

Proposed New-Build Homes (Buyer Protection) (Scotland) Bill

Introduction

A proposal for a Bill to establish standard missives for the sale of new-build homes, including redress for purchasers in respect of defects in construction. The consultation runs from 5 April 2019 to 27 June 2019. All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document. Questions marked with an asterisk (*) require an answer. All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response. Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded. Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here: [Consultation document](#) [Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used

About you

Please choose whether you are responding as an individual or on behalf of an organisation. Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

Please select the category which best describes your organisation

No Response

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Peter and Jill Hall

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

Aim and Approach

Q1. Which of the following best expresses your view of establishing statutory standardised clauses for builders' missives?

Fully supportive

Please explain the reasons for your response.

I am fully supportive here but unfortunately given what we have been through in the last two years, this needs to be but one part of the solution - this is rather like chasing the horse after it has escaped from the field - we need to fix the problem before it occurs.

Q2. Which of the following best expresses your view of providing a statutory route for home buyers to obtain redress for major failings on new-build property?

Fully supportive

Please explain the reasons for your response

Again see my previous answer - this is a good start position but needs fleshed out

Q3. What do you think would be the main practical advantages and disadvantages of the proposed Bill?

Practically standardised missives, legally created without interference from the builders will be a great start - standard T's & C's, standardised length, etc. Plus a standard form of action and redress should the missives not be met is crucial.

Q4. What length of time do you think is most appropriate for a builder's warranty for a new-build home?

2 years

Q4. What length of time do you think is most appropriate for a builder's warranty for a new-build home?

Please explain the reasons for your response.

On top of the two year missive period, I think here an additional eight years is best as this gives the purchaser time to see whatever problems there are with the new home. Many structural problems do not come to light within two years, such as poor mortar, damp proof course issues, etc. The first two years effectively covers the 'snags' of building a house, which I fully accept will happen at times. The extended period then covers these other major areas.

Q5. Which of the following best describes your view of having standard missives that provide a right for buyers to carry out a full survey of the property within a specified period, and a right to pull out of the purchase if severe or very serious defects are discovered?

Fully supportive

Please explain the reasons for your response

This needs fleshing out in a conversation Graham - I personally believe that the mortgage lenders as well as the purchaser need protection here, i.e. my bank needs a survey of this new house before they lend me the money to buy it. They are stupidly lending me money to buy a faulty good - in our situation, if our mortgage had been 80% or more, we were in the lucky position to afford to give our lenders the keys and walk away. Hence we need to think of the risk to the mortgage market here also - this is a huge issue which could blow up.

Q6. If you have bought a new-build home in the past, please tell me about your experience, taking care not to name individuals/companies or the location of the property/development.

We moved on 1st April 2011 and were very happy with our new home - very few snags to worry about. However, about six years later, we noticed serious mortar degradation across the whole house and detached garage. We conducted several expensive surveys, the result being that the house is constructed with mortar, in places, technically defined as sand. We also have/had a structurally unstable garage (the walls and roof moved) and a damp proof course on the house which is underground for 35% of the house. Engaging with the builder was a nightmare hence we needed to make this process legal and we started publically telling people on the estate what was going on - we effectively blew the lid off the developers plans re their 'non-disclosure agreements' with the estimated 13/15 families they had already bought out. They only started to work with us once we placed a large shipping container on our drive with 'Danger Unstable Structure' signage on it referencing our garage' At the moment, two years in to this farce, we are awaiting our house to be fixed. The garage has been fixed at an estimated cost of £45k-£50k to the builders as they would not simply demolish and rebuild it (it took five weeks of work). We have yet to have an apology, only the generic reply to various BBC articles on us and the estate; we have received no compensation, not that we are looking for this. Similarly we have also proved and have documentary evidence which show the builders and the local council knew about these issues on the estate back in 2011 and worked together to cover it up so as 'to not blight the estate'. This has been a very interesting process.

Financial Implications

Q7. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost-neutral	Some reduction in cost	Significant reduction in cost	Unsure
Government and the public sector		X				
Businesses (including housebuilders)		X				
Individuals (including new-build house buyers)		X				

Please explain the reasons for your response.

Very obviously this will take time, effort and resources to set up however a lot of this could be mitigated by the mortgage lenders requiring surveys (home buyer funds); the government putting in place legal documents re the missives; the setting up of a 'neutral' warranty provider that has no ties to any builders, etc.... Once done and its up and running, then any costs incurred may well be mitigated by the reduction in costs spent by government, public sector, mortgage lenders, the legal profession and buyers themselves in a reduction of such issues.

Equalities

Q8. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

Slightly positive

Please explain the reasons for your response.

Am not sure any issue of equality comes into it - this is business not political correctness. However, for those less able, less willing, etc. to take on the established organisations when things go wrong, this will give them some security, help, confidence, etc....

Sustainability

Q9. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes

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Please explain the reasons for your response.

Yes if done correctly across the UK - there must be no economic or social discrimination in this at all - the bill needs to be applied to the both the cheapest and most expensive of homes, regardless.

General

Q10. Do you have any other comments or suggestions on the proposal?

Graham, as per emails, I would be very interested to work with you on this. Having been through this process for the last couple of years and having experience in this type of work, i.e. high level escalation management, both myself and Jill believe what you are doing is fantastic here but is only the tip of the iceberg. People need protecting here and we believe you are one of the people who can start to help.