

## CONSULTATION QUESTIONS

### Section 1

**Q1) Do you think the Home Report is meeting its original objectives?**

Yes  No

**Q1a) If yes, please explain why**

Comments

**Q1b) If no, please explain why**

The primary reason for the introduction of the Home Report was to provide an incentive for repairs and maintenance to be carried out with the overall objective of improving the quality of Scotland's housing stock. There is no evidence to suggest that this objective is being met. A secondary reason was to eradicate supposed 'multiple' valuations (although there was never any empirical evidence to suggest that this was a problem). The introduction of the Home Report has not eradicated the supposed "problem" of multiple valuations and surveys; instead it has simply shifted the problem from prospective purchasers in market 'hot' spots (of which there are few) to existing sellers in 'cold' spots. Where, as is common, properties are on the market for three months or more, it is not uncommon for one sale to generate 3 reports: the original Single Survey; a 'refresh' at the instance of the prospective purchaser and a separate mortgage valuation report for the lender. A third objective, that of eradicating the practice of setting artificially low asking prices, has clearly not been achieved. Takes the following recent examples: in one case, a major estate agent in the West End of Glasgow was, in the last six months of 2013, advertising a property for sale at "offers over £460,000.00". The Home Report available on that property valued it at £540,000.00, and in response to the direct question, the estate agent confirmed that the seller was looking for at least £530,000.00, an amount which is significantly in excess of the advertised 'asking price'. In another case, in January 2014, a major estate agent based in the southside of Glasgow advertised a flat at "offers over £115,000.00". The Home Report commissioned prior to marketing gave a valuation of £125,000.00, and the agent has advised that its client will not accept 'anything less than £130,000.00'. Given the stated expectations of the sellers which, of themselves, might not be unreasonable in light of the Home Report valuations, is it not the case that these 'asking prices' are artificially low and, in reality, are marketing tools designed to attract interest?

**Q2) Are the original Home Report objectives still appropriate?**

Yes  No

**Q2a) If yes, please explain why**

Comments

**Q2b) If no, please explain why**

Objectives (ii) and (iii) (multiple valuations in property hotspots and artificially low asking prices) are matters, which, if they are objectives at all, can and are best left to market forces. Objective (i) (better information regarding condition) may be appropriate but only if the information is comprehensive and uniformly provided. Such 'information' cannot be relied upon if it is couched in qualification or waivers such as: *At the time of inspection the property was found to be occupied, fully furnished with floor coverings fitted. Our inspection was consequently restricted. Not all sides of the chimney stacks and flashings could be seen from ground floor level, and as such we cannot fully comment upon their condition. Our view of the roof pitch covering was restricted from ground floor level and as such we cannot fully comment upon its condition. No access to the roof void area was possible due to the access hatch being padlocked. No access to the sub-floor area was possible due to this being outwith the scope of our inspection. We would highlight that not all windows and doors were tested within the property and as such we cannot fully comment upon their condition. Due to the decorative finish found over the surfaces within the property, we could not inspect the areas below and cannot comment upon their condition. As it was not raining heavily during our inspection, we cannot fully comment on the water tightness of the rainwater goods. Due to the contents found within most storage cupboards, we could not fully inspect surrounding areas and cannot comment upon their condition. Due to the kitchen and bathroom fittings, we could not fully inspect the surrounding areas and cannot comment upon their condition. An inspection for Japanese Knotweed was not carried out. This is a plant which is subject to control regulation, is considered to be invasive and one which can render a property unsuitable for some mortgage lenders. It is therefore assumed that there is no Japanese Knotweed within the boundaries of the property or its neighbouring property. Identification of Japanese Knotweed is best undertaken by a specialist contractor.* (Source: Home Report dated 13 January 2014)

**Q3) Should the Home Report play a more central role in promoting energy efficiency and property condition improvements among home owners?**

Yes  No

**Q3a) If yes, please explain why**

**Q3b) If no, please explain why**

It is discredited. Intelligent (properly advised) sellers know to influence the surveyor to present their property in the best light: intelligent (properly advised) purchasers will presume the Home Report to be 'seller-friendly'.

**Q4) Should a national register of Home Reports be established?**

Yes  No

**Q4a) If yes, please explain why including who should have responsibility for development and maintenance**

Comments

**Q4b) If no, please explain why**

Home Reports should be abandoned with no need for a National Register, the establishment and maintenance costs for which would have to be borne by sellers.

