

Citizen Participation and Public Petitions Committee

8th Meeting, 2023 (Session 6), Wednesday
17 May 2023

PE1957: Home Reports – make surveyors more accountable

Lodged on 6 September 2022

Petitioner Catherine Donaghy

**Petition
summary** Calling on the Scottish Parliament to urge the Scottish Government to:

- ensure surveyors are legally responsible for the accuracy of information provided in the single survey; and
- increase the liability on surveyors to pay repair bills where a Home Report fails to highlight existing faults in the condition of the property.

Webpage <https://petitions.parliament.scot/petitions/PE1957>

Introduction

1. The Committee last considered this petition at its meeting on [7 December 2022](#). At that meeting, the Committee agreed to write to the Royal Institution of Chartered Surveyors (RICS), the Law Society of Scotland, Under One Roof, the Built Environment Forum Scotland, and the Scottish Law Commission.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new responses from the Scottish Law Commission, the Built Environment Forum Scotland, the Royal Institution of Chartered Surveyors, and the Law Society of Scotland which are set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).

5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.
6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 39 signatures have been received on this petition.

Action

The Committee is invited to consider what action it wishes to take.

Clerk to the Committee

Annexe A

PE1957: Home Reports – make surveyors more accountable

Petitioner

Catherine Donaghy

Date lodged

6 September 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to:

- ensure surveyors are legally responsible for the accuracy of information provided in the single survey; and
- increase the liability on surveyors to pay repair bills where a Home Report fails to highlight existing faults in the condition of the property.

Previous action

I have contacted my MSP, Christina McKelvie, and my MP, Dr Lisa Cameron.

I have also raised my experience of this issue directly with the surveyor's company who worked on my own house, and the Royal Institute of Chartered Surveyors.

Background information

I purchased a house on the basis that the Home Report Survey did not highlight any areas of the property requiring immediate remedial work. There were/are many faults in the property which were not stated in the home report. The main faults being the hole in the roof, the poor fit of the conservatory roof, and missing gutters/rainwater systems. The surveyor said that the rainwater systems should be checked when it rains, but failed to mention there were NO rainwater systems.

Annexe B

Extract from Official Report of last consideration of PE1957 on 7 December 2022

The Convener: Item 3 is consideration of new petitions, the first of which is PE1957, on home reports, making surveyors more accountable. It has been lodged by Catherine Donaghy and calls on the Parliament to urge the Scottish Government to ensure that surveyors are legally responsible for the accuracy of information provided in the single survey and to increase the liability on surveyors to pay repair bills where a home report fails to highlight existing faults in the condition of the property.

Catherine has shared her experience of buying a house only to discover that the property had major faults, which had not been highlighted in the home report. She tells us that those faults included a hole in the roof and missing rainwater and gutter systems, none of which had been noted as having a category 3 rating, requiring urgent or immediate repair.

As we do with all new petitions ahead of considering them—as I should have said a moment ago—we invite the Scottish Government to comment on the underlying principles of the petition and to respond. The Scottish Government has stated that it considers the asks of the petition to be inappropriate because the scope of the home report survey is outlined at the beginning of the report and clearly identifies the limitations of the survey, and because members of the Royal Institution of Chartered Surveyors carrying out the single survey and valuation in a home report must be appropriately qualified, carry professional indemnity insurance and have in place a complaints-handling procedure that offers independent third-party recourse to complaints—that is to say, by people such as Catherine Donaghy.

In responding to the Scottish Government's view, Catherine explains the difficulties that she has experienced in pursuing a complaint with the Royal Institution of Chartered Surveyors and she has suggested that all home reports should include contact details for the Centre for Effective Dispute Resolution.

It is an interesting petition. Do members have any comments or suggestions for action?

