

The Scottish Home Report - why we need a review?

by **Professor Stewart Brymer**

Why is DHI thinking about the Home Report?

There is much discussion about the quality of the housing stock in Scotland. The need to retrofit ageing housing stock to cope with changing climate in the years ahead is a frequent subject of conversation. In our previous work on the Scottish Land and Building Information System (ScotLIS), the potential for improvement in the Home Report came up in discussion but we were not able to fully explore the issue. This discussion paper makes the case for why a review of the Home Report is needed and how it will benefit the overall aim of delivering a better built environment in Scotland – which is itself integral to economic development.

About the Author



Professor Stewart Brymer graduated with First Class Honours in Law from the University of Dundee (1979). He is a past-convenor of the Property Law Committee of The Law Society of Scotland and co-Founder of the Scottish Conveyancers Forum.

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He is also a prolific writer and is co-author of “Conveyancing in the Electronic Age” and “Leases” with Professor Robert Rennie and “Professor McDonald’s Conveyancing Manual” along with over 175 articles on Conveyancing and Leasing law.

Introduction

The Home Report consists of a Single Survey, an energy Performance Certificate and a Property Questionnaire – the latter being completed and signed by the selling home owner.

The proposals for a single survey were designed to tackle three weaknesses in the Scottish house buying and selling system:

- The then reliance of most house purchasers on Scheme 1 (mortgage) valuations which provided only limited information on the condition of a property;
- The encouragement which the existing system gave to multiple surveys and valuations; and
- The setting of the 'offers over' price at an artificially low level by sellers in order to stimulate interest in the property.

It is considered that all these issues have been addressed to some extent by the introduction of the Home Report.

The single survey provides a comprehensive guide to the condition of the property, together with a valuation. In principle, therefore, it provides much more detailed information to both house buyers and sellers than is usually the case at present and avoids the need for competing house purchasers to commission separate surveys and valuations. It also ensures that there is an independent valuation of the property available so that potential buyers do not have to rely on the upset price or 'offers over' price to decide if it is likely to be affordable. In practice, there are variances in some locations on marketing techniques but in general, this has resulted in properties being marketed at or around 95% of the valuation in the single survey – the valuation being based on recent comparable evidence. The main point of negotiation with surveyors was the issue of liability. It was agreed that the surveyor's duty of care would pass to the ultimate buyer.

Despite initial reservations from solicitors and surveyors, the requirement for the provision of a Home Report in the majority of residential property transactions in Scotland and its cost, has not impacted the number of properties going on the market. Costs have remained reasonably stable and as a result of the seller paying for the Home Report, purchasers have no outgoings at the initial viewing stage. Agents were initially sceptical about Home Reports containing a valuation but this feeling has generally diminished over the years.

Despite initial reservations, the Home Report has worked well in Scotland.

However, it is not perfect and a review is now required to support improvement. This is not suggesting wholesale change is needed but rather tweaks to the layout and content.

Suggested areas for improvement

- **Better and clearer layout:** Although many Home Reports follow a similar general format they still contain a lot of verbiage (especially disclaimers). It is accepted that disclaimers are required in what has become a litigious society but their use requires to be moderated.
- **Category 1/2/3 for repairs:** further thought should be given to these as they are too general and the focus for sellers has become simply how to avoid category 3 issues. Equally, some buyers will not consider a property if there is a Category 3 item as perception has changed over time.
- Provide **supplementary information:** examples are as follows
 - Standard roof reports for tenements;
 - More information on factoring arrangements and current costs/future plans (some providers recommend getting details of factoring arrangements under “matters for a conveyancer”);
 - Central heating servicing information (although this should be provided in the Property Questionnaire); and
 - Basic environmental information.

This would lead to increased cost. It has to be remembered that one of the goals of the Housing Improvement Taskforce however was to improve the quality of Scotland’s housing stock.

It could also be argued that if a surveyor advises that it would be best to obtain any supplementary report for example on damp or timber issues, then the Home Report should not be finalised until that report is made available to, and reviewed by, the surveyor – too often such advice is ignored or only picked up at a much later post-Offer stage.

From a surveyor’s perspective however, there may be a reluctance to go down this route as there would also be an increase in the length of time for bringing the property to the market which would frustrate agents and sellers both. Surveyors might also not be prepared to endorse a specialist report. This is because it is common to find estimates provided by different timber specialists for the same property to be wide-ranging. Nevertheless, there are important matters which should be discussed in any review undertaken.

- **The Property Questionnaire** is based on an old due diligence template and requires to be updated.
- Allied to the form and content of the Property Questionnaire is the matter of a solicitor and their selling client being “sale ready”. Could, for example, the seller pre-complete the expected questions that will be asked as part of taking instructions on a standard terms offer? The Scottish Conveyancers Forum has produced a checklist for selling solicitors to take instructions upon and many of the questions could be pre-emptively added to the Property Questionnaire.
- The **matters for conveyancer’s section** – where surveyors state that there may have been alterations and their valuation assumes all necessary consents have been obtained for said alterations but no further specification of same is given. RICS should spell out to

their members that where alterations have been mentioned, the surveyor must identify where he/she thinks the alterations have been made. Some surveyors also add content here for issues that should not be part of legal process. On the whole however, it is a good *aide memoire*. As it stands, this is an important section as a catchall for alteration, planning issues, guarantees, alteration documentation, factoring charges etc. This would involve discussion with RICS.

- The **Energy Performance Certificate**: these are becoming increasingly important especially if there is a move to some sort of compulsory upgrade at point of sale. The vast majority of buyers (and agents) rarely give EPCs a second glance at present. It would be beneficial if, even as a matter of presentation, they were highlighted to a greater extent in the Home Report and buyers urged to consider future implementation of suggested improvements. That would be another cost issue for buyers of course but surely it is a good thing to invest in the fabric and quality of one's home?

Conclusion

One of the main successes of the Home Report is that every buyer bids off of the same value and information. In summary:

- Better information is provided upfront to potential purchasers including condition report, EPC and relevant information from the seller in the PQ.
- Multiple surveys are now the exception rather than the norm.
- Reports are generally prepared by local firms with good market knowledge.
- Housing stock condition has improved.
- Only the seller incurs cost initially meaning that the upfront information is free to prospective buyers.

Providing prospective purchasers with better upfront information is a good thing not just for the benefits that it brings to the overall home moving process, but also because it encourages sellers to get themselves organised with a solicitor upfront instead of leaving this until an Offer is accepted, which happens far too often, and leaves the conveyancer having to catch up.

With work now underway in Westminster to introduce a digital upfront information pack for prospective purchasers, the time would seem right to also review and improve the Scottish Home Report.

A review of the Home Report will benefit the overall aim of delivering a better built environment in Scotland.