Please check this carefully to make sure:

- that it matches what you think you are buying, and
- that it includes all additional rights that you need (e.g. access rights over any private roads).

If you think the description is incorrect, please let us know immediately. We'll be happy to meet with you to go over the title if you want to do that.

Checking the title conditions

We will also provide you with details about conditions specified in the title deeds.

Many titles contain conditions that prohibit:

- (a) making alterations to the property or constructing additional buildings on the site without the consent of neighbours;
- (b) carrying on any trade, business or profession from the property;
- (c) using the property for anything other than residential accommodation for one family; and
- (d) parking caravans, boats or commercial vehicles on the site.

Title conditions are often enforceable by neighbours. If you want to use the property for anything other than solely residential purposes, please discuss your requirements with us before making an offer.

If you are buying a flat, you should seek legal advice before carrying out or paying for repairs to common parts of the tenement. The legal position is determined by the terms of your title deeds and by law.

You should not carry out alterations to any property without seeking legal advice on what consents may be required. The titles may require consent of neighbours. You must also always comply with planning and building regulations in force at the time. Non-compliance will cause delay and expense on sale and you may be liable for any problems arising in the future.

Factoring / Management Costs

Most modern flats and developments (and some older properties) may have a Factor appointed to manage the common parts/areas. There will normally be a monthly or annual charge for this. These costs can vary and therefore you should enquire about these as early as possible. For flats and some houses there may also be a Common Buildings Insurance Policy and the premium will be included in the charges.

Checking the Property Enquiry Certificate

A Seller is expected to obtain a Property Enquiry Certificate from the Council or private searcher. This usually confirms:

- whether the property is adjacent to mains water and drainage services;
- whether the road and pavement adjacent to the property are maintained by the Council; and
- details of outstanding matters of concern known to the Council (e.g. disrepair notices or the existence of building warrants for which no completion certificates have been issued).

Checking the rights to use private services

If you are buying a rural property we need you or your surveyor to give us as much information as possible about the location of private access, private water supplies and drainage systems. We need this information so that we can check to see if the title includes rights to use these and so that we can give you appropriate advice.

Following instructions from your Lender

Normally your mortgage lender will instruct us to deal with the security work on its behalf. We will therefore be acting as agents for your lender as well as you. We will prepare the security documents for you to sign and explain them to you. We will also report to your lender on the terms of the title and request your mortgage funds from them. Some lenders will insist on using their own solicitors to carry out the security work. If they do you will incur additional costs to them and to ourselves above that which may have been quoted. We will advise you if this will be the case.

If you are married or have entered into a civil partnership but title to the property is to be in your name only, your lender will need your wife/husband/civil partner to consent to the granting of the security. Your wife/husband/civil partner may want to take independent legal advice before signing the consent.

Registering your title

After settlement we will submit an LBTT Land Transaction Return to Revenue Scotland (see page 15 for more information about LBTT) and then register your title in the Land Register. Once your title is registered the title sheet for the property will be updated to show you as the owner. We will send you a copy of this and depending on your mortgage lender's instructions send them the original deeds. If there is no mortgage we can store your title deeds in our strongroom free of charge.



Settlement and getting the keys

What time of day?

“Settlement” is the term commonly used to describe the process when we hand over the purchase price on your behalf in exchange for the signed title, keys and other documents. It is also sometimes called “completion”.

There is no set time by which settlement has to take place on the settlement/entry date. We normally try to have settlements completed by midday but it will depend on when we receive your loan funds and also on the time the Seller vacates the property. For that reason we recommend that you do not arrange for removal vans to arrive at the property until later in the day.

When you get the keys please check immediately:

- (a) that the Seller has left all the moveable items included in the purchase price;
- (b) that the central heating system is working properly; and
- (c) take gas and electricity meter readings.

Depending on the terms of the missives, you may have a claim against the Seller if items are missing or if the central heating system is not working properly. However, you do have to intimate any claim immediately.

Please be aware that it is not normally possible to make any claim in respect of:-

- (a) any matters disclosed and accepted by you prior to settlement; and/or
- (b) anything amounting to less than £300.





Advice for joint Purchasers

How we take your instructions

If you want to purchase a property in the names of two or more people then you are joint Purchasers. 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 Purchase 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 Purchasers. If you want us to take separate instructions from each of you please confirm this on the Form.

Please note that the name(s) on the title must exactly match the name(s) on any mortgage you are taking to fund the purchase. If the mortgage is in your sole name then title will have to be in your sole name too.

