

# Housing Improvement Task Force Final Report Briefing on Improving the Operation of the Housing Market



## Introduction

This briefing outlines some of the proposals in the Housing Improvement Task Force (HITF) final report '**Stewardship and Responsibility: A Policy Framework for Private Housing in Scotland**'. It focuses on the parts of the report that relate to improving the operation of the housing market.

The parts of the report that relate to quality standards for the private housing sector and improving standards in the private rented sector are covered in separate briefings from the CIH. The part of the HITF report that addresses the facilitation of common repairs and maintenance is covered in a separate CIH briefing relating to the Scottish Executive's consultation paper on the Tenements (Scotland) Bill. All briefing papers are available on the CIH Scotland website [www.cihscotland.org](http://www.cihscotland.org) or by phoning 0131 225 4544.

## Background

The HITF was established by the Scottish Executive and chaired by Margaret Curran MSP, Social Justice Minister. It was charged with carrying out a thorough review of housing policy in relation to the condition of the private sector in Scotland. Its first stage report published in March 2002, '**Issues in Improving Quality in Private Houses: The first report of the Housing Improvement Task Force**', set out the key issues and challenges in improving the condition of Scotland's private sector houses and modernising the buying and selling process. The first stage report is available on the Scottish Executive website at: <http://www.scotland.gov.uk/library3/housing/iqph-00.asp>

The findings of the first stage report were used as the starting point to draw up the range of proposals and recommendations contained in the final report. The final report has been presented to the Scottish Executive, which has now put it out for consultation. A copy of the full HITF final report is available on the Scottish Executive website: <http://www.scotland.gov.uk/library5/housing/pfph-00.asp>

The CIH will be responding to the HITF final report and is interested in hearing your views on this important report. The consultation process is an ideal opportunity to influence the future direction of action on private housing in Scotland. Please respond with comments by **Monday 2 June 2003**.

Comments should be sent to:  
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## **1. Improving the Operation of the Housing Market**

The first HITF report concluded that there are few market-related incentives that encourage owners to keep their houses in good condition. Depending on the local market, property values may continue to increase whether or not the property is properly maintained. It noted that without adequate expenditure on repair, maintenance and, over time, improvement, all housing will eventually start to fail. Therefore as a matter of public policy, the HITF believes that there is a need to encourage house buyers and sellers to be more interested in house condition.

Ideally, the HITF would like the relative condition of houses to be clearly reflected in their price so that, other things being equal, there is a market premium for well-maintained houses and a market penalty for houses in poor condition. It believes that this would create a very clear incentive to sellers and persons thinking of selling in the future to keep their properties in good condition.

With this in mind the HITF has produced proposals aimed at:

- Identifying ways of improving the home buying and selling process,
- Enhancing the information available on the condition and likely maintenance requirements of a property,
- Ways in which owners can be provided with increased confidence that any tradesman they employ to carry out work will do so to a good standard.

The HITF proposals for improving the operation of the housing market are as follows.

## **2. Improving the Information Available to House Purchasers**

### ***a. Proposals for a Single Survey***

The proposals for a single survey arise from an evaluation of previous calls from a number of organisations for the establishment of seller surveys. The principles of both are the same; the seller commissions the survey for the property and this is made available to prospective buyers. The HITF prefers the term single survey.

The proposals for a single survey are designed to tackle three weaknesses in the house buying and selling system:

- The current reliance of most house purchasers on Scheme 1 valuations which provide only limited information on the condition of a property,
- The encouragement which the existing system gives to multiple surveys and valuations,
- The setting of the 'offers over' prices at an artificially low level by sellers in order to stimulate interest in the property.

The "single survey" solution seeks to resolve these problems by providing a single house condition report which is potentially available to all those involved in the house buying and selling process. This survey report would provide a comprehensive guide to the condition of the property, together with a valuation. In principle, therefore, it would provide much more detailed information to both house buyers and sellers than is usually the case at present and avoid the need for competing house purchasers to commission separate surveys and valuations. It also ensures that there is an independent valuation of the property available so that potential buyers do not have to rely on the upset price or 'offers over' price to decide if it is likely to be affordable.

