

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

QUESTIONS

ABOUT YOU

(Note: Information entered in this “About You” section may be published with your response (unless it is “not for publication”), except where indicated in **bold**.)

1. Are you responding as:

- an individual – in which case answer Q2A
- on behalf of an organisation? – in which case answer Q2B

2A. 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”.)

- Politician (MSP/MP/peer/MEP/Councillor)
- Professional with experience in a relevant subject
- Academic with expertise in a relevant subject
- 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:

2B. Please select the category that best describes your organisation:

- Public sector body (Scottish/UK Government or agency, local authority, NDPB)
- Commercial organisation (company, business)
- Representative organisation (trade union, professional association)
- Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
- Other (e.g. clubs, local groups, groups of individuals, etc.)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

This response is from a Local Authority. All council services were invited to contribute and the response was collated following contributions from Head of

Housing Property & Projects, Building Standards, Trading Standards and Legal Services.

1. Please choose one of the following:

- I am content for this response to be published and attributed to me or my organisation
- I would like this response to be published anonymously
- I would like this response to be considered, but not published (“not for publication”)

If you have requested anonymity or asked for your response not to be published, please give a reason. **(Note: your reason will not be published.)**

2. 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 **(Note: The name will not be published if you have asked for the response to be anonymous or “not for publication”.)**

Name: North Lanarkshire Council

3. Please provide 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. **(Note: We will not publish these contact details.)**

6. Data protection declaration

- I confirm that I have read and understood the privacy notice attached to this consultation which explains how my personal data will be used.

YOUR VIEWS ON THE PROPOSAL

Note: All answers to the questions in this section may be published (unless your response is “not for publication”).

Aim and approach

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

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

It is the council’s opinion that the proposal offers a proactive approach to dealing with issues consumers face with new build properties and provides protection which is lacking in the current system.

The Consumer Rights Act 2015 does not cover the purchase of new-build homes. The legal position is buyer beware - the ‘caveat emptor’ rule; a new build home will be covered by a warranty scheme.

In 2018 Trading Standards in North Lanarkshire received 5 complaints mainly related to build quality and failure to carry out appropriate remedial work, this may indicate potential issues with warranty schemes, as buyers have not been able to satisfactorily resolve issues with builders.

Currently the housebuilder has more bargaining power in the contract, statutory clauses would afford more protection to the buyer and balance the interest of parties.

Given the importance of and financial commitment to buying a new build home, removing the caveat emptor rule and replacing these with standardised clauses in builders missives would, we believe, improve consumer protection.

2. 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
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

It is the council's opinion that the system should provide standard missives which set out legal protection for consumers to resolve defects and disputes.

Purchasers should have a statutory route with clearly defined terms to obtain redress for major failings. This, accompanied by 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, ensures that the interests of both parties are balanced.

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

The most effective consumer protection legislation is not punitive, it is simply best practice enshrined in law and generally leads to improvements in the quality of products. This benefits both consumers and manufacturers /sellers.

The potential advantages of the proposed Bill would see consistency for purchasers and improve quality assurance of on-site building, which could benefit both parties. Even if no issues arise, this could result in peace of mind for the purchaser.

If there is a potential for increased costs being borne by the purchaser through increased house prices, this could be perceived as a disadvantage. However, improving the quality assurance on site could, in the medium term, prove cost neutral.

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

- 5 years
- 2 years
- 1 year
- 6 months
- Other (please specify)
- Unsure

Please explain the reasons for your response.

Due to the value of the investment, 10 years would be appropriate and would allow a reasonable time to identify major defects such as structural or weatherproofing problems.

Currently warranties cover most defects, except for matters of wear and tear and minor defects such as plaster drying cracks, for years 1 -2. For years 3-10, the

policy will only cover major defects such as structural or weatherproofing problems. New legislation should mirror this.

5. 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
 Partially supportive
 Neutral (neither agree nor disagree)
 Partially opposed
 Fully opposed
 Unsure

Please explain the reasons for your response.

It is the council's opinion that the introduction of standard missives has the potential to lead to an increase in build quality.

While the council is fully supportive, we would highlight that there would need to be a clear definition for 'severe or serious defects' to avoid ambiguity.

6. 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.

N/A

Financial implications

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

(a) Government and the public sector

- Significant increase in cost
 Some increase in cost
 Broadly cost-neutral
 Some reduction in cost
 Significant reduction in cost
 Unsure

(b) Businesses – including housebuilders

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

(c) Individuals – including new-build house buyers

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

Please explain the reasons for your response.

The legislation could help ensure acceptable build quality and so reduce the need for remedial or snagging work, thus reducing costs for builders and ensuring quality for buyers.

Equalities

8. 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 and belief, sex, sexual orientation?

- Positive
- Slightly positive
- Neutral (neither positive nor negative)
- Slightly negative
- Negative
- Unsure

Please explain the reasons for your response.

Sustainability

9. 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
 No
 Unsure

Please explain the reasons for your response.

The legislation could help ensure acceptable build quality and so reduce the need for remedial or snagging work, thus reducing costs for builders and ensuring quality for buyers.

General

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

The council would highlight that there would need to be a clear definition for 'severe or serious defects' to avoid ambiguity.