

Response to Scottish Government consultation on the home report

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Introduction

I welcome the opportunity to respond to this consultation. I have considerable experience of advocating the consumer perspective in relation to the home report. In my previous role at the Scottish Consumer Council, I was closely involved with the design and implementation of the home report over a number of years, as a member of the Scottish Government's Home Report Implementation Group and also the sub-committee responsible for the design of the property questionnaire.

General comments

While, like any system, the home report process may have some disadvantages, I remain firmly of the view that it is in the consumer interest, and is a considerable improvement on the previous system, where the buyer instructed and paid for their own survey(s). Any new system will inevitably take some time to bed in, and many of those working within the house buying system were very familiar with the previous approach, which had been in place for many years. While the interim review in 2010 provided some insight into how the home report was then operating in practice, a clearer picture should emerge after five years of operation, as many more buyers and sellers will now have experience of it, and the various professionals involved will have adapted to the new system.

While the eventual introduction of the home report may have taken place at an unfortunate time, given the state of the housing market at that time, this was a consequence of the time it took to get the home report from policy to implementation stage. At the time the policy process began, the housing market was buoyant, and the home report was designed partly to address problems existing in the market at that time, including concerns about buyers paying for multiple valuations over properties they were unsuccessful in buying, and the prevalence of artificially low asking prices.

Prior to the home report's introduction, some in the legal profession argued that the home report was unnecessary because the market had resolved the multiple survey issue by introducing 'offers subject to survey'. This approach, however, meant that the prospective buyer was making an offer for a property with no real information about the condition or value of the property, or whether their lender would be prepared to lend the sum required to purchase it. Moreover, 'offers subject to survey' did nothing to address the other two original aims of the home report. Firstly, it did not encourage the provision of better information for buyers, as most buyers continued to opt for a cheaper and less detailed valuation survey, and secondly, it did not tackle the problem of artificially low asking prices.

The introduction of the home report put the consumer at the centre of the house buying and selling process, rather than the various professionals involved in the process. The interim review of the home report found that buyers were using it to inform their decisions at every stage of the process, and found information on the

condition of the property to be helpful in deciding whether or not to make an offer. While there is undeniably an upfront cost involved for the seller, most sellers are also buyers and so also benefit from the home report. It also flags up any potential problems with the property earlier than under the previous system, giving the seller the opportunity to address these at an early stage.

The introduction of the home report has brought particular benefits for first time buyers, for whom it can be very difficult to get onto the housing ladder. Such buyers no longer have to pay upfront for the cost of survey, or run the risk of having to pay for several surveys. This reduces their costs, while allowing them access to detailed information about the value and condition of the property, helping them to make an informed decision about whether to make an offer.

The current five year review is to be welcomed, and while it is very important to gather the views of all of those who are involved in the house buying process, the review, including the proposed research study, should be focused primarily on those whose interests the system exists to serve, i.e. buyers and sellers.

Information and advice for buyers and sellers

There is a need to produce updated information and advice for buyers and sellers on the home report and the house buying and selling process. At present, the Scottish Government's home report web pages include a link to the Consumer Focus Scotland guide *Buying and Selling a Home in Scotland*, which was published in 2009, shortly after the home report was introduced. This is now becoming out of date, and given the abolition of Consumer Focus Scotland, consideration will need to be given to who might produce updated guidance. The interim review of the home report also made a number of recommendations regarding further guidance, while further changes are likely to be required following the outcome of the current review.

This response does not attempt to answer all of the questions in the consultation paper, but focuses on the questions to which I believe I can most usefully contribute.

Responses to the consultation questions

Section 1

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

Yes.

Q1 a) If yes, please explain why

While I am not involved with the house buying system on a day to day basis, in my view, the home report has achieved its original objectives. It has meant that buyers do not have to pay for multiple surveys/valuations before they are successful in making a purchase; provided more detailed information than previously about the condition of a property prior to the offer stage; and ended the former practice of setting artificially low 'offers over' prices, by providing the same valuation figure to all potential buyers at an early stage. This has allowed potential buyers to make more informed offers than under the previous system, as found by the interim review.

