

# **Administrative Procedures for Agents Administering the First Home Fund**

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## **General Information on the First Home Fund**

1. The First Home Fund is a Scottish Government scheme to help first time buyers purchase their first home. It provides up to £25,000 as an equity loan towards the purchase of a home in Scotland.
2. Buyers must contribute a deposit of around 5% of the purchase price (subject to lender requirements), towards the purchase of their home. Buyers must also take out a minimum mortgage of 25% of the property value.
3. The scheme can fund the purchase of either existing properties or new build properties.
4. A central conveyancing contract has been established under the Scottish Government Framework Agreement for the Provision of Legal Services for the Administering Agents operating the First Home Fund. Scottish Government Solicitors have been appointed to carry out this work. There is no requirement for Administering Agents to appoint their own solicitors.

## **Role of the Administering Agent managing and administering the Scheme**

5. The Administering Agent will manage and assess applications to the scheme from prospective buyers. The following documentation to assist Administering Agents to manage and assess applications to the scheme is provided separately to this document.
  - Application Form
  - Award Letter
  - Standing Instructions to Solicitors
6. Administering Agents are acting for Scottish Ministers in administering the scheme and so must follow these administrative procedures and have due regard to the interests of the Scottish Ministers.
7. The scheme can only assist 'first time buyers'. Confirmation of the buyer's status must be provided by their solicitor. For the purpose of this scheme the definition of a first time buyer is
  - A person who does not own nor has previously owned a dwelling in Scotland, the rest of the UK or the rest of the world (All forms of ownership in the applicable legal system which are equivalent to ownership in Scotland are treated as ownership for this purpose). Where joint applicants apply only one requires to be a first time buyer, provided that none of the joint applicants remain the owner of a

property by the time the applicants are completing the purchase of the property with shared equity support through the scheme.

8. Financial assistance will be awarded per property purchase. So, for example, if there are two or more first time buyers buying a house together, they can only make one joint application which is eligible for one award of financial assistance e.g. a single sum of up to £25,000.
9. Only buyers purchasing with a minimum mortgage of 25% can apply. All mortgages to fund the purchase must be capital repayment, and no interest only mortgages are allowed. Cash buyers are not eligible for financial assistance.
10. Buyers must occupy the property as their sole and only residence. The scheme is not available to assist buy-to-let investors and upon settlement it must be the only home owned by all of the buyers who are to be named on the title to the property.
11. Any value of property can be purchased with support from the scheme. Existing properties and new build properties can be purchased. However, all properties purchased must meet the tolerable standard.
12. The maximum financial contribution per property will be £25,000. However Scottish Ministers equity stake shall not be more than 49% of the property value or purchase price, whichever is lower. For example the maximum financial assistance provided for a property valued and purchased at £40,000 will be £19,600.
13. All applicants to the scheme must complete an online application form to apply for assistance and the information provided will be considered by the Administering Agent to determine if the applicant's application is eligible or not. Applications can only be accepted after the buyer has had an offer accepted on a property (an oral acceptance is sufficient) or they have reserved a new build property.
14. Administering Agents must provide each eligible buyer with a copy of the scheme Post Sales brochure at settlement of the purchase of their home.
15. Buyers must have had an offer accepted on a property (even if only orally) before applying to the scheme. It will be important that Administering Agents make this point clear to prospective buyers and their representatives, including Independent Financial Advisors (IFAs) and solicitors.
16. Applications to the scheme cannot be made after the conclusion of missives on a property purchase.

### **Sustainability Assessment**

17. The Administering Agent will be required to check that the applicant's monthly costs of mortgage and debt repayments are no more than 45% of their net disposable income. Payslips should be requested to verify net disposable income.

## Confirmation of Approval

18. Once satisfied of eligibility, the Administering Agent can proceed with issuing an Award Letter to the buyer, the applicant's IFA, the buyer's solicitor and to Scottish Government solicitors. The buyer's solicitors should also be sent a set of Standing Instructions. These standing instructions explain to the buyer's solicitor what they must do to facilitate the transaction. The Scottish Ministers will be advised on each transaction by the Scottish Government solicitors, who will be responsible for preparation of the Shared Equity Agreement, the Standard Security in favour of Scottish Ministers and the Ranking Agreement. However, to avoid unnecessary duplication of legal work, the applicant's solicitor will be asked to carry out all necessary title and property due diligence on the Scottish Ministers' behalf. The Standing Instructions therefore make clear to the applicant's solicitor what is expected of them, including them owing a duty of care to Scottish Ministers and submitting a Solicitor's Confirmation Letter and a certificate of title in the required terms.
19. **The Administering Agent should note that Scottish Ministers reserve the right to decide, at their discretion, not to instruct a buyer's solicitor to act in accordance with the Standing Instructions. If Scottish Ministers determine that it is unwilling to issue the Standing Instructions to any particular solicitor or legal firm, either permanently or for a period of time, Agents will be notified, and the applicable alternative arrangements explained. In the absence of such notification to Agents, however, Agents should proceed in line with paragraph 17 above.**
20. **Settlement of a transaction must not take place unless:-**
  - 20.1 **Scottish Government's solicitors have confirmed to the Administering Agent that either the necessary shared equity documentation is signed and in place or that acceptable arrangements have been put in place between Scottish Government's solicitors and the buyer's solicitor for delivery of the documentation; and**
  - 20.2 **the Solicitor's Confirmation Letter and the certificate of title have been received by the Administering Agent and they are in acceptable terms.**
21. Once the Award Letter has been issued, the buyer's IFA will prepare a full mortgage application for submission in line with the details on the Award Letter. A list of known participating lenders can be found on the Scottish Government website.
22. Agents will be asked, in the weekly report, to provide information on fallen/cancelled/withdrawn applications and should be aware that **no Awards should be recycled under any circumstances.**
23. If an eligible buyer has a Help to Buy: Individual Savings Account (ISA) or Lifetime ISA (UK Government schemes) they can use the proceeds of the ISA as a deposit towards the purchase price of a home. The eligible buyer's solicitor

