

## **Price Transparency for Clients – Waddell & Mackintosh**

### **Introduction**

Waddell & Mackintosh Solicitors and Estate Agents is a firm registered with the Law Society of Scotland. Waddell & Mackintosh is the trading name of Waddell & Mackintosh Solicitors Limited.

On 1 February 2020, the Law Society of Scotland published new guidelines to improve price transparency for legal services to help Scottish consumers make better informed choices. This information is to be made available to clients and potential clients about fees, outlays and costs that may be incurred when instructing solicitors.

This note intends to provide some examples of pricing for the range of legal and estate agency services we offer. Please note that these are only illustrations, provided to give a guideline as to what you could expect to pay - and not definitive costs, or a quote. This is because every transaction is unique. Some types of work will have a fixed fee, whereas others will be calculated by a scale or unit cost which will vary with the amount of time and/or complexities involved in the transaction, many of which are not evident at the outset.

As well as legal fees, other outlays may be payable to other companies, offices and organisations, such as the sheriff court, the Registers of Scotland, search companies, local authorities and the Office of the Public Guardian. Waddell & Mackintosh makes no margin or profit on these outlays, but rather they are simply passed on to the client at whatever cost is charged by the organisation being paid. We always strive to seek the best deal and economy for the client.

Whilst we hope the illustrations given here are helpful in describing how we might shape the charges for your work, it is almost certain that none of them shall be an exact match to what you will pay. At Waddell & Mackintosh, we do not charge by time-recording, but rather for those transactions where there can be no fixed fee and so are instead based on our unit rates, the fee will generally tend to be sent for auditing by an independent auditor who will assess our fees based on our unit rate charges, as outlined in our terms of engagement letter. Our terms of engagement letter will be issued to you on instruction, the terms of which must be accepted by you before we commence the work. Agreement will be made with you in relation to how we will charge for your particular transaction at the outset.

Please contact one of our solicitors for further information re fees and the work to be done for you if you have further queries.

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### **Areas of work**

#### ***Wills***

A Will is a very important document, and thus very important to get right. Wills are not necessarily straightforward. In Scotland, the law of inheritance can be complex and very often not what the ordinary client expects in terms of the rights of family members to a share – or not - of the estate. Accordingly, our work in preparing a Will shall almost certainly involve a range of discussions and the provision of advice to achieve even the most basic Will. If there are more complex family circumstances, dispositions of assets and/or potential or actual exposure to Inheritance Tax, then the work required may be extensive and thus carry an additional fee charge.

For a basic job of consultation; advice; preparation of a single, simple Will; sending a draft and making any changes; completion, execution and storage of the Will, the fee may be £125 plus VAT £25. There are usually no outlays associated with this process.

### ***Powers of Attorney***

A power of attorney is a very useful document granted by a capax adult appointing persons of trust to administer the adult's affairs in relation to financial or welfare matters, or both. It can be used by the appointed attorneys during the adult's lifetime to support that adult in dealing with his or her affairs, and can continue if the adult becomes incapax. Usually a power of attorney will be combined in appointing both Continuing (financial) and Welfare attorneys.

A power of attorney is a lengthy and complex document. A basic power of attorney will require a meeting and consultation between the grantor of the power of attorney and the solicitor; the drafting of the document; its completion and execution; having this certified by a solicitor (this is a legal requirement and may in some circumstances instead be certified by a doctor); preparing the registration forms and sending these to the grantor's appointed attorneys for signing; and registration of all documentation with the Office of the Public Guardian.

For a basic power of attorney, the fee may be £275 plus VAT £55. There may be an additional fee if a home or hospital visit is required. The outlay to register the power of attorney with the Office of the Public Guardian is currently £96, and this tends to increase each year in April.

### ***Guardianships (Incapacity)***

Where creation of a power of attorney is not possible or is inappropriate, an alternative is for a suitable person – who may be a family member or another - to apply to the Sheriff Court to be appointed Guardian. This is a complex and very detailed court process involving much documentation and formal reporting by various parties, officials and personnel to satisfy the court that the court order is necessary and appropriate. It also involves personal appearance at court by the solicitor to conduct at least one formal hearing in front of the sheriff before the order is permitted and awarded. The exact extent/amount of work cannot be specified in advance as it is dependent on so many different factors unique to each case. Generally our time-and-line/unit charge rates will apply in accordance with our terms of engagement letter.

If the Guardianship Order includes welfare powers, Legal Aid shall be available at no cost to the client. If the Guardianship Order does not include welfare powers, then it is unlikely Legal Aid will be available and our fee is likely to be between £2,000 - £3,500 plus VAT.

If Legal Aid is not available outlays will include Sheriff Court initial dues £129; psychiatric fees £275; medical report £275; sheriff officers for service of application if applicable, etc. £140. Whereas if Legal Aid is available all fees and outlays shall be covered by Legal Aid.

### ***Discharge of security***

When obtaining a mortgage, a standard security must be granted over the title to your property to give your lender powers to call up the mortgage and repossess if you default on payment. When you pay off your mortgage, this standard security is not automatically discharged. A solicitor will be required to prepare the documentation to discharge the security, send it to your

lender for execution, and then send it to the Registers of Scotland to remove the security from your title.

