



## McCLUSKEY BROWNE SOLICITORS

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### Price Transparency

#### Introduction

McCluskey Browne Solicitors is a Firm registered with the Law Society of Scotland. The Law Society has issued Guidance on what is called Transparent Pricing. This is information to be made available to clients and potential clients about fees, outlays and costs that may be incurred when instructing solicitors. The Guidance is in place for all firms in Scotland that offer legal services to consumers and private clients.

Here we provide some examples of pricing for the range of services in which we practise. These are illustrations only. Some kinds of work attract a fixed fee. The fees for other types of work are calculated by a scale or unit cost varying with the amount of time that is necessary for the completion of the case or transaction. Over and above fees, outlays are charges and costs paid out by the Firm on behalf of the client to other companies and organisations, for example the Scottish Courts and Tribunal Service, sheriff officers, expert witnesses and in property matters, Registers of Scotland, searchers and Local Authorities. These charges are incurred by the client as a necessary part of the work being done. The Firm makes no profit on these outlays.

We have provided these illustrative examples. Except in a few limited instances they will not exactly match your case or transaction. Prior to commencing the work on your behalf, as solicitors we are obliged to issue a written quotation or a written explanation of the basis of fees, vat and outlays to be incurred or expended. We do this by setting out our solicitors' hourly rates and charges for the preparation of documents, included in a Terms of Business letter. Where we cannot provide a fixed price for the work this will be the method by which fees will be calculated. Terms of Engagement will be issued to you once we have accepted your instructions to act for you.

Clients or potential clients reading this Price Transparency material should contact one of our solicitors to discuss fees as well as the work to be done and any other preliminary matters.

## **Areas of work**

### **Will**

A will is an important document to get right - in content, expression and execution. It is a mistake to think either that a will is not necessary or that it is 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. So this Firm's work will almost certainly involve discussing and advising on options and risks 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 additional fee charge.

For a basic job of consultation, advice, preparation of the single will, completion execution and storage, the fee may be £175 plus vat £35.

There are usually no outlays associated with this process.

### **Power of Attorney (Incapacity)**

There are various kinds of Power of Attorney (POA). The most-used is a document that supports a person who is incapacitated mentally and/or physically and cannot carry out his/her normal business and/or personal care – known as the Combined Power of Attorney. It allows a trusted friend or family member or multiplicity of people to do what is needed, armed with full legal rights conferred by "the Adult" as the granter of the POA is known under the Adults With Incapacity (Scotland) Act. The document is lengthy and complex and must be tailored to the specific needs and circumstances of the Adult. A basic POA may require meeting and consultation with the solicitor, the drafting of the POA document, its completion and execution (i.e. signing and witnessing) – it must also be certified by the solicitor, and then registered with the Public Guardian Scotland (OPG) to take effect.

For a basic single POA, the fee may be £275 plus vat £55. There may be an additional fee if a home or hospital visit is required. The outlay is currently £81, charged by and paid to the OPG.

### **Guardianship (Incapacity)**

Where creation of a Power of Attorney is not possible or is inappropriate, the 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 granted. The exact extent/amount of work cannot be specified in advance as it is dependent on so many different factors unique to each case. The Terms of Engagement letter often requires to include a time and line/hourly/unit rate charge.

A possible fee (based on that hourly/time and line formula) may be £2,300 plus vat £460.

Outlays may include Sheriff Court initial dues £129, additional fee £56, psychiatric fee £240, medical report £224, sheriff officers for service of application etc. £140.

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

The Firm deals with transactions for clients buying a home, whether it be a flat, house, new-build property or a plot of land to build upon. The work may involve: communications and advice by the solicitor with the client, 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 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), reporting to client and lender after registration.

The fixed fee for this work may be £650 plus vat £130.

Outlays are (for a transaction with price of say £160,000 part-funded by a mortgage) £360 to Registers of Scotland for registration of the title, £60 for registration of the mortgage, £10 for Advance Notice for mortgage, £300 for LBTT (though less if first purchase and more – payment of Additional Dwelling Supplement/ADS - if buying a second property). LBTT and title registration dues change on sliding scales according to the price of the property so the foregoing illustration is not applicable to properties of different prices.

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

The Firm deals with transactions for clients selling a home, whether it be a flat, house, or land to build upon. The work may involve 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, ordering of searches and reports, revising of a new title (disposition) and discharging 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.

The fixed fee for this work may be £650 plus vat £130.

Outlays are £60 for registration of the mortgage discharge, £10 for Advance Notice for title, £150 for title, property and mining searches.

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

The Firm 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 mortgage, 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, reporting to client and lender after registration.

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

Outlays are £60 for registration of the mortgage discharge, £60 for registration of the new mortgage security, £10 for Advance Notice for the security, £150 for title, property and mining searches.

