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Getting the best from your solicitor
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If you would like to order more copies of this leaflet, please see the inside back cover for details.

The advice given here applies to solicitors in Scotland, not to those in England, Wales and Northern Ireland.

The National Consumer Council has produced a similar leaflet for England and Wales, and information about how to order copies of their leaflet can be found on the inside back cover.
Around one in ten people each year seek advice or help from a solicitor, many of them for the first time. Whatever your legal problem, it helps to know what to expect. What will the solicitor need to know about you and your problem? What kind of information should the solicitor give you? How do you find out about how much it will cost? And what should you do if you have a complaint?

This leaflet is a brief guide to your rights and responsibilities as a client. It suggests the steps you can take to make sure you get the best from your solicitor.

**Step 1**
Finding a solicitor  page 2

**Step 2**
Your first appointment with the solicitor  page 3

**Step 3**
Your solicitor and your case  page 8
Finding a solicitor

No solicitor can be experienced in every type of law. They often specialise, in buying and selling houses for instance, or family or criminal cases. So you may have to spend a little time finding the right solicitor for your needs.

A citizens advice bureau (CAB) or other local advice centre may be able to guide you. They keep lists of local solicitors. You may also be able to get advice from friends or relatives who have already used a solicitor for the same type of legal problem, or from work colleagues or your trade union. The Law Society of Scotland will be able to provide you with a list of solicitors in your area, and they are also listed in Yellow Pages.

Some people are anxious about going to a solicitor because they are worried about how much it will cost. You might like to telephone a few solicitors to find out how much they charge, and what this includes, but remember that the cheapest may not be the best. It is more important to have a solicitor who will do the right job for you. Many solicitors charge little or nothing for a first interview where you can ask about the likely costs before deciding whether to go ahead.

And you may find you qualify for help towards a solicitor’s bill through the legal aid scheme (for more about legal aid, see page 5).
Step 2

Your first appointment with the solicitor

• Fixing the appointment
You can do this by telephone or by calling at the solicitor’s office. Explain the kind of service you need – that you want to claim compensation for an accident, for example. This will mean that you see the right solicitor at that firm. You should get an appointment within five working days, unless it is very urgent. If it is difficult for you to travel to the solicitor’s office, for instance because you are disabled, ask if he or she can arrange a home visit.

• Before you see the solicitor
At this first meeting, the solicitor will want to find out what your legal problem is. He or she will assess the help you need and decide how best to handle your case. Think before you go about what you want: what points you want to get across and the information you need from the solicitor.

The solicitor will need as much information as possible about your particular problem. Get together any relevant important letters or other papers (if you can’t decide which are the most important, take them all). Think over the information you will need to give and the questions you want to ask. It often helps to write down a list of questions and reminders for yourself and take it with you to the meeting.
• **At the meeting**

The solicitor will ask a lot of questions – because he or she needs to know the facts about your problem before being able to assess the situation. But you need to get information from the solicitor, too. Do not be afraid to ask for information and for an explanation of anything you do not understand. The solicitor is there to help you and to work on your behalf. Find out if this solicitor will be dealing with your case throughout. If not, ask to meet the person who will.

• **Talking about costs**

Ask at the first meeting how much you are likely to have to pay in total. Solicitors will often try to give you the best estimate they can about how much the bill is going to be and how this is worked out.

Solicitors may charge a fixed fee for a whole job, or they may charge according to how much time they actually spend on the work. (This includes time spent with you, so remember that you will be adding to the final bill each time you make contact.)

At this first meeting you may want to agree a fixed spending limit with your solicitor. If that limit is reached, the solicitor will have to contact you before doing any more work.

If you do not want to get one large bill at the end of your case, ask to have regular (say, monthly) bills sent to you. Your solicitor can ask you to pay something in advance or before the work is complete.
Sometimes, your solicitor will have to pay for other services and fees for you, for instance, for medical reports or registration fees. You will be responsible for these costs.

In some situations, you risk having to pay the other side's legal bills as well as your own. If so, your solicitor must tell you about this risk before you decide to go ahead.

Remember, legal services can be costly. You may not know how much work is being done behind the scenes, making your bill mount up.

**Legal aid**

You may qualify for financial help with your legal expenses, including your solicitor's bill. *Legal Aid*, as it's called, does not cover all types of legal problems. And it is means-tested, so you will qualify only if your income and savings are below a certain amount.

What's more, even if you do qualify, legal aid may not cover all your legal costs: you may still have to pay something yourself. And if you win your case, you may have to repay some of your legal aid.

The solicitor must explain all this and tell you if you are likely to qualify for legal aid. If you are, and if this solicitor does legally aided work, ask whether he or she will help you with the application to the Scottish Legal Aid Board. If the solicitor does not do legal aid work, ask him or her to recommend someone who does.

Your local CAB or other advice agency will be able to give you leaflets and more information about legal aid.
• **Putting it in writing**

By the end of this first meeting, ask your solicitor to confirm in a letter to you:

• that he or she has taken on the work and the advice you have been given;

• the name of the person in the firm who will actually be dealing with your case day-to-day;

• the time the whole business is likely to take;

• any action the solicitor is taking on your behalf;

• when you will next hear from your solicitor;

• an estimate of the costs;

• any more information the solicitor needs from you at present;

• the person in the firm to contact should you have a complaint about your solicitor’s services.