For a basic digital discharge of security, the fee will be £120 plus VAT £24. There is an outlay in the sum of £60 to register the Discharge digitally. Whereas, if a digital submission is not possible our fee is in the sum of £150 plus VAT of £30 and £80 outlay for Waddell & Mackintosh to register the Discharge payable to the Registers of Scotland.

### ***Purchase of Residential Property (Conveyancing)***

Waddell & Mackintosh deals with transactions for clients buying a home, whether it be a flat, house, new-build property or land to build on. Our fees cover all of the work required to complete the purchase of your property including communications and advice; correspondence with estate agents and the seller's solicitor; drawing up a range of documents including a formal legal offer and further missives; examination of title; inspection of searches and reports; drawing of a new title (Disposition) and mortgage security where necessary; arranging completion/settlement of the transaction; obtaining and managing the funds from both client and mortgage lender; completion of Anti Money Laundering procedures; submission of a LBTT (Scottish Stamp Duty) return and making payment of tax where due to Revenue Scotland; registration of new title (and mortgage security where funding comes from a lender); and reporting to client and lender after registration.

We will ordinarily agree with you a fixed fee for this work which will be dependent on the value of the transaction and the volume of work reasonably foreseen. An example of a fee may be in a transaction where you need a mortgage and the value of the home is £150,000; for this the fee may be £900 plus VAT £180.

Outlays will be incurred. For a transaction with the above price of say £150,000 part-funded by a mortgage, the outlays would be £260 to Registers of Scotland for registration of the title; £80 for registration of the Standard Security for the mortgage, £20 for an Advance Notice for the mortgage; in the event payment is made by a CHAPS transfer there shall be an outlay of £22; £100 for LBTT (the LBTT however will be less if this is your first purchase and more if you already own another property – we will discuss with you the amount of LBTT payable once we know the agreed purchase price).

LBTT and title registration dues change on sliding scales according to the price of the property.

### ***Sale of Residential Property (Conveyancing)***

Our fees cover all of the work required to complete the sale of your property including communication and advice by the solicitor with the client; correspondence with estate agents and the purchaser's solicitor; drawing up a range of documents including a formal legal acceptance of the buyer's offer and further missives; provision of title deeds; ordering of searches and reports; revising of a new title (Disposition); discharging a mortgage security where necessary; arranging completion/settlement of the transaction; managing the funds from buyer's lawyer and redeeming outstanding mortgage to the lender; registration of discharge where necessary; reporting to and settling with the client.

We will ordinarily agree with you a fixed fee for this work which will be dependent on the value of the transaction and the volume of work reasonably foreseen. An example of a fee may be in a transaction where you sell a property with a value of £150,000; for this the fee may be £750 plus VAT £150.

Outlays may be £80 for registration of the Standard Security discharge (or £60 if this can be done digitally); £20 for an Advance Notice of title; £150 for title, property and mining searches. Other outlays may be incurred such as for copy title deeds or indemnity insurance if any documentation is missing from your title deeds.

### ***Remortgage of residential property (Conveyancing)***

Waddell & Mackintosh deals with transactions for clients who are remortgaging a home. The work may involve communication and advice by the solicitor with the client; examination of title; drawing up a range of documents, including a new mortgage security and a discharge of the old security; ordering and inspection of searches and reports; obtaining and managing funds from the new mortgage lender; redeeming outstanding mortgage to the old lender; registration of discharge; arranging completion/settlement of the transaction; registration of new mortgage security; and reporting to client and lender after registration.

The fixed fee for this work may be £450 plus VAT £90.

Outlays are £80 for registration of the mortgage security discharge (or £60 if this can be done digitally); £70 for registration of the new mortgage security; £20 for an Advance Notice for the new security; and £135 for title, property and mining searches.

### ***Separation/Minutes of Agreement***

When a marriage or domestic partnership breaks down, there may be a range of legal matters to consider and settle. These may include property sale/transfer, sharing of financial assets and pensions, residence of and contact with children, and financial maintenance. The fees for this kind of work cannot be estimated exactly in advance, as each case is different.

It is imperative that each ex-party is independently represented by their own solicitor. A solicitor cannot act for each of the two ex-partners. If the terms of the separation are straightforward and the parties have a clear agreement on contact and division of the assets, then fees will be lower. If however the solicitors require to negotiate the terms, the fees will be higher.

Once negotiations are settled, then the agreement is put in writing in a legally binding Minute of Agreement. Fees will be based for this type of work on a time-and-line/unit rate basis per our terms of engagement letter.

One illustration of a fee in a reasonably straightforward separation which involves consultation, advice, basic negotiations and initial preparation of the Minute of Agreement may be in the region of £1,650 plus VAT £330.

Outlays may include a share of the registration dues of the Minute of Agreement and obtaining two copies at £40 if paying for both extracts (copies) - £20 if for one only. Where a pension share is required, a pension share implementation fee payment may be paid to the Pension Administrators/Trustees of around £750.

