

Higher National Unit Specification



General information for centres

Unit title: Estate Agency

Unit code: F1A0 34

Unit purpose: This Unit is designed to provide candidates with the knowledge and skills required for those working in an Estate Agency.

On completion of the Unit the candidate should be able to:

- 1 Apply the law of agency as it relates to those operating an estate agency business.
- 2 Apply the specialist law applicable to those operating an estate agency business.
- 3 Prepare a qualified acceptance of an offer to purchase a residential property.

Credit points and level: 1 HN Credit at SCQF level 7: (8 SCQF credit points at SCQF level 7*)

**SCQF credit points are used to allocate credit to qualifications in the Scottish Credit and Qualifications Framework (SCQF). Each qualification in the Framework is allocated a number of SCQF credit points at an SCQF level. There are 12 SCQF levels, ranging from Access 1 to Doctorates.*

Recommended prior knowledge and skills: Access to this Unit is at the discretion of the centre, however candidates would normally be expected to have competence in communication at SCQF level 6 or equivalent. It is recommended that candidates have achieved the Units F1B3 34 *Commercial Law*, F1B2 35 *Conveyancing*. Partial credit transfer may be available to those who have completed these Units.

Core Skills: There are opportunities to develop the Core Skills of Communication and Problem Solving at SCQF level 6 in this Unit, although there is no automatic certification of Core Skills or Core Skills components.

Context for delivery: If this Unit is delivered as part of a Group Award, it is recommended that it should be taught and assessed within the subject area of the Group Award to which it contributes.

Assessment: Assessment of this Unit could be by two assessments. Outcomes 1 and 2 could be assessed together by two case studies with questions attached covering a sample from the knowledge and/or skills from both Outcomes. The assessment will be carried out under controlled conditions with the candidate being allowed two A4 sheets of notes. Outcome 3 could be assessed by an open-book practical assignment in which candidates will be provided with an offer to purchase a detached urban residential property and are required to explain to the seller three selected clauses from the offer and from given instructions prepare three qualifications which would be included in a qualified acceptance of the offer provided.

Centres will have discretion in designing assessments so that they can assess outcomes individually or combine outcomes where they consider it appropriate.

Higher National Unit specification: statement of standards

Unit title: Estate Agency

Unit code: F1A0 34

The sections of the Unit stating the Outcomes, knowledge and/or skills, and Evidence Requirements are mandatory.

Where evidence for Outcomes is assessed on a sample basis, the whole of the content listed in the knowledge and/or skills section must be taught and available for assessment. Candidates should not know in advance the items on which they will be assessed and different items should be sampled on each assessment occasion.

Outcome 1

Apply the law of agency as it relates to those operating an estate agency business

Knowledge and/or skills

- ◆ Constitution of the principal agent relationship
- ◆ Methods of constitution including express, implied, holding out, ratification and necessity
- ◆ The different types of authority of agent actual, implied apparent and ostensible
- ◆ Duties of agent to principal — not to act in conflict of interest, due care, obey instructions, keep proper accounts
- ◆ Rights of the agent against the principal — remuneration, relief, reimbursement and lien
- ◆ The contractual relationships between the principal and third party where the agent acts for a disclosed principal, for an undisclosed principal and where the agent acts not disclosing that he is acting as an agent
- ◆ The rights and duties of the agent to the third party
- ◆ The liability of the principal to the third party
- ◆ Termination of agency — contractual (period of agency, achievement of purpose), operation of law — death, insanity, bankruptcy etc.

Higher National Unit specification: statement of standards (cont)

Unit title: Estate Agency

Outcome 2

Apply the specialist law applicable to those operating an estate agency business

Knowledge and/or skills

- ◆ The provisions relating to the regulation of Estate Agents
- ◆ The provisions relating to misrepresentation and misdescription of heritable property
- ◆ The information, which must be available to purchasers of residential property
- ◆ The provisions relating to the prevention of discrimination in the provision of services

Evidence Requirements for Outcomes 1 and 2

Candidates will provide written/oral evidence to demonstrate that they understand the relevant principles of estate agency law by completing eight restricted response question from the knowledge/skills for Outcomes 1 and 2.

Written/oral evidence of knowledge could be provided from a sample of the knowledge and/or skills sections. Candidates will be required to be sampled on five of the Knowledge and/or skills from Learning Outcome 1 and three from Learning Outcome 2.

For the assessment of Outcomes 1 and 2 the questions sampling the knowledge must be correctly answered.