is required to register with the UK Government in accordance with the rules of the Help to Buy: ISA scheme before they can apply for the release of funds on behalf of their client. Further information on these matters is provided in the Standing Instructions. More information on the Help to Buy: ISA scheme can be found at [www.helptobuy.gov.uk/home](http://www.helptobuy.gov.uk/home). Help to Buy: ISAs are only available to first-time buyers and not second steppers. More information on the Lifetime ISA can be found at [www.gov.uk/lifetime-isa](http://www.gov.uk/lifetime-isa)

24. Buyers are not eligible to apply to the scheme if they are or will be receiving support through another Scottish Government shared equity scheme (e.g. Help to Buy (Scotland) Affordable New Build and Help to Buy (Scotland) Smaller Developer, New Supply Shared Equity or Open Market Shared Equity).

## Property Valuation

25. Buyers can purchase a home at a price which is above the property valuation. However, in this case the property valuation, rather than the purchase price, **must** be used to calculate the Scottish Government equity share. Conversely, if the buyer has agreed to buy a property at a price which is less than the valuation, the lower price must be used to calculate the Scottish Government equity share.
26. For existing properties, the valuation is stated in the Home Report, if one is available. For new build sales or for off-market transactions where there is no requirement on the seller to provide a Home Report, the valuation is either part of the mortgage offer or a separate valuation report will have to be provided to the lender. The Award Letter is subject to receipt by the applicant's solicitor of a valuation.
27. Scottish Ministers must be able to rely on the property valuation for the purpose of calculating the percentage equity stake held in the property. Generally this will be done by way of a Letter of Reliance which is asked by Scottish Ministers from surveying firms registered with the RICS and which will cover all valuations undertaken by the firm of surveyors in relation to the Scheme within a 12 month period. A list of those surveyors which currently provide a Letter of Reliance in these terms can be obtained from Lesley Dyker at the Scottish Government ([HousingMarkets@gov.scot](mailto:HousingMarkets@gov.scot)). Any surveyor firm not on this list should be encouraged to contact the Scottish Government to have their name added to the list of surveyors which provide Letters of Reliance.
28. If a valuation is undertaken by a surveying firm which does not participate in these reliance arrangements, the valuation report must expressly state that it can be relied upon by Scottish Ministers. The Administering Agent is required to check the property valuation against the full purchase price.
29. For new build purchases the Administering Agent will receive a property valuation with the Solicitor's Confirmation Letter. The Home Report should be attached at application stage for all existing property purchases sold on the open market or if it is an off market sale a valuation will require to be attached.

30. The Administering Agent should provide the buyer's solicitor with a web link to the Sales Log Form either at this point or at the point of issuing the Award Letter and ask for it to be completed online. The Sales Log Form is an evaluation and monitoring form that will be passed on to the Scottish Government, enabling them to analyse and understand who is applying to the scheme. It should be returned once the buyer has completed their mortgage application. If a buyer wishes to alter the value of the equity loan they wish to obtain from the Scottish Government, they can do so at this stage as long as they still meet the scheme criteria.
31. Provided that the valuation of the property is satisfactory, the Administering Agent should submit an electronic grant claim to the Scottish Government. Equity share percentages should be calculated to two decimal places.
32. **Settlement must not take place unless the Certificate of Title has been received by the Administering Agent from the applicant's solicitor.** The Certificate of Title will contain the settlement date.