Are you to have equal title shares?

If you are joint Purchasers then you need to decide how you want to take the title. Are you to take equal shares? This will entitle you each to an equal share of the sale price (less mortgage repayment and sales costs) when the property is sold. Perhaps you want to take unequal shares. When considering this, you may want to take account of the amount that you are each contributing to the purchase price and to the mortgage repayments.

If you are joint Purchasers and are not married or in a civil partnership then we recommend that you enter into a Co-Purchase Agreement detailing the contribution being made by each of you and the liability of each of you for mortgage and other payments. We can advise further on this but such advice is not included as part of our standard purchase package.

Please confirm your instructions about these matters on the Purchase Instruction Form.

Should your title include survivorship provisions?

It is possible to include a clause in your title that provides that if you die, your title share will automatically pass to the surviving title holder.

The advantage of this is that it simplifies procedures following death.

The disadvantages are the time it takes and the costs you incur if you want to change it and also your family would not be able to make use of certain potential tax saving procedures following your death. It's much easier, quicker and cheaper to change a Will than a title deed.

We normally recommend that you do not include this clause in your title but that you do make Wills. If you think a survivorship clause might be useful for you please discuss this with us.

There is space to confirm your instructions on the Purchase Instruction Form.

Advice - Land and Buildings Transaction Tax

Land and Buildings Transaction Tax (LBTT) replaced Stamp Duty in Scotland in April 2015. It is payable where a Purchaser acquires a chargeable interest in land or buildings.

An LBTT return must be submitted to Revenue Scotland and the necessary tax paid before your title can be registered in the Land Register.

We will let you know the amount of LBTT payable in advance of settlement and request the amount required, if any, along with your deposit. More information about LBTT and the current rates in force will be available on Revenue Scotland's website: www.revenue.scot.

An Additional Dwellings Supplement (ADS) is also payable on any Buy-to-Let properties or second homes purchased after 1 April 2016. It can also be payable if you buy a new main residence before selling your existing residence. While LBTT only applies to properties bought in Scotland, property owned elsewhere will be taken into account for the purpose of ADS. Property owned by your spouse, civil partner, cohabitant or child under the age of 16 will also be taken into account. The rates for the Additional Dwelling Supplement are complex and you should discuss these fully with us before purchasing if you think they might apply to you.

Advice - Make a Will

If you do not already have a Will then we recommend that you make one when you purchase a property.

This ensures that if you die the property will pass to those to whom you want it to pass. If you don't leave a Will, then the property will pass to whoever is entitled to it under the law of intestacy (that is the law that applies when no Will has been left).

If you want more advice about making a Will please confirm this on the Purchase Instruction Form.