• **First meeting: a checklist**

To make sure you have covered all the ground at the first meeting, this checklist may be helpful.
By the time I leave the solicitor's office, I need to be sure:

- How much is it going to cost me, if I go ahead?

- How much time will it take?

- Did I fully understand what the solicitor said?

- Has the solicitor fully understood what the problem is?

- Have I explained all the facts?

- Has the solicitor agreed to write to me confirming that he or she is taking the work on?

- What happens next and do I need to do anything?

- How often can I expect to hear from the solicitor?
Step 3

Your solicitor and your case

It is important to keep in regular contact with your solicitor, while still keeping an eye on costs. Whether you are paying out of your own pocket or you have legal aid, your solicitor is working for you. He or she should keep you advised about your case and consult you when necessary. There may be times, however, when your solicitor has to do something without asking you first in order to protect your rights.

• Keeping in touch

After a time, you may want to know what is happening on your case. If your solicitor does not contact you by an agreed date, ask why. Do not hesitate to ask for a progress report by letter, telephone or face-to-face. Remember though, that asking the solicitor to do more work will add to the costs.

Let your solicitor know at once about any changes that might affect your case. If you have been given legal aid, this applies to any changes in your financial position. The amount of legal aid you get is worked out according to your income and savings now – and not when you first applied for legal aid.

The solicitor, too, must keep you informed about any new developments. For instance, if extra work – and, therefore, extra costs – looks likely as the case proceeds, the solicitor must ask for your approval before going ahead.
Where no fixed fee has been agreed, the solicitor should let you know regularly approximately how much your case has cost so far. You can also ask for a written statement of your costs at any stage.

A solicitor will not always be able to tell you exactly how much the work is going to cost. However, if the final bill differs from any estimate, he or she should tell you why.

- **Changing your solicitor**

If you are paying for your solicitor yourself and you are not happy with the way the solicitor is handling your case, you can take the work to another firm.

If you are not paying all your own costs – for instance, if you are legally aided or your trade union is paying your legal costs – you need permission to change solicitors. (Contact the Scottish Legal Aid Board or your union.)

If the firm of solicitors dealing with your case decides to transfer it to someone else in the firm, they should tell you at once. If you are not happy with the new solicitor, you can take your business to another firm. Remember, you will have to pay your first solicitor any outstanding fees due, and he or she can hold onto the file or papers until you have done so. Bear in mind that any new solicitor is going to have to spend some time getting familiar with the details of your case.

Don’t forget, if you have started a case yourself (if you are making an accident claim, say, but
not if someone else is suing you for a debt), you can decide to call a halt at any time. Just tell your solicitor. Remember, however, you may have to pay not only your own costs, but possibly the other person’s too – ask your solicitor for advice.

**Using an advocate or solicitor-advocate**

Sometimes, you may have to employ an advocate as well as a solicitor. Advocates are lawyers who have particular qualifications which allow them to represent people in particularly complex court cases. This is necessary in some cases which go to the Court of Session in Edinburgh, and in serious criminal cases. In other cases, your solicitor may advise you it is best to employ an advocate because your case may be particularly complicated. If so, your solicitor will explain why and talk to you about which advocate to choose. If possible, your solicitor will arrange for you to meet your advocate before the court hearing – or explain why this is not possible.

Some solicitors are also now qualified to appear in the High Court or the Court of Session. They are called solicitor-advocates and can see the whole case through themselves. If you want to use a solicitor-advocate ask whether there is one in the solicitor’s firm.

**When something goes wrong**

Even in the best solicitors’ firms, things can sometimes go wrong.
If you have a complaint, first speak to your solicitor and ask for an explanation. Most complaints and misunderstandings can be settled informally like this.

If you are not satisfied after speaking to your solicitor, ask for the name of someone within the firm who handles complaints.

If you are still not satisfied, you can then take your complaint to the Law Society of Scotland. The Law Society will try to help you resolve the dispute with your solicitor. If this is not possible, the Law Society can make a solicitor pay compensation, or pay for the problem to be put right, or the solicitor can be disciplined for professional misconduct. A local advice agency will be able to tell you how to go about making a complaint, or contact the Client Relations and Complaints Department at the Law Society of Scotland yourself (the address is at the end).

A last resort if your solicitor has been negligent is to take court action against him or her. But this is not easy and you will probably need to employ another solicitor.

If you think you have been overcharged or your solicitor’s bill is well above the estimate, you should take it up with the solicitor’s firm first. After that, if you are still dissatisfied about a bill, there are two ways of taking your complaint further:

- in some cases, if you feel the work has not been done properly, you can complain direct to the Law Society and ask to have the bill reduced;
in any dispute about a solicitor’s bill, you can ask the ‘Auditor of Court’ to have the account ‘taxed’ to reduce the amount you have been charged. You have the right to ask your solicitor to do this but it may cost you money. You should ask your solicitor to explain the procedure to you.

Again, your local advice agency can give you details of how the system works.

If you are unhappy with the way the Law Society has handled your complaint, you can take the matter up with the Scottish Legal Services Ombudsman. The Ombudsman has the power to investigate, consider and report upon the way in which the Law Society has considered a complaint. The Ombudsman is, therefore, unable to deal with a complaint from a client until the Law Society has had an adequate opportunity of handling the complaint (the address is at the end). A complaint to the Ombudsman has to be made within six months of the Law Society’s investigation being completed.