The HITF proposes that the single survey should be market led, i.e. a voluntary scheme where individual owners decide if they wish to have a single survey for their property. Ultimately the buyer of the property will pay for the survey and the surveyor's duty of care will pass to the buyer.

**Do you think that the single survey should be voluntary or mandatory? In the current climate, where in much of Scotland the housing market is a seller's market, is their sufficient incentive for sellers to opt for a single survey? Are their good reasons why single surveys should not be mandatory? Is there an issue for areas of low demand and who pays for the survey if the property does not sell and is withdrawn from the market?**

**What do you think the content the single survey should be? For example should it simply be a valuation survey or should it also look at repair and improvement issues and energy efficiency etc.? Should it look at value at all or will prospective buyers not trust such a valuation and want to make their own? Should the survey focus solely on the property itself or should it also cover common interests such as the stairs and guttering?**

**Should the single survey include a hidden/latent defects guarantee? Would this increase the cost of the survey, through an insurance premium?**

**Who should ultimately pay for the survey the seller or the buyer?**

#### ***b. Proposals for a Purchaser's Information Pack***

The HITF also looked at whether it would be desirable for other types of information, to be made available to prospective purchasers when the house is put on the market. It concluded that there would be considerable advantages in putting together a standard "Purchaser's Information Pack" that would include specified documents and information for prospective buyers.

Under the present home buying process, the buyer obtains certain information about the property only after an offer has been accepted. The HITF concluded that not only can this lead to delay while the information is being assembled but it can also mean that problems with transactions may come to light only after several weeks, by which time the buyer and seller may have incurred significant costs in legal fees, surveys, etc. This can delay the conclusion of missives and, in the most extreme cases, result in sales falling through altogether.

The HITF believes that by providing certain information at the outset the process can be made faster, more transparent and consumer friendly. This means less risk of transactions being held up, less wasted expenditure and earlier certainty for everyone. It should also help highlight common and shared obligations, including liability for property management and repair costs. It therefore recommends that Purchaser's Information Packs should be introduced on a voluntary market-led basis.

**Should Purchaser's Information Packs be introduced? If so should they be voluntary or mandatory?**

**What information should be included in the packs? For example the HITF recommends they should include planning consents, guarantees for any work that has been carried out on the property, a copy of the land certificate or details of common repair and maintenance burdens, a summary of property management arrangements and a Coal Authority**

**Report (if applicable). Do you agree with this? Should anything else be included e.g. a log book that records work carried out on the property, similar to a car log book?**

### **3. Other Possible Changes to the House Buying and Selling Process**

#### ***a. The Selling Process***

The HITF considered whether sellers and their agents should be encouraged to give prospective buyers a reasonable period to consider whether they wish to offer for a property. It noted that this would require legislation. Such a move would allow potential buyers more time to consider the outcome of a valuation or survey before making an offer for a property. The HITF thought it might also encourage a more measured approach generally, with buyers more inclined to commission a more extensive survey report if they felt they would have time to study it properly and, if necessary, ask more questions.

It noted, however, that Solicitors normally recommend reasonable notice of closing dates anyway. Also this option would positively disadvantage a seller who had good reason to seek a quick sale or had received a good offer that might not remain on the table if there was an enforced notice period.

The HITF concluded that such changes would be heavy handed bureaucratic and out of proportion to the problem.

#### **Do you agree with this or would you like to see a fixed notice period?**

The HITF also considered the arguments for altering the existing blind bidding system. "Blind bidding" is a convention that has developed in the Scottish house buying system although some houses are sold by public auction. To abolish blind bidding would necessitate legislation to require the use of a certain prescribed method or methods of selling, for example, an auction.

The HITF sees the abolition of blind bidding as enabling prospective buyers to judge whether they are actually able to afford the property in light of other bids tabled and would allow them to bid a higher sum rather than lose the sale because of a small margin. They would also be able to avoid paying "well over the odds" simply to try to ensure that they had outbid other competitors. However, it also noted some problems with changing blind bidding including that it may still favour sellers, cultural issues regarding auctions in Scotland and bid no longer being confidential. It concluded that a compulsory move away from blind bidding should not be recommended.