Alexander Stewart: I hope that the situation that the petitioner found herself in is just a one-off, but it might not be. We might assume that, when we get a home report, the fundamentals would be covered in that report. It is important to continue the petition. I would request that we write to the Royal Institution of Chartered Surveyors to seek a view on the issues that are raised by the petition, requesting information on the training and guidance that is provided to surveyors and valuers to ensure the accuracy of information that is included in a home report. We should also

ask for RICS's view on the proposal to include contact details for the Centre for Effective Dispute Resolution in home reports. In addition, I think that it would be useful to write to the Law Society of Scotland to seek its views on the issues that are raised in the petition.

If the situation is not one that regularly occurs, the relevant regulations should protect the individual who is purchasing a property. The quality of the survey that surveyors carry out is vitally important.

The Convener: I should mention that sceptics of the proposal for home reports—of which I was one at the time—were concerned about the principle underpinning home reports, which is that they would do away with the need for undertaking expensive surveys when people were making offers for properties. On the question whether a home report is deficient, it has certainly been my experience in the years since the introduction of home reports that, when someone buys a home, a survey has still been needed as part of the requirements of the mortgage lender.

Fergus Ewing: In addition to the suggested contents of the letters to RICS and the Law Society of Scotland, I wonder if we could add further inquiries about the complaints process. That might include asking for information on the number of complaints per annum, the number of complaints that have been upheld and the number that have been rejected in comparison with the total number of home reports.

When I was a solicitor—albeit in a different century from the one that we are now in—my experience was that most surveyors were pretty professional and thorough. I am very surprised that a hole in the roof was not spotted. That sounds like a pretty patent defect, as opposed to a latent defect. I would be interested to know how widespread such complaints are and what the upshot has been for the people who have made complaints. The petitioner says that her experience was pretty dismal, and it would be good to get the bigger picture. Could those matters could be added to the letters?

The Convener: I think that that would be very sensible. The experience of the committee with regard to petitions that we have considered before has sometimes been that the veneer of a possible recourse, on examination by the committee to evidence the substance of it, has fallen short of what might have been hoped for or experienced. Interrogating the actual practice, experience, numbers and resolution of the existing complaints process would be a sensible thing for us to try to establish.

Fergus Ewing: In particular, we should tease out whether complaints that have been upheld have resulted in a remedy—namely, a financial recompense—and whether, if that has been the case, the recompense has been provided by the indemnity insurers or by the surveyors.

It is probably a complicated area, convener, because there will be an overlap between whether the solicitor or the surveyor was negligent. It could be that, in some cases, both might be negligent, in which case there would be a recourse to dual indemnities: the solicitor's professional indemnity insurance and the surveyor's insurance. Nonetheless, it would be useful to get a picture rather than to look at the matter in isolation.

The Convener: Are colleagues content that we proceed on the basis of the suggestions made by Mr Stewart and Mr Ewing?

Paul Sweeney: I share the concerns raised by the petitioner about whether home reports are fit for purpose. I declare an interest as a trustee of the Glasgow City Heritage Trust. In tenemental properties in particular, there are major deficiencies in assessing overall building condition in home reports in Glasgow.

Our colleague Graham Simpson MSP has reconvened the cross-party working group on maintenance of tenement scheme property. Perhaps we should write to Under One Roof, the charity that provides impartial advice to home owners and people purchasing homes, as well as the Built Environment Forum Scotland, which is the secretariat for the working group on tenement maintenance. I know that an action on the matter is to improve the standard and quality of home reports.

I also understand that the Scottish Law Commission is undertaking a project on improving tenement law. It might be that an element of its work is about improving the regulations on home reports. There are major issues with people purchasing property based on highly defective information that leaves them liable for significant repairs to, say, the roof of a tenement that was not assessed as part of a home report. For example, if somebody has a ground floor flat, they are still liable for the roof, which will not have been looked at as part of the home report.

The home report is particularly problematic in relation to tenemental properties.

The Convener: We can do what you suggest.

Are members content to incorporate all those suggestions?

