

What are the key differences when buying property in Scotland and England?

Property transactions in Scotland are governed by separate property laws to those in England and Wales. Here's some basic information to highlight the differences.

What's different?

The 'offers over' system. Apart from off-market opportunities, sellers in Scotland set an 'upset price' for their property and invite offers over this, without disclosing the price they are seeking to attain. Purchasers are free to make an offer below, at the level of, or over the upset price. This is called the 'offers over' system.

The bidding system. Once you have identified a property, you can either proceed by private negotiation with the seller to agree the sale price, or, if there are other interested parties, your solicitor will formally note interest in the property on your behalf, and notify you of any closing date for offers.

At the closing date your solicitor will submit a "blind" sealed bid on your behalf. There is no second chance, so you should put in your best offer. When deciding this, you should bear in mind the valuation, what you think you can afford and how much you want the property. A valuation (and survey) should be obtained before offering.

Conclusion of missives (contract). If your offer is successful, your solicitor will examine the title deeds and all other information requested as part of the offer. Formal letters, forming part of the missives, pass between the two sets of solicitors dealing with points arising. Until the conclusion of missives (when the transaction is concluded by formal letter), either party may withdraw from the transaction.

Entry and settlement. Typically, missives will be concluded a few weeks prior to the date of entry. On the date of entry, in exchange for the purchase price you will be granted title to, and possession of, the property.

What is similar?

Funding. If needed, arrange funding in principle with a lender at the outset: A loan must be in place before an offer is submitted.

Tax and structure. You should take advice at the start to identify and address any potential issues of tax and/or structure of the investment.

Anti-money laundering. This process can take time, so it should be addressed and dealt with by your solicitor on first instruction.

Costs. Your costs will include legal and surveying fees as well as Stamp Duty, Land Tax and registration dues, and these should be ascertained, if possible, prior to submitting an offer.

Middleton advice.

You will need a solicitor with qualification in Scottish property law if you are buying in Scotland.

Thanks:

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