### ***Divorce – simplified procedure divorce***

A simplified divorce procedure may be appropriate only where there are no outstanding financial matters to resolve between the parties and there are no children of the marriage or civil partnership under 16 years of age.

We will first meet with you to consider and discuss if the simplified procedure is appropriate for your case. This may require us to gather information so we can be sure that the simplified procedure is appropriate. If so then further work may involve collecting information from you about your position, finances and family circumstances, assessing if simplified procedure is appropriate in your case and advising you on the next steps.

If the simplified procedure is appropriate, then our fee for completing a simplified divorce application may be £300 plus VAT £60. This would include completing the application to the court and arranging for you to sign it; notarising the application; and lodging it with the court.

The outlays will include £131 payable to the court for the divorce application and if service of the divorce by recorded delivery has not been possible, then £13 for service by a Sheriff Officer.

### ***General advice and business***

As general practice solicitors, Waddell & Mackintosh deals with a range of clients and cases/transactions. Sometimes the work is preliminary advice, or assistance with a minor or brief legal issue requiring correspondence with other parties or solicitors, and/or creating of legal documentation.

We may be able to offer a brief preliminary consultation without charge, but we reserve the right to charge for all services and advice. Some examples of miscellaneous charges:

- For notarising/certifying documents - a fee may be £25 plus VAT; alternatively, depending on the instruction, a fee may be £5 per page plus VAT for each document. There are usually no outlays.
- For advising on and corresponding with a neighbour who is encroaching on a boundary, the fee may be based on our unit rate, but set at an initial maximum by you of, for example, £300 plus VAT £60. There are usually no outlays.
- For advising on succession/inheritance planning, care costs and related matters, the fee may be based on our unit rate, but set at an initial maximum by you of, for example, £400 plus VAT £80. There are usually no outlays.

### ***Executry (deceased person)***

An executry is the name used by legal professionals for the work involved in winding up the estate of a deceased person. It is another area where it is difficult, and often impossible, to give accurate levels of fee in advance. Our terms of engagement letter outlines our unit rate charge and it is usually this basis upon which executry administration work is charged.

The fee payable will depend on a variety of factors, such as whether or not there is a valid Will signed by the deceased (more work and other costs are likely if there is no Will); the number of executors/beneficiaries/legatees; whether there is inheritance tax to pay; whether there is

heritable property to deal with; the complexity of the portfolio of the deceased's assets; whether the issue of legal rights requires to be dealt with; whether there are any missing beneficiaries, and so on.

At its most basic level and in general, the work involved in an executry will include consulting and advising the executor/family; collating and valuing the assets and liabilities of the estate; corresponding with financial and other institutions (e.g. banks, building societies, share registrars, employers/pension administrators); compiling an Inventory of assets and drafting court documents to apply for Confirmation (the Scottish equivalent of Probate); ingathering the assets; accounting to the executor; and distributing the bequests and shares of estate among beneficiaries in accordance with the Will or law of Succession. There may also be a home/heritable property to sell or settle, or calculating and dealing with Inheritance Tax, which generates considerable work.

The fee for executry work in winding up a particular estate varies widely and in one case may be in the region of, for example, £2,400 plus VAT £480. We hope you appreciate it is exceptionally difficult to give a fixed price for an executry estate, whereby the volume of work is unknown, that is the very reason we have our fees are independently audited by an independent law accountant, to ensure our clients are charged a fair and reasonable price in accordance with our Terms of Engagement letter.

There are often a number of outlays which may include a fee to register the Will with the Books of Council and Session of £20; if there is no Will, a fee to obtain a type of insurance document for the estate called a Bond of Caution at a minimum of £100; Court Confirmation dues of £341 (£684 if the value of the estate exceeds £250,000) plus £9 for each individual asset certificate; and other professional fees such as those of an accountant if required to undertake income or capital gains tax work for the estate or professional valuations of, for example, stocks and shares. Waddell & Mackintosh will strive to obtain quotes for such professional fees prior to engaging third party professionals if this is required.

### ***Estate Agency***

In Scotland, many firms of solicitors, including Waddell & Mackintosh, also provide property estate agency services. The work for a client who instructs us to market their property may include our staff consulting with the client; advising on value and marketing strategy/process; valuing the property; preparing a sale schedule; registering it on online property portals; arranging a Home Report; dealing with enquiries; arranging/conducting viewings; negotiating with prospective buyers; and processing offers received. Commission may be based on a percentage of the sale price of the property or a fixed fee agreed beforehand.

For the sale of an urban property at a final sale price of £200,000, the commission may be 0.75% i.e. £1,500 plus VAT £300. This includes all necessary viewings during office hours. Viewings outwith office hours will be subject to a further charge of £25 plus VAT per hour, the minimum time unit being 1 hour.

Outlays may be a Home Report charge payable to the surveyors of, for example, £350, which sum shall be dependent upon the value of the property.

Waddell & Mackintosh charge an initial marketing fee of £260 + VAT which requires to be paid prior to the property being advertised.