Consumers and the House-buying Process in Scotland
About the Scottish Consumer Council

The Scottish Consumer Council (SCC) was set up by government in 1975. Our purpose is to promote the interests of Scottish consumers, with particular regard to those people who experience disadvantage in society. While producers of goods and services are usually well-organised and articulate when protecting their own interests, individual consumers very often are not. The people whose interest we represent are consumers of all kinds: they may be patients, tenants, parents, solicitors’ clients, public transport users, or simply shoppers in a supermarket.

Consumers benefit from efficient and effective services in the in the public and private sector. Service-providers benefit from discriminating consumers. A balanced partnership between the two is essential and the SCC seeks to develop this partnership by:

• carrying out research into consumer issues and concerns;
• informing key policy and decision-makers about consumer concerns and issues;
• influencing key policy and decision-making processes;
• informing and raising awareness among consumers.

The SCC is part of the National Consumer Council (NCC) and is sponsored by the Department of Trade and Industry. The SCC’s Chairman and Council members are appointed by the Secretary of State for Trade and Industry in consultation with the Secretary of State for Scotland. Future appointments will be in consultation with the First Minister. Martyn Evans, the SCC’s Director, leads the staff team.

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The SCC assesses the consumer perspective in any situation by analysing the position of consumers against a set of consumer principles.

These are:

ACCESS
Can consumers actually get the goods or services they need or want?

CHOICE
Can consumers affect the way the goods and services are provided through their own choice?

INFORMATION
Do consumers have the information they need, presented in the way they want, to make informed choices?

REDRESS
If something goes wrong, can it be put right?

SAFETY
Are standards as high as they can reasonably be?

FAIRNESS
Are consumers subject to arbitrary discrimination for reasons unconnected with their characteristics as consumers?

REPRESENTATION
If consumers cannot affect what is provided through their own choices, are there other effective means for their views to be represented?

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Introduction

Buying a house is the single biggest investment that most people make in their lives, and more people are doing so than ever before. According to the most recent figures available, 62% of households in Scotland are owner-occupied.¹

Whilst moving house is often linked with positive life changes such as being able to afford better accommodation, getting married or moving to a new area, it can also be associated with events such as a change of job, starting a family, or divorce. Indeed, the process of buying a house can be complex, expensive and stressful.

Some work has already been conducted on the experiences of Scottish house buyers. In 1988, the Scottish Consumer Council carried out a study looking at buyers’ experiences of the process of purchasing and owning their house, with particular reference to the advice and information they received. In 1999, the Department of Environment, Transport and the Regions published research into the house-buying system in England and Wales, with a small sample of Scottish buyers included for comparison. This study examined various aspects of the buying process including its length, the incidence of delays and problems, and levels of satisfaction.

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## Fig. 1

### The house-buying process

**Advantages of the Scottish system**

- It is quicker. With the property surveyed before an offer is made, the buyer is in a better position to make a more realistic offer, leaving less potential for delays.
- There is perceived to be little opportunity for gazumping. The earlier introduction of contractual negotiations by solicitors and an increased formality in the process, compared to England and Wales, may explain this.
- There are no ‘chains’ of buyers and sellers in Scotland. Chains occur at the stage between acceptance of the offer and exchange of contracts, where the seller is buying another property, and the buyer is selling a property. This can make the whole process more complex and uncertain. The Scottish system avoids the establishment of chains.

**Disadvantages of the Scottish system**

- Multiple surveys, of which there are two types:
  - Successive surveys: The buyer must generally pay for a survey before making an offer. This can result in abortive costs and having to pay for surveys over more than one property if an initial offer is unsuccessful.
  - Recurrent surveys: Several potential buyers may pay for separate surveys over the same property.
- When a closing date is set, buyers in Scotland must submit a sealed bid for the property, based on the asking price. Because they do not know how much other potential buyers may be offering and what amount will be required to secure the property, they are making a ‘blind’ bid, a practice which could result in them paying more than is necessary.

