

THE INTRODUCTION OF HOME REPORTS – WHAT IT MEANS FOR YOU

On 1st December 2008, Home Reports were introduced throughout Scotland on the back of a publicity campaign by the Scottish Government. Whilst their introduction at a time of greatly declining market activity has been criticised, it is hoped that, in the longer term, the system will facilitate smoother and swifter property transactions and will help the property market bounce back from its current slump.

The changes introduced by the new Home Reports system strike at the heart of current conveyancing practice in Scotland and represent a fundamental shift in responsibility in the initial stages of a property transaction. Whether you are thinking of buying or selling a property, Home Reports will likely be an important aspect of the transaction, and it is important to understand what is involved.

What is a Home Report?

A Home Report is a document which must be prepared by a seller before the property in question is put on the market for sale after 1 December 2008. It consists of three parts: a Single Survey, an Energy Report and a Property Questionnaire.

Single Survey

A qualified surveyor will conduct an inspection of the property and will provide a detailed report on its condition and value. The report is more detailed than was often previously obtained and numerous aspects of the property will be given a rating of 1 to 3 (1 indicating that no repairs are necessary, 2 indicating that repairs may be necessary in the future, 3 indicating that repairs are required immediately). The report will also contain an “accessibility audit” which will provide information on how accessible the property is for wheelchairs, buggies, etc.

In addition, the survey will highlight any aspects of the property which are likely to be relevant to a potential purchaser. For example, if it appears that any alterations have been carried out or that the windows have been replaced, these will be highlighted in the report as a purchaser will want to ensure that these alterations comply with the relevant local authority regulations.

Finally, an estimate of current market value will be provided, as will a mortgage valuation which, it is hoped, the eventual purchaser may be able to use when approaching lenders.

Energy Report

The Energy Report is a new requirement of European Law and will report on the energy efficiency of the property. In particular, a current energy efficiency rating will be provided, along with recommendations of steps which can be taken to improve the property's energy efficiency. An assessment of current CO² emissions will also be given, again with recommendations for improvement.

Property Questionnaire

This will be completed by the seller and will provide information which will be of assistance to a purchaser. Questions concerning aspects such as the Council Tax band, the existence of any shared areas or common charges, the current utility suppliers, the parking situation, and the existence of any alterations, are included. There is a duty on the seller to be truthful in their answers to the questions contained in the Property Questionnaire although, practically, it remains to be seen how this duty will be enforced. A seller may also provide a "don't know" answer to questions.

If you are selling your property

In the short term, the introduction of Home Reports will be felt most by sellers. Before their introduction, it was the responsibility of a purchaser to instruct a survey report and be satisfied as to the condition of the property. In a strong market, this resulted in multiple surveys being carried out over the same property as different potential purchasers took an interest.

Now, a Home Report must be obtained by the seller BEFORE a property goes on the market. If your property has remained on the market since before 1st December 2008, a Home Report is not required unless the property is removed from the market and subsequently re-marketed for sale. The cost of the Home Report will vary depending on the value of the property and the company chosen to provide the report, but initial figures estimate that the cost for an average property will be in the region of £500 to £800.

The report itself must not be older than 12 weeks on the day the property is first marketed for sale and, depending on how long the property remains on the market, it may be necessary to have the survey updated from time-to-time. It is unclear as yet how often this may be required, although the Law Society of Scotland has recommended that purchasers do not rely on reports older than 12 weeks (and indeed it has been suggested that many solicitors will recommend to their purchasing clients that they do not rely on reports older than a few weeks, and possibly not at all if there are unresolved points arising from the report).

If there is interest in the property, potential purchasers will note interest with your solicitor, at which point you have a duty to provide the interested party with a copy of the Home Report within nine days. Failure to do so may result in a fine of £500.

Depending on the age of the report, the purchaser may require that it be re-assessed to take into account any problems or changes which may have occurred since it was initially prepared. It is up to the purchaser and yourself to negotiate responsibility for the cost of any re-assessment although it is likely that you, as the seller, will bear the cost of this.

If you are thinking of purchasing a property

If you are interested in purchasing a particular property, your interest will be noted with the seller's solicitor. Once your interest has been noted, the seller has a duty to deliver a copy of the Home Report to you within nine days. There may be a small charge payable to cover the costs of forwarding a copy to you. Please note that if the property has remained on the market since before 1st December 2008, or if the property is a new-build property, no Home Report will be available.

It has yet to be established how long an original survey will be acceptable before a revised survey will be required. The Law Society of Scotland recommends that purchasers not rely on a survey older than 12 weeks and the purchaser has the option of requesting an updated survey even earlier than this if desired. However, the shelf life is in practice likely to be determined by the nature of the property concerned and market conditions prevailing at that time. It should also be noted that neither you nor your Solicitor may contact the Surveyor providing the Home Report to clarify any points. It may therefore be necessary for an independent pre-purchase report to be instructed on your behalf.

If you are intending to take out a mortgage over the property to finance your purchase, it will be important to establish with your mortgage lender what their survey requirements are. A lender is fully entitled to insist that their own survey be instructed. The Home Report will include, free of charge, a mortgage valuation in the preferred style of your chosen mortgage lender but it has already been stated by some lenders that they will not accept the Home Report valuation and will insist that they carry out their own survey. As of yet it is unclear the

view that different lenders will take in relation to this issue. Policy is again likely to be determined by prevailing market conditions.

Assuming that the information in the Home Report is acceptable, it is hoped that the transaction may then proceed quickly to settlement as the majority of required information will already be disclosed in the Report and any questions arising from the report will likely have already been anticipated by the seller.

Conclusion

The Home Report scheme is still in its infancy and many aspects of procedure will be borne out over the proceeding months. Given the unique changes to practice brought about by their introduction, it is likely that guidance will change over time as the legal profession adapts to, and becomes familiar with, the changes. More information on Home Reports can be found on the Scottish Government website (www.homereportscotland.gov.uk).

We at Bonar Mackenzie understand that that the process of buying and selling a property can be confusing, and our knowledgeable and experienced Solicitors are here to assist in any way they can. Should you be thinking of buying or selling a property, or should you wish to find out more information regarding the introduction of Home Reports, please call 0131 225 8371 and ask to speak to a member of our Conveyancing team.

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