

As part of your settlement agreement, you may be looking to transfer a half share of the title to your property from joint names into either your sole name or the sole name of the other party. This creates a new title where ownership of the property involves new documentation being prepared.

We work closely with our colleagues in the Property Department. The solicitors there deal with the conveyancing transaction that has to be undertaken in order to create the new title of ownership or to remove your name from the title to the property and the mortgage, if there is one.

## 1 Obtaining the Title Deeds

The matrimonial conveyancing process involves obtaining the title deeds. These deeds have to be examined or reviewed. This is to ensure that there are no defects in the title, or disputes over such matters as boundaries to what you might own. Any new title document has to comply with various regulations and it is based on the OS Map system so boundaries are important. In examining the title in this way, the solicitor is then able to pick up on any potential issues and suggest corrective conveyancing solutions if required.

While this may involve additional work, time and perhaps cost, the solicitor has to ensure the title to the property passes the requirements of the Registers of Scotland. It is therefore in your interests that the work is undertaken to avoid problems at a later stage.

The solicitor will also deal with your lender to ensure funds are available when they are expected to be. This is to ensure that a completion date can be achieved or be able to satisfy any requirements or queries that the lender may have.

## 2 Being Removed from the Title to the Property

If you are coming off of the title to the property, there are still certain obligations that have to be fulfilled. The person obtaining the title has to know that they are getting a valid marketable title and there are no issues which might prevent this from happening. This means that a personal search has to be carried out on you to ensure that there are no debts or inhibitions or creditors who are preventing a transfer from proceeding.

A document known as a Declaration of Solvency may also have to be prepared. This confirms that you are not insolvent or on the point of becoming insolvent. Transfers can be impacted by bankruptcy and if you consider this might be a problem, you should alert the solicitor at the earliest opportunity.

If it is a matrimonial home that is to be transferred then you may be asked to sign a document

known as a Renunciation of Occupancy Rights. Spouses or civil partners have certain rights to occupy the main home or matrimonial home. In the event of separation, you are taking an active decision to not live together any longer. This document makes it clear that you are waiving the right to occupy the property in question.

It will also be the solicitor's job to ensure that if you are coming off of the title, you are also coming off of the associated Standard Security or mortgage. This ensures that you have no ongoing further liability for the mortgage over the property.

You may be exchanging title in return for payment of capital. The date of settlement of the transfer will be negotiated by the solicitors in conjunction with availability of funds and you will be advised of when your payment of capital becomes available.