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The Scottish house-buying system is different to that in England and Wales and has long been viewed as superior for a number of reasons (see Fig. 1). However, developments since 1988 led the Scottish Consumer Council to conclude that it would be useful to take another look at the experiences and views of recent Scottish house buyers. Rather than simply update our previous work however, we decided to examine the process from a slightly different perspective and focused on five specific issues:

• The incidence of multiple surveys
• The time the buying process takes
• The incidence, if any, of ‘gazumping’ in Scotland
• The service provided by buyers’ solicitors
• Views on the introduction of the seller’s survey

We found that the majority of respondents (70%) are satisfied with the house-buying process in Scotland (Fig. 1). With the recent DETR study finding a satisfaction rate of only 45% in England and Wales our results further indicate that, in general, Scottish buyers are much happier with their system than their southern counterparts. However, our research did highlight several issues to be addressed.
Methodology

In Scotland, a buyer’s legal title to a property is recorded in one of two public registers related to 32 registration counties of varying sizes throughout the country. Our research took the form of a postal survey questionnaire, which was sent to almost 2000 recent house buyers in five Scottish registration counties. Counties were selected on the basis of geographical representativeness, an appropriate urban/rural mix and also to allow the inclusion of Glasgow and Edinburgh, which are generally considered to be ‘hot’ property markets at present.2

2 Other counties included were Perth and Inverness, with the combination of Dumfries, Wigtown and Kirkcudbright counties forming the fifth area. A total of 1889 questionnaires were sent in mid November 1999 and a total of 630 were returned completed representing a response rate of 33%, which is reasonable for a survey of this nature.
Research Findings

The incidence of multiple surveys

Successive surveys

We asked respondents whether they had any surveys carried out on other properties before their offer was accepted for the property they bought and if they had, how many. Just over half of our respondents had only one survey carried out, meaning that they purchased the first property they placed an offer for. However, over a quarter had two surveys carried out, 7% had three and around one in ten had to pay for more than three surveys before an offer was accepted. These figures equate to almost half of our sample being subject to multiple surveys of this type.

When compared to the results of our 1988 research, these figures suggest that a slightly higher proportion of buyers now experience multiple surveys of this type. In that study we found that over 60% of Scottish house buyers had only one survey carried out, around one fifth had two, one in ten had three surveys and only 7% had more than three.

Analysing the results by geographical area provided some surprising results. We expected to find a higher incidence of multiple surveys in areas where there was a very buoyant housing market, for example in Glasgow and Edinburgh. However, while the results were marginally higher in Edinburgh and Glasgow than elsewhere, they were broadly similar across Scotland.

Recurrent Surveys

To gauge the incidence of the second type of multiple surveys we asked those respondents who had recently sold another property to tell us how many surveys were carried out over the property they sold.\(^3\)

The majority (60%) said only one survey had been carried out, just over a fifth said two surveys were carried out, one in ten had three and only 6% said more than three surveys had been carried out on their property.

Overall, these findings are broadly consistent with the experiences of buyers. It appears that multiple surveys by different buyers over the same property are just as prevalent as successive surveys by the same buyer over different properties.
The incidence of gazumping

Given that our respondents were successful in buying their property, they had by definition not been gazumped in this instance. To gauge the incidence of gazumping we asked those who had previously offered for a property, one quarter of the sample, why they had not gone ahead with their most recent offer.

As might be expected, the vast majority said that their offer had not been accepted, while a further one in ten said their offer had been accepted but that they had changed their minds. However, 6% said their offer was accepted but the seller had changed his/her mind. This suggests that the seller may have accepted another offer before a binding contract was concluded. In other words, there is a possibility that gazumping may have occurred. However, a change of mind may have occurred for other reasons and, in any case, the numbers involved are too small to draw any firm conclusions.

Satisfaction and Dissatisfaction with aspects of solicitors’ service

Satisfaction with the service

Almost three quarters of those who were satisfied felt their solicitors explained things clearly and were easy to contact. A further three quarters of respondents said they were kept well informed by their solicitors, while 70% of the sample were given an estimate of legal fees.