Assessment guidelines for Outcomes 1 and 2

The assessment for Outcomes 1 and 2 will be carried out under supervised controlled conditions with candidates being allowed two A4 sheets of candidate prepared notes, which should be passed to the lecturer on completion of assessment. The assessment could last two hours at one sitting with candidates being accurate in seven questions.

Should there be any ambiguity regarding candidates' response to the assessment, or authenticity of the candidate's response, oral questioning may be utilised to eliminate any doubt as to the candidates' understanding of the relevant legal principle. The lecturer should note questions and the candidates' response.

Outcome 3

Prepare a qualified acceptance of an offer to purchase a residential property

Knowledge and/or skills

- ◆ The various forms of offer to purchase heritable property including a formal contract, articles of roup and missives
- ◆ Explain clauses commonly found in an offer to purchase a residential property and prepare a qualified acceptance of an offer to purchase a residential property
- ◆ Essential clauses under common law in a contract to purchase heritable property

Higher National Unit specification: statement of standards (cont)

Unit title: Estate Agency

- ◆ Other clauses commonly found in an offer to purchase a residential property including clauses relating to title and clear land certificate (first registration and subsequent dealing with a registered title), date of entry, passing of risk, moveable property, conditions relating condition of plumbing, wiring and central heating systems, apportionment of payments, property enquiry certificates, moveable property and fixtures, subject to survey and Matrimonial Homes and Civil Partnership documentation
- ◆ Completion of a qualified acceptance

Evidence Requirements for Outcome 3

Candidates could provide written/oral evidence to demonstrate that they can apply the relevant principles of estate agency law in preparing a qualified acceptance of an offer to purchase a residential property.

The assessment could be in the form of an assignment which consists of an offer to purchase a residential property, the candidate being required to explain accurately three selected clauses, one of which must be a clause essential under common law. The candidate must also accurately prepare and complete a qualified acceptance for the provided offer, containing three qualifications.

Assessment guidelines for Outcome 3

Candidates could be provided with relevant information about a residential property for purchase in whatever format is most interesting for the candidates. Wherever possible links should be drawn to practical examples and to the candidates' own experiences and any existing knowledge of relevant legal principles.

Should there be any ambiguity regarding a candidate's response to the assessment, or authenticity of the candidate's response, oral questioning may be utilised to eliminate any doubt as to the candidates understanding of the relevant legal principle.

Administrative Information

Unit code:	F1A0 34
Unit title:	Estate Agency
Superclass category:	TC
Original date of publication:	March 2007
Version:	02 (September 2009)

History of Changes:

Version	Description of change	Date
02	Assessment guidelines amended to allow centres greater discretion in designing assessments.	26/08/09
	Wording revised relating to guidance for candidates with additional support needs.	

Source: SQA

© Scottish Qualifications Authority 2007, 2009

This publication may be reproduced in whole or in part for educational purposes provided that no profit is derived from reproduction and that, if reproduced in part, the source is acknowledged.

SQA acknowledges the valuable contribution that Scotland's colleges have made to the development of Higher National qualifications.

Additional copies of this Unit specification can be purchased from the Scottish Qualifications Authority. Please contact the Customer Contact Centre for further details, telephone 0845 279 1000.

Higher National Unit specification: support notes

Unit title: Estate Agency

This part of the Unit specification is offered as guidance. The support notes are not mandatory.

While the exact time allocated to this Unit is at the discretion of the centre, the notional design length is 40 hours.

Guidance on the content and context for this Unit

The purpose of this Unit is to provide the candidate with the skills and knowledge to understand and apply the law as it relates to those operating an Estate Agency business.

It provides knowledge of the legal and regulatory framework in which Estate Agents operate and provides knowledge of the law relating to the sale/purchase of residential property, which is the main business of Estate Agents.

Outcomes 1 and 2 are designed to provide the background to the main business of an Estate Agent and as such it is anticipated that centres may wish to allocate half of the notional design length to Outcome 3.

Outcome 1

This Outcome considers the law relating to agency. As such it covers the methods by which the relationship may be constituted; the differences in the types of authority agents may have from the point of view of the principal and third party. It explains the relationships, liabilities and duties of the principal, agent and third party and the impact on these that the agent disclosing or not that he is an agent will have on these relationships, duties and liabilities. Finally the Outcome considers the ways in which the relationship of principal and agent may come to an end.

