

CRITERIA FOR PROVIDERS OF SINGLE SURVEYS

Providers of Single Surveys

1. Background to the Policy

The Single Survey is being introduced to address three main objectives identified by the Housing Improvement Task Force in its final report, 'Stewardship and Responsibility', published in 2003:

- **The provision of better information about the condition of property to house sellers and buyers before offers are submitted, so that there is an incentive for repairs to be carried out by sellers before marketing;**
- **to address the incidence of multiple surveys and valuations; and**
- **to address the problem of artificially low asking prices being set.**

Proposals for the Housing (Scotland) Bill were outlined in the consultation paper *Maintaining Houses - Preserving Homes* which was published in July 2004. Over 70 per cent of respondents to the consultation paper agreed that Ministers should have powers to introduce a Single Survey, with the vast majority of these respondents saying that there should be reserve powers, to be used only if the market did not adopt the survey voluntarily.

Following a poor response to a market-led Single Survey pilot, there was a clear indication that the market could not deliver a voluntary introduction of the scheme where there was no incentive for the seller to participate. In March 2005, Ministers decided to conclude the pilot, with a view to introducing a compulsory system using the powers in the Housing Bill

The Housing (Scotland) Act 2006 received Royal Assent in January 2006. Part 3 of the Act 'Provision of Information on Sale of House' introduces a new requirement for specified information to be provided when a house is being marketed for sale in Scotland. Draft Regulations have proposed that three documents will form a Home Report. These three documents are a Single Survey with an Energy Report, and a Property Questionnaire.

The previous administration undertook a public consultation in February 2007 on draft regulations for the scheme. The consultation closed in May 2007. The Cabinet Secretary for Health and Wellbeing announced in the Scottish Parliament on 31 October that it is our intention to introduce the Single Survey and Property Questionnaire in late 2008.

Draft regulations have prescribed the documents that will form a Home Report and also set out the arrangements for making the new system happen have been approved by the Communities and Local Government Committee on 31st January 2008.

The regulations say that “appropriately qualified chartered surveyors who are registered with or authorised to practise by the Royal Institution of Chartered Surveyors (“RICS”)” are permitted to prepare Single Survey reports in Scotland.

Although members of the RICS carry out almost all surveys and valuations of residential property in Scotland, it is important not to exclude any other organisations from being ‘providers’ if they are appropriately qualified and can meet the criteria set out in Section 4 below.

Scottish Ministers will assess applications from organisations to be providers of Single Surveys.

2. Providers of single surveys

Powers for Scottish Ministers to say who can carry out a Single Survey are in section 104(3)(b) of the Housing (Scotland) Act 2006. Scottish Ministers will assess applications from potential providers against criteria set out in Section 4 below. If a potential provider fulfils the criteria to provide Single Surveys, the regulations can be amended from time to time and the organisation will be added as a provider.

Regulations are intended to ensure that:

- consumers (by which we mean house sellers and their agents, potential buyers and lenders) can have confidence in the quality of surveys on the basis of the professional standards of the providers; and
- there are no unnecessary restrictions on competition, but there is a level playing field for those who wish to enter the market.

3. The single survey process for providers

Although the house buying and selling process will not operate in exactly the same way in every case, it is likely to follow broadly the steps shown below in cases where a selling agent is used:

- The seller or selling agent instructs a provider to carry out a Single Survey inspection.
- The provider inspects the property and prepares a Single Survey. The Single Survey will contain a valuation of the property.
- A Single Survey report goes to the seller, who gets a chance to correct any factual inaccuracies, but no other element of the report’s content.
- Once complete, the Single Survey report is signed by the provider and delivered to the selling agent.
- Although it will be the seller of the property who commissions the report, the buyer will be able to rely on what it says.

- The successful purchaser will request a lender's report from the provider which must be set out in the specific form that the purchaser's lender requests.
- Lenders will only accept valuations and lender's reports from an approved provider listed on their 'lender's panel'. Although we do not propose to regulate about this particular issue or include it in the criteria for providers, it is nonetheless important to clarify this issue to prospective providers. If a prospective provider is not listed on a lender's panel, the lender may have to instruct a separate report from a provider who is.