Members *indicated agreement.*

Annexe C

Scottish Law Commission submission of 21 December 2022

PE1957/C: Home Reports – make surveyors more accountable

Thank you for your letter of 9 December inviting the Scottish Law Commission's views on the above petition. I note from the Official Report of the Committee's meeting on 7 December 2022 that this has been prompted by our current work on tenement law reform.

Our ongoing tenement law project is focused solely on changes to the law which are required to establish and regulate compulsory owners' associations in tenement buildings. Questions regarding the responsibilities and liabilities of surveyors are beyond the scope of the project (and of any of our other ongoing law reform projects). I am afraid therefore that we are unable to comment on the petition at hand.

You may wish to note that our compulsory owners' association project stems from the [Final Recommendations Report](#) of the Parliamentary Working Group on Maintenance of Tenement Scheme Property. This report contained three recommendations for tackling issues with disrepair in Scotland's tenements: (1) ensuring that tenements are subject to building condition inspections every five years, (2) establishing compulsory owners' associations in the form of a legal entity for every tenement building, and (3) establishing building reserve funds for tenement repair costs.

It may be that recommendation 1 in relation to building condition inspections has some relevance to this petition, but, as alluded to above, the substance of any such inspection requirement is not within the scope of our project. Implementation of that matter and of recommendation 3 (building reserve funds) is being considered by the Scottish Government.

I trust that this is of assistance.

Built Environment Forum Scotland (BEFS) submission of 20 January 2023

PE1957/D: Home Reports - make surveyors more accountable

Built Environment Forum Scotland (BEFS) is an umbrella body for organisations working in the built environment in Scotland. Drawing on extensive expertise in a membership-led forum, BEFS informs, debates and advocates on the strategic issues, opportunities and challenges facing Scotland's historic and contemporary built environment. BEFS is a supporting member of the [Climate Heritage Network](#).

BEFS thank The Citizen Participation and Public Petitions Committee for their letter inviting our response.

BEFS and Under One Roof share Secretariat for the [cross-party working group on maintenance of tenemental property](#), mentioned within the Official Report from the Committee.

The Petition is:

Calling on the Scottish Parliament to urge the Scottish Government to:

- ensure surveyors are legally responsible for the accuracy of information provided in the single survey; and*
- increase the liability on surveyors to pay repair bills where a Home Report fails to highlight existing faults in the condition of the property.*

BEFS Response is given in full below:

BEFS appreciate that the Scottish Government has stated that:

it considers the asks of the petition to be inappropriate because the scope of the home report survey is outlined at the beginning of the report and clearly identifies the limitations of the survey, and because members of the Royal Institution of Chartered Surveyors carrying out the single survey and valuation in a home report must

be appropriately qualified, carry professional indemnity insurance and have in place a complaints-handling procedure that offers independent third-party recourse to complaints

BEFS sees no concern in the Petitioner's suggestion (in response to the above) that: all home reports should include contact details for the Centre for Effective Dispute Resolution.

BEFS supports the need for quality surveys, and supports the professionalism of the individuals within BEFS Members, RICS.

BEFS also support the questions raised by the Committee to be put to other parties, around numbers/types of complaints. Information and data should always support informed decision making.

In regard to the Petition first point, BEFS appreciate that surveyors do have responsibilities regarding any liability, but also know that liability is heavily caveated by a number of disclaimers in the Home Report, as would be expected in contracts of this type.

Raised levels of liability *could be considered* but, to be pragmatic - if set too high surveyors will find themselves not wanting to accept work on 'trickier' or 'potentially problematic' properties, leading to some very undesirable impacts on existing properties, and the market more generally. (This aspect could only be better informed from data relating to current levels/types of complaints.)

BEFS believes the Petition is positive in raising the profile of questions relating to the Home Report and a potential review more broadly. Scotland already leads the way with this process, with Westminster exploring ways to provide better upfront information in relation to home buying. Any review can only support the system further for all parties.