Q2) Are the original Home Report objectives still appropriate?

Yes, although as discussed below, it may now be appropriate to add new objective(s) in addition to the existing ones in the light of changing circumstances. While it could be argued that some of the original objectives have been achieved and are therefore no longer necessary, in my view it is crucial that these are retained. The housing market changes and goes through different cycles, as has been apparent from the changes since the time the home report was first proposed. While multiple surveys and artificially low asking prices may have been less prevalent at the time the home report was introduced, these concerns would undoubtedly have arisen again at some future date when the market became buoyant again, in the absence of the home report.

Multiple surveys, for example, were long viewed as a problem with the Scottish house buying system prior to the home report's introduction. In 1977, the Royal Commission on Legal Services found that multiple surveys were the most unpopular aspect of the Scottish system. An expert committee was then established to look at the issue, but concluded (perhaps in a market which had changed in the intervening years) that it was not a widespread enough problem to take further action.¹ The issue came to the fore again in the late 1990s, with anecdotal and research evidence² about actual and perceived problems with multiple surveys, which eventually contributed to the introduction of the home report.

¹ Report of the Secretary of State's Expert Committee on Multiple Surveys and Valuations (1984)

² For example Scottish Consumer Council (2000) Home Truths: a report on research into the experiences of recent house buyers in Scotland, Glasgow: Scottish Consumer Council

It is also possible that artificially low 'offers over' prices could reappear in a future buoyant market, in the absence of the home report. This could result in buyers being misled into paying for surveys and/or wasted offers on properties they could not realistically afford, as happened under the previous system. This could also contribute to the inflation of house prices, making things more difficult for buyers, and while sellers may benefit from higher prices, they would likely end up paying more as buyers. Finally, it is vital that purchasers have access to as much information as possible when making the biggest, most expensive purchase of their life. In the absence of a home report, we could see a return to valuation surveys, which provided much less information.

While it is important that the existing objectives are retained, however, circumstances change. It is therefore equally important that the system and its objectives are kept under review. The landscape in relation to energy efficiency has changed since the home report was introduced, for example. The energy report is a key component of the home report, providing an indication to prospective buyers as to the likely energy costs involved in running a home, and any measures they might take to reduce these. Fuel poverty is a major issue in Scotland, and energy prices will only increase in the future. I therefore support the response of Consumer Futures on this issue, and would agree that an appropriate additional objective related to increasing energy efficiency and reducing fuel poverty should be included.

While there may be room for improvement in how the home report operates, I believe that the basic principles behind it remain sound. I therefore welcome the five year review, which I hope will include in-depth research with buyers and sellers to gather their views on its benefits and disadvantages.

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

Yes.

Q3a) If yes, please explain why

Again, I support the response made by Consumer Futures on this issue. Although there have been improvements in energy efficiency in the private sector in recent years, private sector properties, both owner-occupied and rented, are generally less energy efficient than those in the social rented sector.³ The home report therefore has the potential to play an important role in helping to reduce fuel poverty and increase energy efficiency.

³ Scottish Government (2013) Scottish House Conditions Survey 2012- Key Findings: <http://www.scotland.gov.uk/Publications/2013/12/3017/0>

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

While I can see potential benefits in setting up such a register in terms of monitoring changes in house condition and energy efficiency over time, as the consultation paper suggests, the benefits to consumers would need to be balanced against the cost to the taxpayer of setting up such a scheme. While there are powers to establish such a register, this was not done when the home report was introduced, as it was seen to be unduly burdensome and costly. At that time however, the main driver for setting up a register was to avoid the use of 'beauty parades', where a seller could pay for a number of home reports over their property and select the one which showed it in the best light and/ or achieved the highest valuation. The review research study may show whether this has in fact been a significant issue in practice.

Section 2

Q16) Are the redress options available to buyers reasonable and appropriate?