Dissatisfaction with the service

Two thirds of those who were dissatisfied complained about lack of communication and more than half said their solicitors did not give them enough information. However, information provision by solicitors was a key problem amongst all respondents, and not just those who were dissatisfied. This includes information on fees – one quarter of the sample had to ask for a quote while a further quarter were given no estimate at all; survey advice – two in five said their solicitors offered no information on surveys; and property restrictions contained in title deeds.

In terms of the latter, although over half of our respondents said that their solicitors had given them this information, an alarming 41% said such advice was not offered. For those purchasing a flat, where the rights and responsibilities of the owner are particularly important, only half had been provided with the appropriate information, while over a third said that their solicitors had not explained the procedures through which common repairs and maintenance were organised.
The length of the house-buying process

It is widely believed that the house-buying process in Scotland takes longer now than previously, particularly the time taken to conclude missives. However, the process in Scotland is also perceived to be quicker than the process in England and Wales.

In 1988, we found that two thirds of respondents bought a property within three months of starting to look, while it took one quarter less than a month. The nature of our current research does not allow us to present any conclusive evidence of whether the entire process is now taking longer. However, the findings do indicate that more time is being spent looking for a house now than previously – two thirds of respondents said beginning their search to making an offer took up to three months, a period which for the majority of respondents in 1988 represented the entire length of the process.

Results from the DETR study allow a comparison of the overall length of the house-buying process between Scotland and England and Wales. Whilst the typical time from beginning to end in England and Wales was 153 days (or 22 weeks), the corresponding time for Scotland was shorter at a typical length of 121 days (or 17 weeks).

For the vast majority of respondents, offers were accepted very quickly, in only one week or less. One quarter said the offer had been accepted on the day it was made.

The research indicates that the missives stage, from offer to entry date, takes around eight to nine weeks for most buyers. Conclusion of missives occurred at least three weeks before the date of entry for most respondents (61%). However, over a third said missives had been concluded two weeks or less before the date of entry. Such findings suggest that missives may be becoming more complex and protracted.

Suggestions for improvements

Half of our respondents made some recommendation on improving the house-buying process. These suggestions can be grouped into five main categories as shown in Fig. 5.

The service provided by solicitors

A substantial majority of respondents (80%) said that they were satisfied or very satisfied with the service provided by their solicitor (Fig. 3).

While this seems a high proportion, it actually indicates a lower incidence of satisfaction than other studies we have conducted.4

1 Address multiple surveys 25%
2 Speed up the whole process 14%
3 Reduce uncertainty 14%
4 Improve communications 13%
5 Reduced costs and better services 10%
6 Other* 21%
7 No changes 3%

* Most of these were specific individual suggestions

Figure 5
Is there any one change you would make to improve the process of buying a property?

1 Address multiple surveys 25%
2 Speed up the whole process 14%
3 Reduce uncertainty 14%
4 Improve communications 13%
5 Reduced costs and better services 10%
6 Other* 21%
7 No changes 3%

Number: 324
Policy Issues

The seller’s survey
Our research indicated an increase in the incidence of successive multiple surveys since 1988, but it also showed that over half of all buyers do not experience them. However, the findings suggest that fear of multiple surveys has an impact on the behaviour of all buyers, whether they actually experience them or not.

Most of our respondents arranged a valuation, the cheapest type of survey, yet two thirds said they would be willing to pay more for a more detailed survey if they knew their offer would definitely be accepted.

The solution most often suggested to address the problem of multiple surveys is the introduction of an obligation on the seller to provide a survey of the property which can then be relied on by all potential buyers.

We were particularly interested in buyers’ views on this idea and asked respondents whether they would be willing to rely on a survey which had been arranged by the seller. Less than one quarter said they would be willing (Fig. 6). Most respondents (58%) said they would not be willing to do so, and a significant proportion (23%) were unsure, answering ‘don’t know’.