#### **Do you agree with this or would you like to see blind bidding changed? Are there alternatives to the blind bidding process?**

The HITF considered whether measures should be adopted to prevent the setting of unrealistically low "offers over" prices which are unfair to buyers and damage the credibility of the buying and selling system generally. It concluded that the problem of setting offers over prices too low is best tackled through putting in place an effective system of single surveys that would allow prospective purchasers to obtain an independent valuation.

#### **Do you agree with this or would you like to see any problems with the offers over prices tackled in a different way?**

### ***b. Concluding the Contract and Reducing Delays***

The first HITF report noted that missives were becoming more complex. It has been suggested that standard missives might help reduce the time taken to conclude a sale.

However, the HITF notes that that buyers and sellers may want to specify particular issues and that standard missives would not be able to take account of all circumstances. Also, the best interests of clients may not always be served by solicitors taking the simplest and quickest option.

The Law Society of Scotland's Conveyancing Committee is now looking at the scope for using *pro forma* offers to sell that will incorporate standard conditions of contract. The HITF support this approach with a view to it eventually becoming part of the proposed Purchaser's Information Pack.

**Do you agree with this approach or would you prefer to see an alternative?**

The HITF examined a range of practices that housing developers have adopted both in the marketing of properties and in the terms of contract of sale frequently used. It felt that these leave the consumer in an unacceptably weak position, particularly if buyers are persuaded to sign the contract on the developer's premises, without having an opportunity to take legal advice first.

It concluded that this is an important issue and recommends that the Scottish Executive should undertake a specific review of this matter with the aim of brokering an agreement between the various parties involved including the Law Society, builders, trading standards and consumers. If this is unsuccessful then legislation should be considered.

**Do you support think that a voluntary scheme will work or is legislation preferable? Are there alternative approaches that you would recommend?**

### ***c. Clarifying the Costs of the Process***

The HITF believes it is in the interests of buyers and sellers to have clear information on likely costs from all service providers. However, an expectation that a single all-encompassing estimate could be provided is unrealistic.

It notes that the Law Society has adopted a best practice approach though the use of Terms of Engagement letters and is also looking at the need for a Processional Practice Rule to make these mandatory. The HITF welcomes this approach and encourages all service providers to provide suitably clear estimates and costs as early in the process as possible.

**Do you agree with this approach? Can you recommend any alternatives?**

### ***d. The Role of Lenders***

The HITF looked at the claim that there is no incentive for buyers to look after their homes because lenders do not make loans conditional on necessary works identified in valuations or surveys being carried out. It noted that in practice it is difficult for lenders to verify that specified works had been carried out.

The HITF looked at two options for strengthening the role of lenders. The first was that the regulatory framework should be changed to require that loans on property in good condition should attract lower mortgage rates than those in need of repair or improvement. The second, linked, proposal was that owners should be required to commission a property condition survey every five years. This would allow lending rates to be adjusted to reflect condition and would provide an opportunity for lenders to give practical assistance with the specification, commissioning and funding of any works. It was suggested that this would act as an incentive to both lenders and owners to ensure that properties were maintained to a good standard.

The HITF concluded it did not wish to endorse such an approach.

**Do you think mortgage lenders should take a more active interest in the condition of properties against which they are lending? If so how could this be achieved? Would different mortgage rates penalise low income home-owners who may only be able to afford properties that require some renovation work?**

**Do you think all owners should be required to survey their homes, say every five years? If so, should this be linked to lending rates or would making the surveys available to prospective purchasers act as sufficient incentive? Should this only apply to tenement properties where there are shared responsibilities? Would an obligation for every owner to carry out regular surveys add to the credibility of Purchaser's Information Packs and, perhaps, also tie in with the idea of log books?**

#### ***e. Redress***

The HITF considered whether the use of *caveat emptor* should be altered. This absolves the seller of any responsibility for the condition of the property being sold or for providing information on the condition of the property.

The HITF concluded that changes were not appropriate. It suggested that the answer lies in providing better information to buyers in the first instance. The single survey approach and Purchasers Information Pack should help by giving clear information.

However, the HITF believes that *caveat emptor* may need to be qualified in respect of new build developments, where the sale is not between two private individuals and where the builder is in a similar position to other commercial providers of goods and services that are expected to comply with consumer protection legislation. It recommends that this is covered in a Scottish Executive review as detailed under section **d.** above.

