

## Follow Scotland's home buying process

Y Pwyllgor Deisebau | 7 Mawrth 2017

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### Research Briefing:

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**Petition number:** P-05-744

**Petition title:** Stop Gazumping; Follow Scotland's Buying Process

We call on the National Assembly for Wales to urge the Welsh Government to review the way we buy and sell houses and to assess whether it would be possible to implement a system like Scotland's to stop gazumping.

My name is Victoria Bridle. My husband and I used to live in South East London and moved to North Wales about three and a half years ago. Just a few weeks ago we put in an offer on a house that we fell in love with, which was accepted so the House was Sold Subject To Contract. Our estate agent had told us that they told the other agent to take it off the market so it was no longer available for viewings or acceptances. Everything was going really well until we got told by our Estate Agent that the other agent had a phone call saying someone else put an offer in and that got accepted. So all we paid out was the Solicitors fees.

We setup this Petition to try and stop this from happening as we had everything including a Mortgage offer in place.

To top it off we even saw the Sellers on the Saturday with our 18 month old to have a final look around for fixtures and fittings. The sellers even told us what they wanted to leave for us and we shook on it too. When telling other people they had thought that Gazumping was illegal, clearly not.

To top it off I went in to this other agent the other day to ask if they had anything else on sale. They even tried giving to me the very house we got Gazumped on. So they are clearly trying to Gazump these people which is clearly wrong. Please sign this petition and pass it on to family and friends to sign to try and stop this from happening.

## Background

The system under which homes in Scotland are bought and sold is different from that used in Wales.

In England and Wales properties are generally marketed for sale by estate agents. The price will often be described as ‘offers in the region of...’ and offers are made through the selling estate agent. When an offer is accepted, it is done so ‘subject to contract’. Until contracts are exchanged either the vendor or the purchaser can withdraw from the transaction without penalty. Prior to contracts being exchanged, the prospective purchaser will normally commission a survey, undertake legal searches and arrange a mortgage if necessary. While a property is often withdrawn from the market when an offer is initially accepted, this is not always the case.

In Scotland, many solicitors are also estate agents. Solicitors will therefore market properties as well as handling conveyancing, although there are also independent estate agents. Properties are generally marketed at an ‘offers over’ price with a closing date or at a fixed price. The vendor needs to prepare a Home Report which must include a survey (including a valuation), an Energy Performance Certificate and a property information questionnaire completed by the vendor. Properties would generally be withdrawn from the market when an offer is accepted. The contract for the sale is then negotiated between the parties.

While gazumping (accepting an offer higher than one that has already been accepted) can happen in Scotland, it is rare because of the Law Society of Scotland’s [rules and guidance on conveyancing](#). This guidance applies equally to solicitors acting as estate agents, as to those acting in the conveyancing process.

The guidance notes that solicitors acting for a vendor should not accept subsequent instructions from the vendor to accept an offer from another party unless and until negotiations with the original offeror (prospective purchaser) have fallen through for bona fide reasons unconnected with the possible offer from another party. If the vendor wanted to accept a higher offer, without good reason, they would therefore need to instruct another solicitor (incurring additional costs). The guidance notes similar requirements when a prospective purchaser seeks to lower their offer.

## Welsh Government action

The Cabinet Secretary for Communities and Children has written to the Committee advising that this is not a devolved area and is therefore the responsibility of the UK Government.

## UK Government action

There have been attempts to reform the home-buying process in England and Wales by the UK Government. Home Information Packs were introduced by Tony Blair's government, but were subsequently abolished by the coalition government led by David Cameron.

The current UK Government announced at the time of the 2015 Autumn Statement that it would publish a call for evidence on home buying, exploring options to modernise the process and provide consumers with different and potentially quicker, simpler, cheaper and more effective ways to buy and sell a home. Although the call for evidence was expected in 2016, it has not yet been issued. The recent UK Government [Housing White Paper](#) (which applies to policy in England only) says "We will also identify what more can be done to reduce delays and fees resulting from conveyancing to help ensure the market works better for home buyers".

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