We asked respondents to tell us why they had answered as they did. The most recurring theme among the responses was the importance of the impartiality of the survey. This factor was important for both those who had answered yes and those who said no.

The peace of mind gained from arranging their own survey was another reason cited by those who opposed a seller’s survey.

Most of those who said yes would only accept a seller’s survey if certain concerns were addressed. Such concerns included the reputation of the surveyor and a clear method of redress against the surveyor if any problems were identified later.

Figure 6
Would you be willing to rely on a survey which had been arranged by the seller?

1. Yes 25%
2. No 14%
3. Don’t Know 14%

Number: 612
There are some striking similarities in the answers of these two opposed groups of people. Both those who answered yes and those who answered no were concerned about the impartiality of the survey and comeback against the seller or surveyor. If a seller’s survey were to be successful, buyers must have confidence in it, but our research suggests that most buyers would not have such confidence. These concerns would require to be addressed if such a scheme were to work in practice. A possible method of doing so is a system whereby one independent survey report is made available for each property. In such instances payment is met in part by potential buyers who wish to view the report, with the overall balance paid by the successful buyer.

We consider that such voluntary, market-led solutions are far preferable to a compulsory scheme as has been proposed in England and Wales. We believe that if they were aware of the benefits, most buyers and sellers would welcome such a voluntary scheme.

Length of the buying process
Our data indicates that for most respondents, the time taken from starting to look for a property until the date of entry was five months or less. However, much of this time is accounted for by the period from starting the search to making an offer. Furthermore, the timescale is still shorter than in England and Wales.

While offers were generally accepted very quickly, most delays seemed to occur between the acceptance of the offer and the conclusion of missives. More than a third of respondents said that missives were concluded two weeks or less before the date of entry. In these cases, there is potential for either party to withdraw from the contract very late in the process. This is a matter of some concern – while it is generally believed that gazumping cannot happen in Scotland, it is in fact possible under the Scottish system. It is in the interests of both buyer and seller that missives are concluded as quickly as possible in order to reduce uncertainty and ensure that buyers are not left in a position vulnerable to gazumping.
The service provided by solicitors
Since January 1999 the solicitors' code of conduct has provided that solicitors must send to clients in writing at the earliest practical opportunity information on various matters, including fees and outlays. Unfortunately, the evidence suggests that a substantial proportion of solicitors are failing to comply with the code, indicating that the current approach is not working.

We are very concerned about the large number of respondents who said that their solicitors had not told them about any restrictions on what they could do in the property, especially those who had purchased a flat. Advice about these matters is an integral part of the solicitor's role. It is likely that, in most cases, the solicitor did in fact alert the buyer to these matters. However, the information may not have been presented in an easily understandable way.

Information that may appear perfectly clear to a solicitor may not always seem that way to his/her client. Missives and title deeds are written in complex legal language, which many buyers will have difficulty in understanding. Solicitors should therefore ensure that they explain such restrictions and responsibilities as clearly as possible to buyers, to ensure that they fully understand what these will mean in practical terms.

Improved advice and information
Solicitors are not the only agents involved in the house-buying process who need to improve their provision of information. The research points to other areas where advice offered could also be improved, including that provided by estate agents, surveyors, lenders, mortgage brokers/advisers, and builders.

A number of respondents said that there should be more advice and information for buyers about the whole purchase process. We would therefore urge all professionals involved to do their best to ensure that they explain each step of the process as fully and clearly as possible to buyers.
Seller's information pack
We would like to see the introduction of some form of seller's information pack for prospective buyers, along the lines of that proposed in England and Wales. While the English pack would contain a survey report, we do not think this would be appropriate in Scotland. However, a Scottish pack could contain copies of the title deeds, planning and building consents, and guarantees for specialist work carried out. It would also be useful if some form of 'log book' was included, as the findings indicate that many buyers would have liked more information on such basic matters as electricity and gas supplies, central heating and plumbing.

The availability of this information at such an early stage would allow buyers to raise queries about the property earlier than at present. Furthermore, if the seller had to ensure that all of these documents were available before putting the property on the market, the process would be shortened.