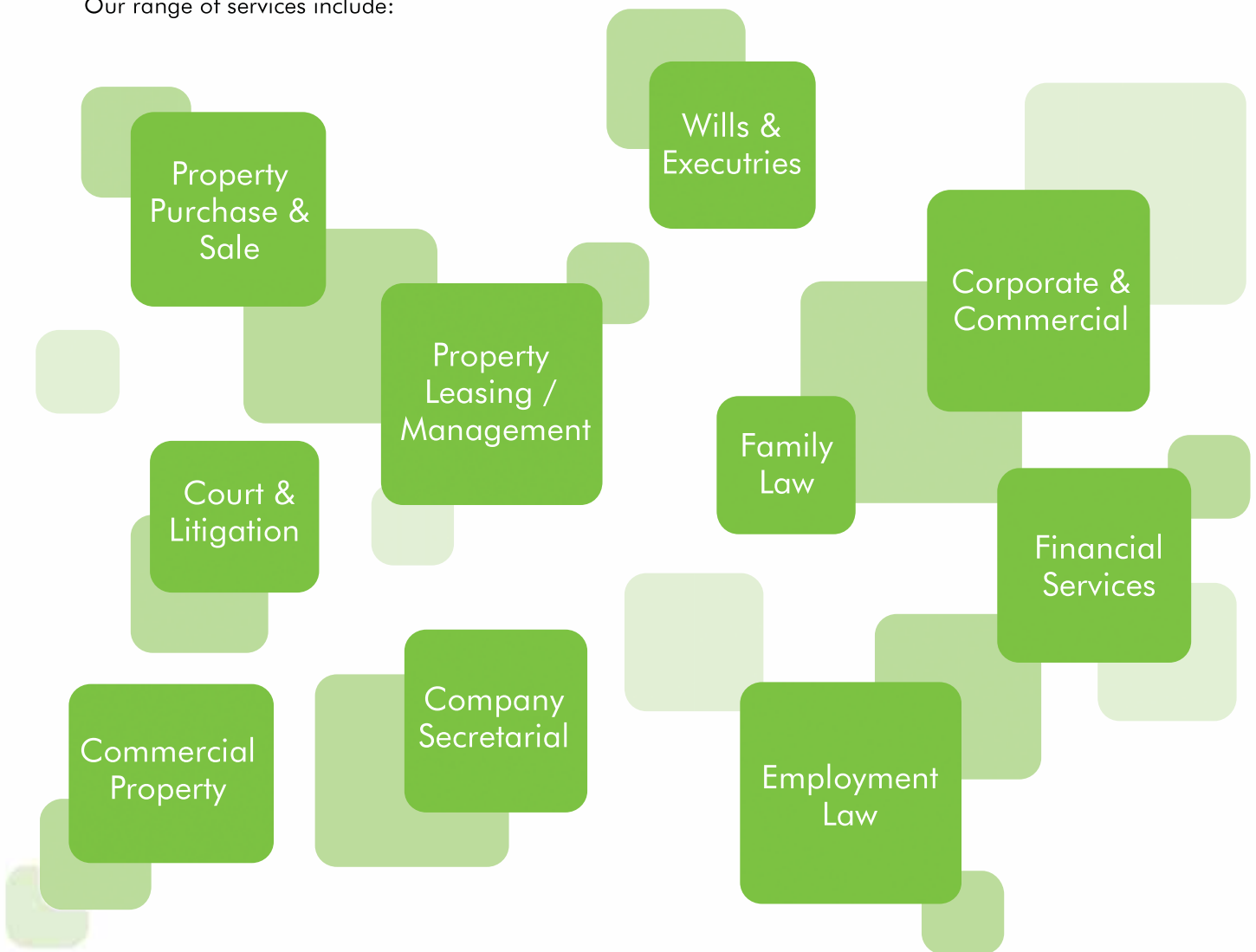


Our firm

Peterkins is a north east firm of solicitors, estate agents and financial advisers. Our head office is based in Aberdeen and we have offices in Inverurie, Huntly, Keith and Alford. We can trace the history of our firm back over 100 years meaning that we are well-established and well-respected within the business community and by the public at large.

We are a multi-service firm which means that we provide a wide-range of legal, property and financial services all under one roof. By dealing with all of our clients' business and personal matters this lets us get to know them better and in turn we can provide them with a service focused on their own needs and requirements.

Our range of services include:



For more information on the range of services that we offer please visit our fully responsive and user friendly website which can provide full details of all the services we provide to our clients across the legal, property and investment spectrum.

www.peterkins.com

Client testimonials

“I was very impressed with your services and your team. This is the third property I have bought and sold since moving to Aberdeen and the first time I’ve used Peterkins. Whilst other firms have been competent, yours was excellent. I just felt this process was really given a level of client care and management that went beyond the usual. Thank you to you and your team. I shall certainly recommend your services.”

Mr & Mrs K, Aberdeen

“Absolutely excellent service from start to finish. No hesitation to recommend Peterkins and we will certainly be using Peterkins for all future legal work. Thank you.”

Mr & Mrs B, Huntly

“I phoned several firms to discuss conveyancing and get quotes. Mr MacDonald was by far the friendliest and most helpful hence we picked Peterkins. Having bought and moved house several times this purchase was by far one of the best. If we ever need to buy or sell property again we will most certainly come back to Peterkins as the service was excellent.”

Dr & Mrs T, Aberdeen

“I appreciate very much your advice, guidance and assistance with any enquiry that I had. I would not hesitate in using your services again.”

Mr & Mrs M, Ferryhill, Aberdeen

“I was with another solicitor but they lost out on 2 properties. So I tried Peterkins and they are much more professional. They keep you informed all the way through. Very helpful. This is my third property with Peterkins and I am very happy with the service.”

Mrs R, Garthdee, Aberdeen

“Great service. Made process as smooth as possible. Happy to spend time answering queries.”

Mr & Mrs H, Portlethen

“I felt that my solicitor made everything clear and easy. This was my very first purchase, or need for a solicitor, and I expected things to be complicated and difficult. It was anything but! I would definitely use Peterkins again.”

