

THE TRUTH ABOUT HOME REPORTS – What the Scottish Government dare not tell you.

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Solicitors have been consistent in their criticism of the Single Survey and Home Reports. We advise clients on all aspects of buying and selling property and offer sound advice on types of survey. For the record solicitors have no "vested" interest other than that they share with the sellers of houses in the Scottish property market being an interest in the health of the property market. Since most sellers are buyers also most buyers share that interest also. That interest is also shared by the business community in general who depend on its health for their wellbeing and that of our Country. The Chairman of the Scottish Consumer Council (SCC) has a very narrow focus when he claims to insist that Home Reports go ahead for the purported benefit of first time buyers and is reckless in ignoring the risk to the health of the Scottish property market and thus the Scottish economy.

So, why are solicitors opposed to Home Reports?

Present Opposition - The Credit Crunch

Due to the Credit Crunch the time taken to sell property has increased hugely and in many cases houses and flats now take many months to sell and some prices are declining.

By asking sellers to pay for Home Reports up front this will inevitably result in some prospective sellers not bringing their property to the market causing a further loss of confidence in the existing poor housing market. These sellers will therefore not come into the market as prospective purchasers at a time when the market cannot afford to be deprived of purchasers. We argue that there should be a delay in the implementation of Home Reports until such time as market conditions improve.

The Scottish housing market is a powerful driver of the Scottish economy and when houses are not being purchased, employers like solicitors, surveyors and estate agents have to lay off staff, and workers like joiners, plumbers, kitchen and bathroom firms, removal firms and DIY firms suffer as there are no new house purchasers to employ them. Paradoxically this leads to decline in the condition of the housing stock, the improvement of which is said to be an objective of the Home Reports regime.

At a time the Westminster government has now introduced measures to stimulate the housing market throughout the UK such as temporary relaxation of stamp duty thresholds, why is the SCC urging the Scottish Government to take steps that we think are likely to harm the Scottish housing market or certainly have the potential to do so? We believe it is reckless in the current market to put at risk the Scottish economy.

We recognise that Energy Efficiency Reports are required as a matter of European law and that the Scottish Government is obliged to implement this aspect of the proposed Home Report. Given the current energy prices we consider that the energy efficiency reports will serve a useful purpose for purchasers and should be brought into force as planned. However, the enabling legislation for such reports is contained in the Building (Scotland) Act 2006 and does not require to be part of the Single Survey or Home Report.

Fundamental Opposition – Not fit for purpose

Even before the current financial position solicitors have opposed the Single Survey part of the Home Report. Why? They are structurally and fundamentally flawed. They are not fit for purpose. The reasons are detailed as follows. None have to do with vested interests only on whether this product will do what is claimed.

STRUCTURAL FAULTS OF HOME REPORTS

1 Creates Multiple Surveys

The existing truly single survey system devised by lawyers to avoid multiple surveys by use of subject to survey offers is being replaced. Under the present arrangements the survey is normally instructed once an offer has been submitted and the offer has been verbally accepted so the survey is done at the point of sale. Now the survey is to be instructed at the time the property is put on the market and so in a slow market the report will become dated. Lawyers are likely to advise their clients that the shelf life of such reports will be in the region of 4 to 12 weeks and in fact I understand the latest information from CML is that, of those lenders who will accept a Home Report, the period will be 4 weeks but only if strict criteria are met on amount of deposit and credit history. Accordingly, both seller and purchaser will pay for survey reports especially in a slow market. In a better market it is still unlikely to be relied upon by purchasers as lenders will need them to get an up to date valuation.

2 Dated Information

As the market is slow the information will be out of date especially the Survey Report.

3 Home Report is Mainly Opinion not Fact nor Information.

Most of the Home Report information is opinion and not fact nor information. The valuation is a surveyor's estimate of value. The legislation assumes that all surveyors will come up with the same report. The truth is that not all surveyors will give the same valuation. A 10% range of variation is not unusual. The grading of repairs in the new survey is either Category 1, 2 or 3 depending on the need for repair is opinion not fact. There will be little listing of faults as there

are on existing styles of survey reports. The survey is claimed to be objective but is subjective.

The Property Questionnaire (PQ) is said to give information but mainly gives opinion not fact. These have to be completed by clients with different levels of understanding as to what the questions mean and levels of patience in filling up the PQ.

"Don't know" is a valid answer so is likely to be used where something is difficult to answer or the client simply cannot be bothered.

4 The Question of Independence of Surveyor

With existing Scheme 1 and 2 valuations, the responsibility of the surveyor is clear that it is to the purchaser and his lender and no one else that the surveyor is accountable. With Home Reports you cannot question the surveyor regarding his comments unlike with the present Scheme 1 and 2 reports.

Home reports are instructed by sellers but purchasers have no choice in the selection of that surveyor. Can they treat the report as independent? They may be able to sue for loss. However, since there is a range of opinion if the report is within that range but say at the high end of it e.g. 10% above what another surveyor might have given the purchaser will have no comeback.

5 Conflict of Interest

Normally demarcation is quite clear as to the surveyors responsibility to his purchasing or lending client but this report will be ordered by the sellers, not purchasers. It is true that a surveyor will know that he should temper the remarks in his survey since purchasers will be relying on it as well. Nevertheless the surveyor is open to pressure from the seller at the time of instruction or the seller may shop around for a surveyor who values high rather than low and the purchaser if he accepts the report will have no choice. As mentioned already a purchaser cannot question the surveyor regarding his comments unlike with the present Scheme 1 and 2 reports and this underlines the conflict. Conflict of interest normally prevents a professional from acting but, on this occasion, politicians appear to have had difficulty with the concept and have created a statutory regime in which such conflict is dangerously embedded.

6 Increased Repossessions

A seller under financial pressure to sell - and there are more than a few in the current financial climate - may not be able to afford the up front fee and feel that he has no alternative but to hand in his keys to the lender to sell.

7 Not Popular with Sellers

The singly survey pilot was a disaster for the Government and the selling public showed almost no interest whatsoever in the concept. The SCC do not appear to have carried out any proper market research themselves. When

sellers learn about the reality of compulsory Sellers' Surveys Home Reports (which are only now becoming fully apparent to us as a Profession and through us to our client sellers) the likelihood is that Sellers will quickly come to resent the imposition of the new regime.

8 Increased Costs

The new home report is estimated to cost an average of £600 to £700 plus VAT for the seller. Despite the suggestion by the Scottish Government and the SCC that the purchaser therefore will not have to pay for a survey, the likelihood is in practice that the purchaser will have to pay for his own survey whether Scheme 1 or Scheme 2 in addition to the cost to the seller of this Home Report. That is because the seller's survey will be unacceptable to the purchaser's lender or out of date, or both.

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