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15 December 2017

Dear Sir

Consultation on Improving the home buying and selling process

The Institute of Historic Building Conservation is the professional body of the United Kingdom representing conservation specialists and historic environment practitioners in the public and private sectors. The Institute exists to establish the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

We are very pleased to have the chance to comment on the consultation document. The Institute's comments are as follows:

- Q1. Should the industry do more to make customers aware of how to complain? a. If so, how?**

There should be some form of Ombudsman scheme for Estate Agents. Currently, Chartered Surveyors, some of whom are Estate Agents, are required to be a member of an Ombudsman Scheme as part of their Indemnity Insurance. Estate Agents should be required to belong to a similar scheme.

**Q2. Should the government take further action to enforce current transparency regulations regarding disclosure of referral fees?
a. If so, what action should be taken?**

Many estate agents are paid referral fees by Surveyors and Solicitors. Whilst such organisations are required to notify customers of such referral, this does not prevent potential for Conflict of Interest, or the potential for referral of surveys & valuations to Companies who are part of the same overall Corporate Organisation, (Staff employed by Corporate Estate Agencies can be penalised if they do not refer work (surveys etc) "in-house" e.g. LSL Agents inc Reeds Rains, Your Move etc. to E.Surv (also owned by LSL), or Brigfords, Bairstow Eves etc (part of Countrywide plc) to Countrywide Surveying Services / Countrywide Conveyancing Services etc.) or are only passed referrals due to referral fees or other forms of reciprocation. Consequently, instructions, such as in respect of Listed Buildings in particular, invariably mean referral to Corporate controlled / employed surveyors who do NOT necessarily hold formal Conservation qualifications / accreditation, and therefore the essential expertise in respect of such properties. Hence, the client may not receive "best" advice in respect of period buildings and other buildings of traditional construction, of which Listed Buildings form only part. This is a major issue because such buildings form up to 35% of the building stock¹

Advice required on modern dwellings of cavity construction can be entirely inappropriate when applied to a period house, where walls are of solid construction, whether Listed or not, particularly in respect of dampness issues, repointing, and advice on alterations that have taken place recently. The normal training of a Chartered Surveyor, and in particular an Associate Surveyor, is on modern construction and insufficient when considering period buildings, let alone Listed Buildings. A consequence is that illegal alterations are not recognised and other works that might be suitable on a modern dwelling but cause damage to an old building, are allowed.

¹ "Heritage buildings represent approximately 35% of the existing dwellings in the UK as a whole and a large proportion of solid wall buildings" para 5.1, Solid Wall Literature Review, Building Research Establishment for DECC, January 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/396363/solid_wall_insulation_literature_review.pdf

Notably, buyers can be asked to undertake works which would have proved highly detrimental to the building, and were not necessary, particularly in respect of damp and (recently) energy efficiency issues. See our further comments in response to Q15 and Q25.

Equally, Lenders insist on referrals "in-house" or to surveyors on their own panel, "as an aid to management". Such surveyors may be on the lender's panel due to reciprocation / referral fees being paid by such Survey Companies. This is despite the existence of the RICS Valuer Registration Scheme that specifies that all members of the scheme are experts in residential valuation. **Any** member of such scheme is more than qualified to undertake mortgage valuation work. Limiting work to "Panel" is restraint of trade, when some surveyors, under the Valuer Registration Scheme, also have specialist skills, such as in respect of Listed and other period buildings.

Hence, there is an assumption by all, including Government and Lenders, that ALL surveyors are capable of offering correct advice in respect of ALL matters relating to the condition of buildings. This assumption should be removed or at least reduced by ensuring that buyers are able to appoint their own specialist surveyor, also registered with the RICS Valuer Registration scheme. Removal of referral fees etc would greatly help in such regard.

Q3. What would the impact be of banning referral fees?

Greater competition. Better advice for the purchaser, particularly in respect of Listed Buildings & other matters in respect of the condition of period properties, dampness, and materials used, thermal performance etc. The current knowledge of standard Valuers is entirely inadequate when it comes to proper assessment of solid wall structures. This has resulted in inappropriate advice and subsequent degradation of such structures.

Q4. Should the government introduce more regulation for estate agents? a. If so, what sort of regulation would be appropriate?

- a) Introduce Ombudsman Scheme for Estate Agents.
- b) Ensure that recommendations provided by Estate Agent representatives are not profit related / subject to referral fees, and that such agents and the conveyancer / survey companies are entirely separate.

Conveyancing

Q5. What should industry do to help consumers make more informed decisions when selecting a conveyancer?

a. How could government help facilitate this?