4. Criteria for providers

Scottish Ministers will assess applications from potential providers against the following criteria:

a) Complaints handling procedure

We propose that any organisation whose members want to carry out Single Survey work in Scotland will have to operate a complaints handling procedure to a similar standard to that required by the Royal Institution of Chartered Surveyors.

Please summarise the complaints handling arrangements that member firms are required to have in place including the time-frames within which a firm is required to respond to, and conclude, a complaint. In addition:

- **How does the professional body define a complaint in its rules and are there any specific ways in which a complainant has to make a complaint to a firm (for example must it be in writing or is a telephone call sufficient)?**
- **Where a firm's final decision is to not uphold the complaint what further avenues are available to the complainant and what information does the firm have to provide to the complainant in this regard?**
- **How is a firm's compliance with these rules monitored by the professional body? For example is a firm's complaints log inspected as part of a supervisory visit?**
- **Does a complainant have to first exhaust the firm's complaints procedure before referring the matter on to the available complaints handling body(s)?**
- **Will firms be required to treat complaints arising from exempt regulated activities in the same way as conventional complaints?**

- **Should the complaints handling body not uphold the complaint, is the complainant able to appeal elsewhere?**
- **How are complaints from third parties treated by the complaints handling body (for example a complaint from a consumer interest group)?**
- **Does the complaint handling body have the expertise to identify and deal with a complaint which relates to exempt regulated activity? Will complaints arising from exempt regulated activity be tracked separately?**
- **How many complaints does the complaints handling body receive in a year, what is its current caseload and how many caseworkers are involved? What percentage of complaints has been upheld by the complaints handling body? What do the most common types of complaint relate to? How many complaints have centred on what are now exempt regulated activities? How have the above evolved with time?**
- **What powers does the complaint handling body have? Is it able to make awards for inconvenience and distress? If so please provide a summary of awards made, the maximum amount payable etc. Is it able to recommend or enforce redress awards? If so please provide further details.**
- **Does any interested party have an oversight role with regards to functioning of the complaints handling body? Are there any key performance indicators or service level agreements in place? Does it take an interest in the number of complaints rejected and does it have the power to review and overturn these?**
- **What action has the professional body taken in the past where the complaint handling arrangements at member firms has been found to be substandard?**
- **What information does the professional body require member firms to submit in relation to complaints received from their clients?**

b) Professional indemnity insurance

We propose that members of those organisations that wish to do Single Survey work in Scotland will have to take out professional indemnity insurance to a similar level to that required by RICS. Under RICS rules, all members (who are sole principals, partners, directors or consultants) offering surveying services to the public must carry professional indemnity insurance ("PII"). RICS recommends that its members have 15 years of "run-off" cover

with six years being the minimum after their business has stopped trading or they have retired.

Please summarise the PII requirements that member firms have to comply with. This should include details of the following:

- **The minimum level of indemnity required per claim and in aggregate and the maximum excess permitted per claim. Are these amounts fixed or scaled (e.g. limit of indemnity dependant on gross fee income, allowable excess based on the number of principals at the firm)? How have these requirements changed over time – are there likely to be any changes in the future?**
- **Is there a fixed date of renewal for all firms? Are there any conditions placed on the broker/insurer used – for example is there an approved panel of insurers or is there a master policy arrangement?**
- **How does the professional body deal with firms who hold non-compliant cover? What if a firm is unable to obtain any cover? Is there an assigned risk pool – if so please provide conditions for admission and the number of firms which have been admitted to it over time**
- **Where a firm ceases to trade is it required to obtain run-off cover? What level of cover is required, for how long? Are there any conditions on the insurer used?**

c) Conflicts of interest

We propose that members of any organisations that wish to do Single Survey work in Scotland will be subject to similar rules about conflict of interest to those of RICS. There is no RICS rule that says absolutely a member cannot act in particular circumstances. However, it is the duty of every member to identify actual or potential conflicts of interest that may arise and to manage them professionally. It is also up to the member to decide whether a conflict cannot be managed. In practice, this means telling the client about any situation where actual or potential conflict arises. A member may consider that they cannot act or continue to act for a particular client in the circumstances and decline the instruction. Where a member considers they can continue to act despite the conflict, they must tell the client and get written agreement to continuing to act. They must also explain what they plan to do to manage the conflict where appropriate.

