

# 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.

on behalf of an organisation

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".)

*No Response*

Please select the category which best describes your organisation

Public sector body (Scottish/UK Government/Government agency, local authority, NDPB)

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).

Aberdeenshire Council

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?

Partially supportive

**Please explain the reasons for your response.**

Whilst we are supportive of the aim it is impractical to impose standard missives by regulations. These are constantly amended so to have to potentially await parliamentary time to change regulations to amend missives is impractical and could result in increasing legal risks of having missives which are not compliant with changes in practice or case law.

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**

As a result of the high values involved court action is expensive and always carries a risk of failure which makes it prohibitive for most people. This proposal provides an alternative route to obtain justified redress. This would further suggest that this apply not just to individual home buyers but equally to all new home buyers including local authorities and registered social landlords for example.

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

The Bill should provide clarity of contract for both parties, and for any subsequent adjudicator. It should also introduce fairness for the consumer by eliminating unfair contract terms. It also provides a low cost route for the consumer to pursue complaints. There will be some increased costs for businesses but these will fall hardest on builders not providing homes of the required standard. The standardised clauses and clear route of redress may help reduce the instances of serious defect but does not fully address the cause for example poor workmanship or cutting corners on site.

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

5 years

**Please explain the reasons for your response.**

A purchaser should expect a house to be free of major defects for a considerable time - 5 years would be the minimum warranty period. Alignment with the NHBC's 10-year warranty programme may be more appropriate.

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**

A consumer is entitled to get what they pay for, a property built to specification, compliant with building regulations and free from major defects. This would allow consumers to establish whether or not this was the case, and provide a right to withdraw from the contract if not.

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.

*No Response*

## 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.**

Establishing a more robust process will likely increase the costs and typically this would ultimately pass to

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

the house buyer – however this might be a worthwhile investment to ensure that any purchase is fit for purpose.

## 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?

Neutral (neither positive nor negative)

## 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

## General

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

While on the face of it an inspection by an independently suitably qualified professional prior to conclusion of missives is one way forward, the risk is that a survey would not pick up any concealed defects or future latent defects at that point. In order to minimise risk for an independent inspection regime from start to finish. The house is then handed over with the signed report to prospective buyers. It may be more suitable to increase the resources available to local authorities to increase inspections during construction to resolve problems/ issues before completion and to strengthen an already valuable service and improve the quality of new homes.

Another option would be for the developer to fund this similar to Home Report information but focusing on standard/quality of construction. This would augment the Building Standards Completion Certification, Electricity/Gas compliance certificates, EPC, O&M manuals normally handed over. Provided the inspection regime is fully independent, the above would give the prospective buyer some confidence and focus the developer on construction quality.

In the spirit of what the consultation hopes to achieve, Aberdeenshire Council supports the proposal to establish a New Homes Ombudsman.