### **The responsibilities associated with buying a home**

33. An applicant will be responsible for their own legal and, if necessary, valuation costs incurred in relation to the purchase, and will be responsible for all tax and registration costs. The owner will have full title to the property. Scottish Ministers hold a heritable security over the property which is discharged upon the sale of the property or purchase of the remaining equity stake by the shared equity owner.
34. An owner is expected to occupy the property as their only residence and they will be responsible for keeping the property in a good and habitable state of repair. As well as making mortgage repayments and paying tax to their local authority, an owner must also insure their property. An owner is responsible for all maintenance, repair and insurance costs and not just a percentage, and if the property has common and shared areas they will be responsible for paying any common maintenance or service charges.
35. Administering Agents should recommend to buyers that they fully discuss with their solicitor the obligations that come with being an owner of a Shared Equity property – and the associated costs – as well as the full terms of the Shared Equity documentation.
36. The standard styles of legal documentation are set out in **Appendices 1-3 of the standing instructions (these are set out in a separate document published on the Scottish Government website)**

### **Timing and Monitoring of Transactions**

37. Buyers must have identified a property and had an offer accepted (even if only orally) before applying to the scheme. For new build purchases, buyers must first have reserved a plot with a builder. Missives for each transaction must be

concluded within 3 months of the date of the issue of an Award Letter. If missives for a transaction have not been concluded by 2 weeks prior to the end of the 3 month period of the date of the issue of an Award Letter, the administering agent should write to the buyer/buyer's solicitor to inform them that the application is due to expire in 2 weeks' time. If the 3 month period expires without missives being concluded, then the Award Letter is cancelled, and the applicant will no longer qualify for support under the Scheme and will have to submit a fresh application for possible financial support under the Scheme. Settlement of the purchase must occur within six months of conclusion of missives. Failure to do so could result in the transaction no longer being eligible to receive assistance.

38. If it is foreseeable that a purchase transaction is unlikely to complete within the period set out above, the purchaser must inform the Administering Agent as soon as possible in order for the Agent and Scottish Government to determine if it is possible for any flexibility to be provided in order to extend the permitted timescale for completion. **Flexibility should only be provided in certain limited situations which are genuinely unforeseen - for example, severe weather causing a delay to the building work, a delay by a local authority in inspecting the home in order to certify completion, awaiting a necessary letter of comfort, delay in mortgage agreement being received or the issue of grant of confirmation for an executry sale.**
39. The Administering Agent should monitor the progress of all transactions.

### **Administration Fees**

40. The Administering Agent is required to charge an administration fee to each buyer on behalf of Scottish Ministers. The fee will be £550.00. This will be collected after the Award Letter has been issued and no later than three weeks before the expected settlement date.
41. If the transaction fails after payment of the fee, the fee is to be refunded to the buyer in full, except in cases where there has been misrepresentation or fraud on the part of an applicant. If already remitted to the Scottish Government, refunds will be front funded by the Administering agent and claimed back from the Scottish Government on a quarterly basis.

### **Payment Claims**

42. Processing of payment claims in HARP works as follows:-
  - The **Applicant Finance Inputter** will enter transactions eligible for payment on a claim spreadsheet. This spreadsheet will perform various checks such as ensuring postcodes are in upper case and developers names are in the agreed format. Once complete the inputter will click on the create CSV file button on the spreadsheet. This file should then be uploaded to the HARP system and forwarded for internal authorisation.

- The **Applicant Finance Approver** will check the claim and, if satisfied, will authorise the claim or reject it. The approver may add comments, as appropriate, for the Scottish Government Finance team.
  - The **Scottish Government housing finance team** will check the claim and all relevant back up documents and either accept or reject the claim.
  - If the claim is accepted it will be processed for payment and marked paid, if rejected it will be returned to the applicant for a rework.
43. In the event of a purchase failing, or if a change occurs to the data as submitted, then the following procedure applies:-
- The **Applicant Finance Approver** creates a change request, adding supporting documentation as required.
  - The Scottish Government housing finance team will review the request and either approve or reject it, adding comments as necessary. If the change is for a failed sale then a sales invoice will be sent out.
44. The Scottish Government will mark off settled sales in Housing and Regeneration Programmes (HARP) that are notified by their solicitors. This will feed into a standard report in the HARP system indicating which properties have not settled within 14 days of the payment of grant. It is the responsibility of the **Applicant Finance Approver** to ensure that dates of entry are reviewed and monitored and appropriate action is taken for those transactions breaching 14 days

### **Monitoring who is provided with assistance under the scheme**

45. The Scottish Government monitors who is housed in properties funded by the scheme. Information collected via the scheme Application Form and Sales Log Form will be used to monitor and evaluate the scheme.

### **Maintaining Information on transactions and reporting arrangements**

46. The Administering Agent should maintain a complete electronic record of each transaction including all relevant documentation.
47. Administering Agents should provide Scottish Government with a weekly report in the format that will be provided separately (with instructions) to this guidance.

### **After Sales Work for all Scheme Transactions**

48. The general After Sale Shared Equity Procedures Guidance 2019 are used by Administering Agents administering after sale shared equity work as part of this scheme, as well as other Scottish Government shared equity schemes. The procedures contain template emails and correspondence to be used for a variety of after sale issues.

## **Data Protection**

49. Administering Agents act as a processor of personal data in relation to scheme applications. Further detailed information is contained in the <https://www.gov.scot/publications/shared-equity-schemes-privacy-notice/> published on the Scottish Government website and updated from time to time.
  
50. All shared equity information stored by Administering Agents on behalf of the Scottish Government must be stored in electronic form.



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