Please provide details outlining how your members who will provide Single Surveys will manage any actual or potential conflict of interest.

d) Lifelong learning

We are proposing that members of those organisations that want to do Single Survey work in Scotland will have to undertake lifelong learning to a similar

level that members of RICS already do. Under RICS rules of conduct, all members must undertake lifelong learning.

Please provide details of what lifelong learning programmes relevant to Single Survey work you would expect your members will undertake and what monitoring systems you have in place to ensure compliance with lifelong learning obligations. This would include the following:

- **Details of any coursework to be undertaken and examinations to be passed as part of the training process, how long this takes place and who provides the training and examinations (in-house, accredited third party providers)**

e) Professional competence

We propose that members of those organisations that wish to do Single Survey work in Scotland will have to operate within a competency level similar to that required of members of RICS. The RICS 'core values' refer to the requirement for members to operate within their own competence levels. While not stated specifically, it can be assumed that this includes both technical and geographical competence. In 1974, the RICS, together with the Institute of Revenues Rating and Valuation (IRRV) produced the first *Appraisal and Valuation Standards*, known commonly as the 'Red Book'. This is a comprehensive set of standards that have to be applied to written valuations.

The objective of the RICS *Appraisal and Valuation Standards* is to ensure that the valuations RICS members produce have a high standard of integrity, clarity and objectivity, and are reported in accordance with recognised bases that are appropriate for the purpose.

Those who wish to provide Single Surveys will have to operate within their area of competence and to appropriate standards, including valuation and energy assessment reports.

Please provide details of the operational standards that your member firms (who prepare Single Surveys) will operate within. The standards should demonstrate that your organisation has rigorous procedures to ensure that your members are competent to carry out Single Survey work.

f) Disciplinary process

The inclusion of this criterion for an appropriate disciplinary regime will give consumers confidence in the people who provide Single Surveys.

Please confirm and provide evidence that your organisation has established the processes and procedures necessary to deal with members who have failed to comply with their duties and

responsibilities to provide Single Surveys. Please confirm whether this process is based on the Human Rights Act 1998 principles.

g) Membership registration and renewals

We propose that individual providers of Single Surveys should be a member of a professional institution. Institutions should maintain a publicly accessible list of Single Survey providers. This would let consumers know exactly who can undertake such work.

Please provide details that your organisation has undertaken its responsibility, both in the registration process and during the regular renewal of members. This should include an appeals process in the event of any decision being disputes or challenged. It should also include details of maintaining a register of members and to refuse and withdrawn membership in particular cases. Non-members should be treated in exactly the same way as members for the purposes of registration and membership issues – no less or more favourably.

h) Inspection and reporting requirements

Anyone who wishes to provide Single Surveys will have to demonstrate that they have appropriate standards in place for inspection and reporting purposes.

How will you ensure that the practices adopted by your members comply with inspecting and reporting requirements to prepare Single Surveys and are applied in a consistent manner? Please consider the following issues:

- Disciplinary action to be taken against members failing to comply with the appropriate standards;
- Establishing criteria for disciplinary action;
- Monitoring carried out on the work, performance and practices of members.

i) Performance reporting/monitoring and quality control

Anyone who wants to provide Single Surveys will be have to demonstrate that they have appropriate quality control procedures and performance reporting arrangements in place.

Please provide details of how your organisation intends to monitor and enforce the Single Survey regime. The following should be referred to:

- **The existing expertise that your organisation has in respect of regulated activities and related legislation.**

- **What training has been given and is due to be given to staff (particularly those in a supervisory capacity)?**
- **Details of supervisory visit programmes, who undertakes these, how long a typical visit lasts, what is covered as part of a visit, how many visits are undertaken in a given year, and how often a firm can be expect to be visited**
- **If not already mentioned, how is compliance with client money accounts monitored?**
- **Who within the professional body has sight of the reports which arise from supervisory visits?**
- **Please outline the procedure when an issue arising from a visit (e.g. a series of rule breaches) needs to be escalated – to whom and how is this escalated? What disciplinary powers are available and what rights to appeal do member firms have?**

j) Lenders' Reports

Anyone who wishes to provide Single Surveys will have to prepare a lender's report from it to be issued on request to the lender from a purchaser

Please confirm whether your members who will provide Single Surveys will be appropriately trained to provide lenders' reports? Are any of your members on any lenders panel list of approved providers to provide surveys and valuations?