It is difficult to answer this question without further information as to the current redress options, how well they are used and how satisfied consumers are with these. There is no information about these issues in the consultation paper. The buyer has a statutory right to damages if the home report is prepared in a negligent or biased way. The Scottish Government home reports website contains little detail about this, but this presumably means that they would need to take court action against the surveyor. This is likely to be a lengthy, expensive and daunting process. If this is the case, consideration might be given to whether a more accessible and less formal dispute resolution service might be made available to deal with such claims. The former Surveyor Ombudsman in Scotland could, for example, award damages of up to £25,000.

As I understand it, complaints about poor service or misconduct by a surveyor must be made to the relevant firm in the first instance and then to the RICS. The consultation document also makes reference to the Ombudsman Services: Property, which I understand is now the final stage independent redress mechanism, if the consumer is unhappy with the outcome of the RICS process. It is not immediately obvious from the ombudsman's website, which appears to focus on estate agents and primarily English property matters, whether such issues are within its remit, which could cause confusion for buyers.

Confusion may also arise as result of the references on the Scottish Government website to the Surveyor Ombudsman Scheme, which was a specifically Scottish scheme, and is no longer in existence. While there is some advice on redress in the Consumer Focus Scotland guide *Buying and Selling a Home in Scotland*, this required updating and also makes reference to the Surveyor Ombudsman Scheme.

If no data is currently available on this issue, I would suggest that the research study might include this. It could look at whether buyers are aware of the available redress options; whether buyers had cause for complaint about a surveyor; how many complaints/claims there have been; how these were resolved; and whether the buyer was satisfied with the outcome.

Section 3

Q20) Is the valuation element of the single survey a useful element of the home report?

Yes.

Q20a) If yes, please explain why

The valuation is a key element of the home report. Without this, there would still be a need for the buyer to obtain their own valuation, which essentially defeats the objective of avoiding multiple valuations. Secondly, it would also mean that all buyers would no longer have access to one uniform valuation figure, removing the level playing field which the home report currently ensures.

Q22) Is the information provided in the property questionnaire appropriate and useful?

Overall, I think the information provided is appropriate and useful, but the present review and research study present a good opportunity to reconsider this, in the light of experience. One suggestion I would make is that it might be helpful to make clear on the front page whether the seller is the owner(s) or, for example, an executor(s).

Aside from the content, as a member of the sub-group which produced the questionnaire (none of whom were design experts), I have previously made the point that the design could be greatly improved, with less dense text and greater use of tick boxes, making it more appealing and easier to complete. It could also be broken up more clearly into different subject sections, rather than one continuous document. The current review would provide an opportunity to redesign the format and layout of the questionnaire.

My own recent experience of completing a questionnaire suggests that some surveyors are still asking sellers to complete the questionnaire by hand on a paper version and then scanning in. This can be difficult to read, and I would suggest that, particularly as most people now conduct their property search online, the default position should be that it is completed electronically, unless the seller is unable to do so for technological or other reasons.

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

Yes.

Q23a) If yes, please explain why

Although only a relatively small proportion of homeowners in Scotland are currently obliged by their title deeds to pay land maintenance fees to a land management company⁴, their numbers are likely to grow in the future. Research carried out by Consumer Focus Scotland in 2011 found that only 57% of such homeowners said they had received information on fees when they purchased their home.⁵ The research also found very high levels of consumer dissatisfaction with the services provided by such companies.

It is therefore important that prospective purchasers have as much information as possible about the implications of the land maintenance model before purchase, including their obligation to pay a fee to a land management company which owns the common land on their housing estate. Land management companies are now obliged under the Property Factors (Scotland) Act 2011 and the code of practice for property factors to provide a written statement of services, including the level of management fees, to new owners. It is important, however, that prospective buyers should have this information in advance, to help them make an informed decision before purchase.

⁴ Estimated at somewhere in excess of 20,000 in 2011 - Consumer Focus Scotland (2011) Consumer Experiences of Land-owning Land Management Services, Glasgow: Consumer Focus Scotland

⁵ See Note 4