## **Section 2**

**Q5) Do you think the upfront cost of Home Reports is preventing potential sellers from putting their property onto the market?**

Yes X No

**Q5a) If yes, please provide details.**

The cost of obtaining a Home Report is causing acute problems for poorer householders, particularly those falling into the category of “distressed sellers”. Such people are not able to instruct sales through mainstream solicitors and estate agents and are being driven to sell their properties off market. The Law Society of Scotland’s Guarantee Fund Committee is regularly encountering cases of suspected mortgage fraud arising out of “back to back” and “rebate scheme” deals that in turn often originate with distressed sellers who are apparently unable to afford a Home Report.

**Q6) Are you aware of any schemes available (e.g. deferred payment) to help potential sellers to pay for home reports?**

Yes X No

**Q6a) If yes, please provide details**

GSPC at one time offered a deferred payment/credit scheme but it is understood that this has been withdrawn. As an incentive to use their services, some nationally-owned estate agents may offer prospective sellers a ‘no upfront charges’ package, thus using their financial strength to capture market share.

**Q7) Are there any issues with the majority of Home Reports being commissioned through selling agents?**

Yes X No

**Q7a) If yes, please explain why**

Estate agents play a key role in the housing market in the West of Scotland. Estate agents tend to have established relations with firms of surveyors (some owned by the same parent company) and will frequently recommend their use to their clients, promising specific valuations to clients as a way of winning work; and then using these valuations as part of the marketing strategy for the property. Residential surveyors are therefore dependent upon referrals from estate agents for their livelihood, and this creates the perception (if not the reality) that the valuation/condition report (which after all is not an exact science) errs in favour of the seller.

**Q7b) If no, please explain why**

**Q8) Should other organisations be allowed to carry out the Single Survey (including valuation) and/or the Energy Report?**

Yes  No

**Q8a) If yes, what other organisations and why**

Comments

**Q8b) If no, please explain why**

Comments

**Q9) In your experience is the requirement for a home report before marketing a property leading to delays in properties coming onto the market?**

Yes  No

**Q9a) If yes, please outline the implications of this.**

Compared with the pre-Home Report regime, there are inevitably delays in bringing a property to the market. The Single Survey has to be prepared and approved; the PQ completed and the Energy Report completed.

**Q10) Are home reports a useful marketing tool for sellers?**

Yes

**Q10a) If yes, please explain why**

In certain circumstances, a home report could be a useful marketing tool. The true test of whether or not home reports are a useful marketing tool would be to remove the mandatory requirement for home reports and then to gauge (a) how many sellers commissioned home reports and (b) how many prospective purchasers sought them.

**Q10b) If no, please explain why**

Comments

**Q11) Is the 12 week deadline for marketing a property after completion of a home report appropriate and reasonable?**

Yes  No

**Q11a) If yes, please explain why**

Comments

**Q11b) If no, please explain why**

Information as to condition (in particular with regard to the wind and water-tightness of the property and the efficacy of the rainwater goods) can vary from season to season and quickly become out of date. The requirement that the information in an Energy Report be no more than 12 weeks old when a property is put on to the market would seem to suggest a requirement to obtain a new Energy Report whenever a property is marketed (despite the 10 year validity period of such reports). This represents a further, and unnecessary, cost to sellers.

**Q12) Is the 28 day provision for removing a property from the market without requiring a new home report appropriate and reasonable?**

Yes  No

**Q12a) If yes, please explain why**

Comments

**Q12b) If no, please explain why**

Experience has proved this to be a meaningless provision.

**Q13) Are there any issues with potential buyers accessing home reports?**

Yes  No

**Q13a) If yes, please provide an overview and outline the implications of this**

Although it would seem that most Home Reports are available online for free, this does not assist potential buyers who do not have ready access to a computer. A recommendation arising from the Interim Review – viz. that a copy of the Home Report should be available to view during arranged viewing times – met with the objection that too much information might overwhelm potential buyers. This flies in the face of the primary objective: to give potential buyers more information.

**Q14) Is this the most appropriate way to enforce home report legislation?**

Yes  No

**Q14a) If no, please explain why and how this could be improved**

The almost complete lack of enforcement by local weights and measures authorities might suggest lack of resources and/or complainers who, absent any compensation, may feel that complaining about the content of Home Reports will not directly affect them.

**Q15) What are your views on mortgage lenders' acceptance of home report valuations?**

Most lenders will normally accept a transcribed valuation flowing from the Home Report provided the surveyor is acceptable to them and is not more than 3 months old. However, a far-from-buoyant property market, coupled with stricter panel management by lenders, means that in a significant number of cases, there is an increasing likelihood that a transcribed valuation will not be acceptable to the lender of choice, leading to further delay in the house-selling process and, increasingly, additional valuations. Moreover, it is clear that home report valuations are not universally popular with mortgage lenders. In its recent comments relating to the RICS valuation commission report by Dr Oonagh McDonald CBE, CML commented that “significant caution would be needed before introducing the equivalent of the Scottish Home Report into England and Wales” – hardly a ringing endorsement.