Miss R, Aberdeen

“We sold our last house with Peterkins and we were very happy with the services provided. So we decided to continue with Peterkins to purchase our new home.”

Mr & Mrs C, Laurencekirk

“Always helpful, efficient and polite in previous transactions - we always feel confidence in Peterkins.”

Mr & Mrs E, Cults

Checklist for viewers

Access

- ☐ Is access to the Property taken direct from a public road?
If not:- who owns the road?
who maintains the access road?

Roof and Basement

- Is it possible to get direct access into:
 - ☐ the roof void?
 - ☐ the basement areas?

Gas and central heating

- ☐ Is the house connected to the mains gas supply?
When was the central heating system installed?
When was it last serviced?
- ☐ Is there a maintenance contract?

Timber repairs (older properties)

- ☐ Does the Seller have guarantees for the treatment of rot or woodworm, or the installation of proof course?
What type of treatment do they cover?
- ☐ Do they have copies of the reports and guarantees?

Extensions and alterations

- ☐ Has the property been altered or extended or have any additional buildings (e.g. garage) been built?
- ☐ Does the Seller have planning permissions, building warrants and completion certificates for all such work?

Area maintained in common (usually in modern developments)

- ☐ Are there parts of the building or areas owned in common with other properties (e.g. landscaped areas or other external areas)?
- ☐ Are regular payments made for maintenance of these areas (known as Factoring Charges or Common Charges)?
How much? £.....

Neighbour rights

- ☐ Are the house or grounds affected by any rights in favour of other people?
- ☐ For example, do owners of nearby properties have rights to take access through this property?
- ☐ Do other people have rights to use pipes or cables that pass through this property?

Note: These rights are called "wayleaves" or "servitudes". They are not always disclosed in the title deeds. Often they do not cause any problems, but if you want to extend the house or construct other buildings you might find that they are in the way. If this is a possibility, then check it out. Look out for manhole covers and ask the Seller what services are accessed through them. You can also contact service providers direct to get more information.

Possible development of nearby property

- ☐ Are there any development proposals affecting nearby property?

Note: If there is any open ground or if there are any disused buildings near the house, we recommend that you call the local Department of Planning and Building Control to ask about any proposals to develop it.

If the house is in or near the country

- ☐ Is it connected to the mains water supply?
If it is, where is the connection point and what is the route of the supply pipe?
If it is not, where does the private supply come from?
- Which properties use the supply?
- ☐ Does the Seller have evidence to prove the quality and adequacy of the supply?
- ☐ Is it connected to mains drainage?
If not, where is the septic tank situated?
Where does the outfall from the tank go?
- ☐ Does the outfall go into a watercourse?
- ☐ Is it connected to mains electricity?

Checklist for Purchasers

Before offering to purchase the property:

- ☐ Have you returned your Purchase Instruction Form to us?
- ☐ Have you told us about all alterations and / or extensions that you think may have been made to the property and about all additional buildings on the site (e.g., buildings such as a garage constructed after the original house was built)?
- ☐ Have you told us about all timber, damp treatment or other guarantees that you think may be available?
- ☐ Have you told us about private water supplies and / or drainage systems?
- ☐ Have you told us about any access points to the property other than access from the main road?
- ☐ Have you told us about any proposals you have for altering the property or for using it for anything other than solely residential purposes?
- ☐ Have you obtained confirmation from your Lender that they are willing to lend the amount you need?
- ☐ Have you told us if you think an inhibition might be registered against you?

When we conclude missives:

- ☐ Have you completed your mortgage application and any related life assurance applications?
- ☐ Have you arranged buildings insurance?

When we send you the Title Report:

- ☐ Have you told us about any possible discrepancies between the property that you viewed and the description of it contained in the title?
- ☐ Have you told us about any concerns that you have about the title conditions?

Immediately after you get the keys:

- ☐ Have you told us about any items missing from the property?
- ☐ Have you told us about any possible faults in the central heating system?
- ☐ Have you checked the gas and electricity meter readings?

Remember to notify your change of address to:

- ☐ the local authority,
- ☐ TV licensing authority and satellite television service provider,
- ☐ 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, and
- ☐ the electoral register

peterkins

01224 428000

100 Union Street, Aberdeen, AB10 1QR



Also at:

60 Market Place
Inverurie
AB51 3XN
01467 672800

3 The Square
Huntly
AB54 8AE
01466 799352

186 Mid Street
Keith
AB55 5BQ
01542 882537

Members of the ASPC
Authorised & Regulated by the Financial Conduct Authority