With regard to the comments made by Paul Sweeney within the Committee, BEFS and Under One Roof draw the Committee's attention to the [work of the group](#), and the Recommendations previously accepted by the Scottish Government.

One of the recommendations includes 5 yearly surveys – these would add weight and information to any Home Reports relating to the properties in question. Including providing information which may not be

picked-up through existing Home Reports, providing assurance and information to all parties.

Action from across the Parliament to support any of the recommendations from the tenement maintenance group, and the resultant work of the Scottish Law Commission can only strengthen and support homeowners and those that work with them in the future.

Royal Institution of Chartered Surveyors submission of 20 January 2023

PE1957/E: Home Reports – make surveyors more accountable

Thank you for inviting the Royal Institution of Chartered Surveyors (RICS) views on the above petition.

We acknowledge that the petitioner has referenced engagement with the RICS in relation to the Home Report and subsequently that the RICS has been referenced within the Official Report of the Committee's meeting on 7 December 2022. We are looking into the case to identify why the petitioner was unable to receive a response from us in relation to their complaint.

Below we have addressed the issues that are raised by the petitioner, we will give information on the training and guidance that is provided to surveyors and valuers to ensure the accuracy of information included in a home report and the formal complaints process.

Training

On the issue of appropriate training and guidance provided to surveyors and valuers to ensure the accuracy of information that is included in a home report. Under RICS rules of conduct, all members must undertake lifelong learning to ensure high standards are maintained. For example, this includes undertaking relevant and up to date CPD, ensuring that firm regulation is up to date, as well as following the RICS Valuation – Global Standards, known commonly as the 'Red Book'.

In addition, RICS members must operate within their own competence levels, which is referred to as 'core values'. Those RICS-regulated firms and professionals undertaking Home Reports must operate within their area of competence and to appropriate standards, including valuation and energy assessment reports. Further information on standards can be found here: <https://www.rics.org/uk/upholding-professional-standards/>

In terms of dealing with a complaint from a customer, RICS regulated firms and professionals must offer a copy of their Complaints Handling Procedure (CHP) to a formal complainant. The CHP should include the option, if a satisfactory resolution cannot be agreed between the parties, of referring the complainant to an appointed Alternative Dispute Resolution (ADR) provider, who can review the dispute and if they find in the complainant's favour, award them with the appropriate compensation. RICS-regulated firms are required to have these steps in place.

In addition, RICS-regulated firms are required to have adequate and appropriate professional indemnity cover. If the error or negligence in the report has resulted in the occurrence of a loss, then legal action can be brought by the complainant.

This is also emphasised by the Scottish Government, who in their response to the petition (6 September 2022), noted that "members of the Royal Institution of Chartered Surveyors carrying out the single survey and valuation in a home report must be appropriately qualified, carry professional indemnity insurance and have in place a complaints-handling procedure that offers independent third-party recourse to complaints."

As such, in relation to the petition's focus, we would argue that surveyors are already legally responsible for the accuracy of information provided in the single survey. In addition, the call to 'increase the liability on surveyors to pay repair bills where a Home Report fails to highlight existing faults in the condition of the property' already in practice exists, as set out above and within the accompanying SPICe briefing (25 August 2022). Further information on how members of the public can raise concerns relating to regulated firms or professionals can be found here: <https://www.rics.org/uk/footer/contact-us/concerns/>

The complaints process

In regard to the proposal to include contact details for the Centre for Effective Dispute Resolution in home reports, currently it is not possible to name a single specific third-party resolution service as this would indicate bias, instead the Home Report (section 1.1) states “The Surveyors have a written complaints handling procedure. This is available from the offices of the Surveyors at the address stated”.

However, issues such as this and around wording more generally may be addressed by Scottish Government in the forthcoming Home Report Review.

Regarding questions related to:

- information on the number of complaints per annum;
- the number of complaints that have been upheld; and,
- the number that have been rejected in comparison with the total number of home reports.