No comments

Q6. What improvements can be made to the process of property searches in order to speed up home buying and selling?

Large amounts of information are available to the public via the internet, including via current Government websites, Planning Portal, Council Tax, EPC Register, Historic England (where a building is Listed and/or in a Conservation Area, Soils, Mining, Environment Agency / Flooding, Plant Tracker etc, by merely typing in the Post Code of the address. It should be possible to enable the public to readily gain access to such sites, by making the web addresses available OR such information available via a link from a single website, via Estate Agents. Such links could be incorporated within a completed Vendor Questionnaire, made available to all potential buyers, at nominal cost or legal commitment.

The loss of the invaluable Local Authority Land Charges system has made an impact on how work, which needed permission but did not receive is acted on. It previously enabled Informal Notices to be placed on Listed properties when unauthorised works came to light and this often allowed the issues to be dealt with between vendor and prospective purchaser. Some reinstated measure to address this as part of the process would make a real difference to efficiently resolving cases of unauthorised alteration and preventing delays when work of this type comes to light².

² Details of this process when in action are at <http://ihbconline.co.uk/context/75/index.html#35/z>

- Q7. **Would there be an advantage to encouraging buyers and sellers to use the same conveyancing provider? We do not believe this is the solution as there would be too much scope for conflict of interest.**
a. **If so, how could it work, without creating conflict of interest problems?**
No comments

Harnessing digital technology

- Q8. **How would a predominantly digital conveyancing process affect home buyers and sellers?**
No comments
- Q9. **What should the government do to accelerate the development of e-conveyancing?**
No comments
- Q10 **Are there any particular public sector datasets which you think should be released as open data in order to drive innovation in the home buying and selling process? Listed Buildings and Conservation Area designations**
No comments
- Q11 **How could other parts of the home buying and selling process be improved through better use of digital technology?**
No comments

Mortgages and the requirements of lenders

- Q12. **What more could be done to encourage borrowers to seek a Decision in Principle from their preferred lender before they start house hunting?**
No comments
- Q13. **What other improvements could be made to the process of applying for and obtaining a mortgage?**

Informing consumers

Q14. How do we ensure buyers and sellers are able to access good guidance on buying and selling homes?

All buyers & sellers should be referred to the Guides set out by the RICS. No need for Government to produce its own³. The RICS Guidance for Surveys of Residential Property (2014) specifies that the surveyor needs to be familiar with the nature and complexity of the property type and the region in which it is situated, including: "Common and uncommon vernacular housing styles, materials and construction techniques; particularly important for older and historic buildings where the surveyor must understand the interaction of different building materials and techniques"... "The location of listed buildings and conservation areas/historic centres, and the implications of these designations." Many surveyors do not meet such a competence requirement, which, as noted in our response to Q2 above, is needed for at least 35% of the existing building stock. The need for a buyer to obtain such specialist advice therefore needs emphasizing at an early stage. ⁴

Better information at point of sale

Q15. Should sellers be required to provide more information before they market their property?

Yes.

a. If so, what information should be provided?

At the very minimum, all information on designations affecting a property should be provided, including whether or not a property is listed (or within the curtilage of a Listed Building), and what grade. Or whether it sits within a Conservation Area, Inventory Landscape, World Heritage site, Area of Outstanding Natural Beauty and if it is covered by an Article 4 Direction

A full or recent history (perhaps the last 10 years) of any planning/listed building applications would also be useful as would any history of work under the Building Regulations. In addition, any enforcement action or service of notice should be included.

³ See <http://www.rics.org/uk/knowledge/consumer-guides/>

⁴ See: <http://www.rics.org/uk/knowledge/professional-guidance/guidance-notes/surveys-of-residential-property-3rd-edition/>

When the Home Information Packs were produced, they included pre-sale Surveys, which had to be produced using Home Inspectors. Most of the pre-sale legal documentation provided, was little understood or required by the potential buyers. Subsequent discussions as part of the Housing & Planning Bill in 2016 suggested even greater complication of the selling and buying process, as well as considerable additional expense for the vendor. In addition, many Estate Agents, and even the Home Inspectors, lacked adequate knowledge of Listed Building & Conservation Area legislation, including the fact there is no need for an EPC on a Listed Building, due its lack of accuracy for such traditional buildings and the inappropriate and unsuitable advice provided.⁵

However, the Pack did include a Questionnaire for completion by the vendor. The questionnaire offered was very basic, but offered the vendor's perspective, and was of particular use to the inspecting Surveyor. A more detailed questionnaire, to be completed by the vendor should be all that is required. This could avoid, for example, the circumstance whereby the buyer is unaware that a house has a Septic Tank rather than mains drainage, and whether the building is Listed and has been altered by the vendor, (for which Listed Building consent should have been obtained).