### **Discharge of security**

For those lucky enough to have paid off their mortgage, there is an exercise to update title deeds known as discharge of security. Security is the correct Scottish legal word for mortgage. The mortgage lender has a charge over the client's title while the loan remains under repayment, and this can be removed once full redemption has been made and the bank or lender no longer has a claim over the property.

For a basic discharge of security the fee may be £200 plus vat £30.

The outlay is a charge of £60 payable to the Registers of Scotland.

### **Separation (settlement out of court)**

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, financial maintenance - even who gets the dog. This kind of work more than most others cannot be costed exactly in advance as each case is as different as each family is from another. These matters, if the negotiation between ex-partners via solicitors is successful is captured in a legally binding Minute of Agreement (contract) signed by both parties and registered. The Terms of Engagement letter often requires to include a time and line/hourly/unit rate charge.

A possible outcome is a fee, based on the time and line rate, of £1,650 plus vat £330.

Outlays may include a share of the registration dues of the Minute of Agreement £22 if paying for both extracts (copies) £11 if for one only. Where a pension share is required, a pension share implementation fee payment to the Pension Administrators/Trustees of £750

### **General advice and business**

As general practice, this Firm takes on 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. There really is no limit to the range of needs of clients when it comes to legal services and processes.

These are some examples of miscellaneous charges:

For notarising/certifying documents a fee may be £50 plus vat £10. No outlays.

For advising on and corresponding with a neighbour who is encroaching on a boundary the fee may be based on an hourly rate of £200 plus vat £40 per hour, but set as an initial maximum of £300 plus vat £60. No outlays.

For advising on a general employment enquiry,, the fee may be based on an hourly rate of £200 per hour, but set as an initial maximum of £400 plus vat. No outlays.

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

Executry is the name used by lawyers for the work required in winding up the estate of someone who has died. It is another area where it is difficult, and often impossible, to give accurate levels of fee in advance. The Terms of Engagement often require to include a time-and-line/hourly/unit rate charge. It also makes a difference to the amount of work whether or not there is available a valid will signed by the deceased – more work and other costs are likely if there is no will. The work may involve meetings and consultations between the family/executor and the solicitor, 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, DWP, HMRC, council tax departments, factors, mortgage lenders and more), drawing court documents and forms for Confirmation (Scottish equivalent of Probate), dealing with the Sheriff Court processing the forms, ingathering the financial estate (i.e. collecting in all the money), accounting to the executor and distributing the bequests and shares of estate among beneficiaries.

There may also be a home/heritable property to sell or settle. That work is not included in this example as it is a conveyancing process (see Sale of Property above), nor is calculating and dealing with Inheritance Tax, which affects only a limited number of estates and generates considerable work.

The fee for executry work in winding up a particular estate may be in one case £2,400 plus vat £480.

Outlays may include Court Confirmation dues of £261 plus £8 for each individual asset certificate if needed.

### **Sheriff Court Work**

The firm carries out sheriff court work covering a wide range of matters both civil and criminal.

Legal Aid may be available – please ask about this if you think that you may qualify.

Fees can vary from £250-400 plus VAT £50-80 for an undefended payment action. Court fees of up to £132 are charged in addition. If a sheriff officer is required for service of the proceedings (if the postal authorities are unable to effect service) another £90-100 of outlays will apply. This does not include the cost of enforcing the judgment to obtain payment, which may incur fees and outlays of the same amount as for obtaining the judgment. Remember that there are many cases where the debtor simply can't pay. You need to take this into account when deciding whether to raise court action or not. It is bad enough not being paid what you are owed in the first place but being out of pocket a further £1,000 or more is even worse.

For defended actions in the sheriff court of all types, whether contract/payment disputes, divorce, personal injury or whatever, the costs can vary widely and you must also be aware that if you lose your case you are likely to be liable to pay the successful party's expenses as well as your own.

This is an area where there may be many unexpected developments as a case progresses and it will frequently be the case that even the best estimate of fees is considerably exceeded. There may also be expert witnesses' fees to be considered.

Other than undefended actions we will never carry out court work on a fixed price basis. The hourly rate will be specified in the Terms of Engagement.

#### A typical sheriff court action

Many if not most such actions settle very close to the date fixed for a full hearing. If you have a strong case you should not be dissuaded from pursuing it by cost considerations. In such situations we can look at the possibility of the litigation being funded in part by a success fee which we will be happy to discuss with you having regard to the particular circumstances of your case.

Some personal injury cases can be funded by insurance schemes – please ask if you want to explore this option.

#### **Employment Tribunals**

The same considerations apply to these tribunals as to defended sheriff court actions and the price information is broadly the same. As the tribunals sit in Glasgow for the most part there is an element of travel time to be included in the fee estimate should the tribunal go ahead. As with sheriff court actions many tribunal cases are settled very close to the date when the full hearing is scheduled to start.