We can share some high-level figures. Between 1st January – 31st December 2022 RICS received 1,853 total concern reports globally, 503 (27%) of which related to Home Surveys:

- of the total concern reports, 292 (16%) were referred for investigation following initial review.
- of the home survey concerns, 39 (8%) were referred for investigation following initial review.

In terms of the wider picture, 2% of all concern reports received in 2022 were Home Surveys that went to investigation. All remaining concerns (84% of total and 92% of Home Survey concerns) were closed at initial review stage. The document [Investigating and Managing Concerns](#) provides information on how we decide whether to refer a concern to investigation. In addition, further information may be obtained from various ombudsman and third-party services.

Overall, in its current format, we believe the Home Report is fit for purpose, providing a higher and more in-depth standard of report than would be provided through a mortgage valuation. It also clearly outlines the scope, full terms and conditions, and limitations of the survey.

For example, the Scottish Government notes within their guidance on [Home Reports](#), that if any of the repairs are marked as urgent (code 3)

or needing future attention (code 2), prospective purchasers should consider whether they can cope with the cost or inconvenience of the repair works, with the recommendation that estimates should be sought for how much they'll cost before proceeding.

In addition, section 2.3 of the Single Survey terms states:

WARNING: If left unattended, even for a relatively short period, Category 2 repairs can rapidly develop into more serious Category 3 repairs.

Nevertheless, we understand that improvements should and can be made to ensure that Home Reports are as accurate and user friendly as possible, particularly as the last review came in 2013. As such, we support the Scottish Government's forthcoming Home Report Review.

We understand that the planned review was delayed in 2021 due to resourcing challenges brought on by the pandemic, but also to incorporate new legislation, such as the work on the Housing Standard and Energy Efficiency. In anticipation of the publication of the Review, in 2021, RICS undertook steps to set up an External Working Group of expert stakeholders to provide technical expertise and industry experience of the Home Report in practice.

As such, we look forward to continuing our work with the Scottish Government to ensure that Home Reports remain an effective future-proofed product, helping to foster a well-functioning residential property market that works in the consumer and public interest, while protecting and recognising the role of Chartered Surveyors.

Law Society of Scotland submission of 20 January 2023

PE1957/F: Home Reports – make surveyors more accountable

Thank you for your letter of 9 December 2022 inviting us to comment on the actions called for in the above petition.

Home Reports do have limitations and do not represent a full structural survey of the property. We understand that the scope of the Home

Report survey is outlined at the beginning of the report and within the terms and conditions. This sets out the limitations of the survey. This information is therefore clearly stated to purchasers and to sellers at the outset.

If strict liability was to be imposed, then this is likely to increase the insurance costs incurred by surveyors considerably and will inevitably have an effect on the consumer by way of an increase in the costs of reports.

We also understand that members of the Royal Institution of Chartered Surveyors carrying out the single survey and valuation in a Home Report must be appropriately qualified, and they also are covered by indemnity insurance.

Surveyors carrying out Home Reports are required, we understand, to have in place a complaints-handling procedure. This process also includes recourse to RICS to consider the complaint further. There are details of the liability of the surveyor as well as a note of how to raise a complaint contained within the Home Report. We are not able to comment on the specific nature of the complaints process itself and its accessibility as this is beyond our remit and knowledge.

Solicitors involved in the conveyancing process can provide only very high level advice to their clients about Home Reports. This would include pointing out areas which may affect the conveyancing process, such as where alterations have been noted and so Building Warrants/Plans and Completion Certificates are likely to be required. However, solicitors cannot provide advice about structural issues or issues relating to the building condition etc as they are not qualified to do so. This would be the role of the surveyor.

We also understand that the Scottish Government is considering a review of Home Reports in the near future and these concerns may be considered within that review.

We hope that you find our comments helpful.

If we can be of further assistance, please do not hesitate to contact us.