Too many Lenders/ Mortgage Valuers do not recognise, or even choose to ignore the readily apparent and obvious material alterations to Listed Buildings, such as replacement windows, etc. The sale process could ensure much better policing of the changes where no Listed Building consent has been granted, if the recommendation for a vendor to complete a Vendor Questionnaire is followed, and such buildings are inspected by Conservation trained surveyors / valuers.

- Q16. **Should sellers of leasehold homes be encouraged to engage with their freeholder before marketing their home for sale? Yes**
a. If so, in what ways should they engage?
No comments

⁵ See the Sustainable Traditional Buildings Alliance www.stbauk.org .

Sharing information about each other and increasing commitment

Q17. How can government increase commitment to a sale between buyers and sellers? a. Would development of standard agreements help?

No comments

Q18. How should we best tackle gazumping?

No comments

Q19. What other steps could be taken to increase confidence in the housing chain?

No comments

Buying a leasehold property

Q20. Should managing agents / freeholders be required to respond to enquiries within a fixed time period? Yes. a. If so, how could this be done? Say, within 2 weeks, subject to penalty.

No comments

Q21. Should maximum fees be set for the services and information provided by managing agents / freeholder to home buyers and sellers? a. If so, how could this be done? There is no reason why a set fee should need to vary.

No comments

Q22. Should the government introduce standard mandatory forms for collecting information about leasehold? Yes.

Buying a new build property

Q23. What can be done to improve the customer experience of buying a new build home?

No comments

Q24. What more can be done to help buyers of new build homes quickly secure a mortgage offer?

No comments

Q25. What else should the government be doing to help improve the home buying and selling process, and reduce the cost for consumers?

- a) Insist all Valuations and Surveys of Listed Buildings are undertaken by Specialist / Accredited Surveyors who have received additional training & qualification on the implications of owning a Listed Building and knowledge of the materials used. Too many estate agents & surveyors have inadequate knowledge of traditional building construction and the implications of the materials used.
- b) Many Estate Agents still ask for EPC's on Listed Buildings when none is required or appropriate.
- c) Introduce an Ombudsman Scheme to **all** Estate Agents.
- d) Provide Buyers with a copy of a detailed Questionnaire completed by the Vendor (Perhaps not legally binding, but vendor required to be accurate within his/her knowledge, and subject to subsequent confirmation by conveyancer). Conveyancers are always at disadvantage not viewing the dwelling, and therefore a questionnaire can provide information to the buyer in advance.
- e) Little can be done to avoid buyers offering a lower price where new information, such as condition, emerges from a Survey.
- f) An RICS Registered Valuer should be the only requirement for a lender, and is of sufficient standard for most 20th century dwellings. Where a building is Listed, a Conservation qualification or Accreditation should be the minimum standard required. For example: IHBC, RICS Accredited, RICS Diploma in Building Conservation etc. This could possibly also apply where there are other conservation issues such as being in a Conservation Area or a traditionally built property.
- g) Whilst there is pressure to follow the Scottish system, any pre-sale survey should NOT require a fully separate Home Inspector qualification. The RICS Residential Valuer scheme should be sufficient for most 20th century dwellings. But for traditionally built property and especially where a building is Listed, a Conservation qualification or Accreditation should be the minimum standard required. Examples of suitable standards would be accreditation through IHBC or the RICS Conservation Accreditation.

Any additional points

Many sales of historic and traditionally built properties are delayed by typical standard mortgage lenders', solicitors' or surveyor's reference, even after carrying out what is intended to be a detailed Building Survey, to needing independent 'damp and timber

treatment' surveys. These are rarely carried out by truly independent companies, but instead by companies with a financial gain in recommending work.

The requirements of such survey reports invariably trigger the requirement for unnecessary, inappropriate and highly damaging remedial works. Much of this work when carried out on Listed Buildings is done so without any consent or reference to the Local Planning Authority's historic building staff.

If the standard thoughtless requirement for an independent 'damp and timber treatment' survey could be discouraged initially, and the use of conservation accredited surveyors or consultants encouraged, then buyers could be spared long delays and needless costs whilst reports are written and work specified and carried out (plus the further costs of remediating damaging works), sellers not have unnecessary expenditure or price reductions, and the property would not be potentially damaged by inappropriate and possibly illegal works.

This is a vital opportunity for the government to use its influence to end this current and highly damaging practice on the part of mortgage lenders, solicitors, and surveyors. It should not be missed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Fiona Newton', written in a cursive style.

Fiona Newton
IHBC Operations Director