**Q16) Are the re-dress options available to buyers reasonable and appropriate?**

Yes  No

**Q16a) If no, please explain why and how these could be improved**

Liability for a negligent or biased Home Report only emerges when the house buyer has suffered ‘material’ loss. What, then, is ‘material’? Recent surveyor-negligence claims in England have accepted that valuation is an art, rather than a science, and that, accordingly, there will always be a margin of error in valuing a property. It is submitted that ‘material’ loss can only arise when that loss is clearly outwith that acceptable margin of error. For a standard residential property, the decisions of the English courts suggest that the margin of error may be as low as +/-5%; for a valuation of a one-off property, the margin of error will usually be +/- 10%; and if there are exceptional features of the property, the margin of error could be +/- 15%, or even higher in an appropriate case. If the average house price in Scotland (against all house types) is £150,000.00, the amount of ‘loss’ that a disappointed house buyer would have to suffer before it would be classed as ‘material’ (and thus give rise to a claim) might be £7,500.00.

**Q17) Do these exceptions need to be amended?**

Yes  No

**Q17a) If yes, please explain what amendments are required and why**

Having regard to the Government’s original objectives, it is difficult to justify why newly-built and/or newly-converted properties should be exempt from providing a condition report. It will be rare indeed to discover a purchaser of a newly-built (or newly-converted) property who had not experienced some sort of snagging or unexpected remedial work upon taking entry.

### **Section 3**

**Q18) Does the single survey element of the home report provide an appropriate and useful level of information?**

Yes  No

**Q18a) If no, please explain why and what information should be removed and/or added**

It is incorrect to suggest that the Single Survey is a survey broadly equivalent to the Scheme 2 Homebuyers Report or that the extent of the 'survey' and level of inspection are similar. Although the Home Report may provide more information than a basic Scheme 1 Mortgage Valuation, it generally provides less than a Scheme 2 Valuation. For example, D. M. Hall Chartered Surveyors recommend a RICS Homebuyer Survey and Valuation (Scheme 2) even although there may be an existing Home Report on a property. According to D M Hall, a Scheme 2 report involves a more thorough inspection and focuses on the defects and other problems which the surveyor considers to be urgent or significant and which would have an effect on the value of the property. J & E Shepherd Surveyors recommend a Scheme 2 Homebuyers Report as 'ideal for prospective purchasers who want to establish the condition and value of a home they are considering buying if they have any questions about the quality, age or origins of the Home Report'. Clearly, the Single Survey is not equivalent to the Scheme 2 Homebuyers Report.

**Q19) Should the repairs categories in the single survey be amended to make them consistent with the categories used in the Scottish House Conditions Survey?**

Yes  No

**Q19a) If yes, please explain why**

Comments

**Q19b) If no, please explain why**

Comments

**Q20) Is the valuation element of the single survey a useful element of the home report? Yes  No**

**Q20a) If yes, please explain why**

For many prospective purchasers, the valuation is the only useful element of the home report, the remainder of the report being neither fully read nor understood. The bulk of a standard home report consists of disclaimers and information about the limitations of the report. This encourages a tendency to go straight to the valuation (and possibly to the summary to check the categories of any suggested repairs). It is the valuation that will

determine the price/the starting point for negotiations/the likely amount of loan that could be arranged (if the valuation is accepted by the lender of choice).

**Q20b) If no, please explain why**

Comments

**Q21) Is the information provided in the energy report appropriate and useful?**

Yes X No

**Q21a) If yes, please explain why**

**Q21b) If no, please explain why**

Comments

**Q22) Is the information provided in the property questionnaire appropriate and useful?** Yes X No

**Q22a) If yes, please explain why**

To require further information and/or to require the seller to warrant the information would move the house-buying process further away from a 'caveat emptor' system (in terms of which a prospective purchaser is free to make what investigations/ searches/survey s/he requires) towards a 'seller-liability' system which, it is submitted, would further dampen an already-depressed market.

**Q22b) If no, please explain why**

Comments

**Q23) Should an additional question on land maintenance fees be added to the Property Questionnaire?**

Yes  No X

**Q23a) If yes, please explain why**

Comments

**Q23b) If no, please explain why**

Comments