**Do you think *caveat emptor* needs changing or will sellers' surveys and Purchasers Information Packs suffice? Should housing developers be subject to a Scottish Executive review and if so do you have any ideas for what alternatives this could consider?**

The HITF believes that consumers must have access to adequate, fair and affordable means of redress if they have a complaint about any of the professionals involved in the buying and selling process. It concluded that consumers are well provided for by the current complaints systems and no recommendations in this area are necessary.

**Do you agree or are there changes to the complaints systems that you would like to see?**

#### **4. Improving Confidence in the Building Industry**

The Task Force's first report identified the problems faced by householders in identifying reliable builders and the negative impact this may have on the maintenance of their property. Many owners, particularly older people and vulnerable households, find the industry difficult to deal with, are unsure how to go about finding reliable contractors and do not trust them to provide value for money or carry out works to an acceptable standard.

It noted that in Scotland, the Scottish construction trade associations have developed a self-regulation scheme run by the Scottish Construction Licensing Executive (CLE). Also there are proposals for a replacement for the building control system in Scotland, as set out in the Building (Scotland) Bill recently passed by the Parliament that will include ways of approving certain builders to certify selected building works.

The HITF believes that there would be difficulties in establishing a compulsory registration scheme because of the resources required to effectively regulate all the work undertaken by building contractors. It concludes that the current developments in voluntary industry schemes, supported by proposed changes to the building standards system, should provide a realistic way of helping householders.

**Do you think self regulation is the way forward or would like to see a more formal approach or even compulsory regulation? If you would like to see compulsory regulation do you have any views on how this might be designed?**

#### **5. Tax and Benefit Incentives**

Although tax and benefits are a reserved issue and therefore a matter for the Westminster parliament the HITF took the view that in the interests of setting out a comprehensive approach it was appropriate to consider what options are available to use the tax system to encourage owners to invest in their properties and to give a higher priority to repair and maintenance.

It noted that tax and benefits policy is a complex area where it can be difficult to make direct links between changes made to the system and changes in behaviour or outcomes. The HITF commissioned two reports to look at the issue of tax and benefit incentives. One focussed on the owner-occupied sector and the other on the private rented sector.

##### ***a. Owner-occupation***

The HITF concluded that the following may be useful:

- changes to the VAT rules to reduce the incentives to opt for "cash in hand" operators when having work carried out
- a more positive tax framework for sinking funds to encourage their use in respect of common and shared maintenance costs
- changes to the Consumer Credit Act in respect of small loans to reduce the administrative barriers to the making of small secured loans for investment in repairs and improvements

- changes to the income support rules to allow for advanced determination of the eligibility of a loan for support. (At present, the Department of Work and Pensions can provide an advance indication, but not an advance predetermination)
- assistance with loans for additional works of improvements to be included. (The Department of Work and Pensions does provide loans for certain improvement works but these could be extended.)

It rejected ideas for five-yearly property inspections or differential lending rates for properties in disrepair. Both of these are covered more fully under 3 d) The Role of Lenders above.

**Do you think the tax and benefit changes outlined above would assist owner-occupiers to repair and maintain their homes? Would you like to see anything else?**

#### ***b. Private Rented Sector***

The HITF concluded that the following may be useful:

- legislate for a new investment vehicle for indirect investment in existing good standard property - similar to a Housing Investment Trust but with more liberal rules
- introduce rollover Capital Gains Tax relief on sales when reinvesting proceeds in other good quality properties
- reduce stamp duty on bulk transactions and amend current "postcode" exemption in regeneration areas to allow purchase of substandard properties
- reduce VAT on repairs to 5% rather than 17.5%, limited perhaps to cases where the management of below standard properties is transferred to housing associations or accredited private landlords or where private rented property is already owned by accredited private landlords.

It rejected the removal of Housing Benefit direct payments to landlords where they operate unlicensed HMOs. It also rejected requiring the Rent Service to take explicit account of conditions when validating rent level for Housing Benefit purposes. Nor did it support tying improvement grant expenditure to enforcement action on the poorest properties, where failed enforcement leads to transfer of management or ownership to RSLs or accredited private landlords.

**Do you support the HITF's view on this? Would you like to see either the rejected tax and benefit measures or other measures to target conditions in the private rented sector?**