The quality and extent of survey reports
A considerable number of respondents expressed concern about the quality and extent of their survey report. One quarter did not feel their survey gave them enough information about the property, with most adding that the report was too vague and/or superficial.

To some extent buyers may ‘get what they pay for’ in a survey and should not expect a detailed report if they arrange the cheapest survey, which the majority of respondents did. However, the cheapest survey can still cost upwards of £100. This is a substantial sum of money and buyers are entitled to a degree of quality from the surveyor.

The surveying market, like any other, relies on consumers buying the services provided. However, because surveys are usually arranged through intermediaries such as solicitors, there is at present little competition between surveyors in terms of direct marketing to the public. We believe that increased competition among surveyors would be in the interests of consumers.

If buyers were encouraged to exercise choice and ‘shop around’ for the best survey report, surveyors would be forced to respond to the demand. Surveyors could also advertise their services direct to consumers, further stimulating this demand. This would allow buyers to obtain several estimates and arrange their own survey, choosing on the basis of their needs in terms of content, cost and overall quality.

The consequent demand for increased quality would stimulate competition among surveyors, resulting in an eventual improvement in the general quality of survey reports.
Recommendations from the *Home Truths* report

In our 2000 report on the experiences of recent house buyers in Scotland, we made a series of recommendations to a range of agencies concerned with the house-buying process in Scotland. These have been included below.

**To the Scottish Parliament**

The Scottish Parliament should debate the impact on competition and price of the current ‘panel’ system of surveyors used by mortgage lenders in Scotland, with a view to considering whether the system should be reviewed. If appropriate, the Scottish Parliament should raise this issue with the UK Parliament.

Since the publication of Home Truths the Scottish Executive has set up a Housing Improvement Task Force to look at a number of issues relating to housing in the private sector. This will include consideration of proposals for sellers’ surveys and sellers’ information packs.

**To the Scottish Executive**

The Scottish Executive should carry out further research, involving the legal profession and other professionals involved in the house-buying process, into whether missives are now more complex and protracted than was previously the case.

The Scottish Executive should also support and encourage 1) the development of voluntary ‘independent’ survey schemes, backed by a guarantee for the buyer and 2) the introduction of a seller’s information pack including title deeds, planning and building consents, guarantees and a ‘log book’ about the property.

Since the publication of Home Truths the OFT have responded to our report. Whilst our recommendations on improving information to consumers and the introduction of a seller’s information pack were welcomed by the OFT, they are not intending to undertake a review of the surveyors’ profession in Scotland at this time.

**To The Office of Fair Trading (OFT)**

The OFT should review the effectiveness of the surveying market in Scotland and, if necessary, carry out a review of competition in the surveying profession in Scotland.

Since the OFT have responded to our report.
The Law Society of Scotland and solicitors

The Law Society should issue a practice rule making the use of letters of engagement by solicitors compulsory.

The Council of the Law Society is likely to discuss the introduction of letters of engagement at a forthcoming meeting.

Solicitors should, after the first interview with a client, send to the client a letter confirming the instructions given, set out the next steps to be taken, and include an estimate of likely costs. Solicitors should also explain clearly and fully to buyers what is happening at every stage of the buying process, any restrictions and responsibilities relating to a property and keep buyers fully informed as to progress and costs.

To the Council of Mortgage Lenders

The Council of Mortgage Lenders should review the current ‘panel’ system of surveyors used by mortgage lenders in Scotland, and consider ways in which the system could be made more transparent.

To all professionals involved in the process

(Solicitors, Estate Agents, Mortgage Lenders, Mortgage Brokers and Surveyors)

All professionals involved in the process should provide buyers with clear and specific timescales for each stage of the process. If these timescales cannot be met for any reason, a clear explanation as to the reasons why should be communicated to the buyer.

All professionals should also provide better information to both buyers and sellers about surveys. This should include information about the differences between the various types of survey available, ‘independent’ survey schemes, and the services provided by different firms of surveyors.