Outcome 2

This Outcome is designed to make candidates aware of the regulatory framework in which an Estate Agency business operates. It explains that whilst anyone can set up and operate as an Estate Agent, their conduct and ability to continue to operate can be controlled by a negative licensing system. That there are rules relating to how property can be advertised, the information which must be supplied to buyers of residential property and that as a provider of services those operating an Estate Agency must not discriminate.

Outcome 3

Estate Agents are involved in the contract to sell/buy heritable property. Estate Agents will be acting as advisors to those involved in the sale of residential property and must be in a position to advise clients on: the various types of contracts to sell/purchase residential property, the essential clauses for such a contract, the meaning and effect of clauses commonly found in an offer to purchase a residential property and the qualifications which may be necessary to safeguard the position of the seller.

Higher National Unit specification: support notes (cont)

Unit title: Estate Agency

Guidance on the delivery and assessment of this Unit

Teaching should be focussed on assisting candidates to understand the main principles of law relating to Estate Agents and to the contract to sell/purchase residential heritable property.

Wherever possible links should be drawn to practical examples and to the candidates' own experiences and any existing knowledge of relevant legal principles.

Opportunities for developing Core Skills

Candidates research, evaluate and analyse complex legal information as they prepare a qualified acceptance of an offer to purchase residential property including a formal contract, articles of roup and missives. They have to present formal advice and documentation which is accurate and to a professional standard. Applying knowledge of current legislation and regulatory requirements accurately and efficiently is critical to achievement. Candidates should be familiar with current theories relating to best practice in communicating including awareness of the impact of written, verbal and non-verbal communication techniques.

Elements of the Core Skill of Problem Solving, that is, planning and organising, critical thinking, and reviewing and evaluating, will be naturally developed and enhanced as the acceptance of an offer is prepared, and qualifications are specified. Candidates have to consider a range of factors impacting on purchase, including title and clear land certificate, date of entry, passing of risk, internal conditions of the property, apportionment of payments, property enquiry certificates, moveable property and fixtures, and Matrimonial Homes and Civil Partnership documentation.

Although candidates must independently complete and present evidence, discussions centred on case studies and exemplar materials would offer opportunities to reinforce skills in evaluating the process and in communicating orally.

Open learning

This Unit is suitable for open and distance learning delivery. The assessment strategy and guidelines described in this specification must still be applied if this method of delivery is chosen.

Disabled candidates and/or those with additional support needs

The additional support needs of individual candidates should be taken into account when planning learning experiences, selecting assessment instruments, or considering whether any reasonable adjustments may be required. Further advice can be found on our website

www.sqa.org.uk/assessmentarrangements

General information for candidates

Unit title: Estate Agency

Estate Agents act as agents for those selling (and on occasion for those buying) heritable property (usually house and flats). They therefore require a working knowledge of the law of agency. Whilst there are currently no formal licensing requirements for those wishing to open and operate an Estate Agency business the manner in which they trade and their right to trade is subject to legal regulation. Estate agents receive offers for the properties which they are marketing on behalf of clients and clients need to be aware of the legal obligations which they incur when entering into a contract to sell their property.

Outcome 1

This Outcome is designed to give an overview of the law of agency. It covers how the contract may be formed and the importance of the authority, which the agent is actually given and appears to have been given. It covers the liabilities of the agent, principal and the third party to each other in a range of situations and liabilities where the agent acts within, outwith and without authority and the impact of these various scenarios on the relationship between the principal and the third party. Finally it covers how the contract of agency may be brought to an end by the terms of the contract (or breach thereof) and by the operation of the law.

Outcome 2

This Outcome examines the legal and regulatory framework in which those involved in an Estate Agency operate. It considers the law relating to the negative licensing system for those operating an Estate Agency (ie that no licence is required to commence an Estate Agency business, however where the business is operated inappropriately it can be regulated or even closed) and the requirements regarding the advertising of residential property. It also considers the requirements imposed on those selling (and involved in the sale) of residential property to provide information on the property to prospective buyers. Further it considers the law on various types of discrimination as it applies to Estate Agents.

Outcome 3

As individuals selling property retain Estate Agents and the sale of a property involves complex contracts, Estate Agents require detailed knowledge of the contract to buy/sell heritable property. This Outcome examines the various types of contract for the sale of heritable property and in particular residential heritable property. It explains the meaning of the law relating to, and effect of various clauses found in an offer to purchase and how to qualify these to protect the interests of the seller.