

Edinburgh Conveyancers Forum

3 March 2014

Policy Statement regarding Statutory Notices

Statutory Notices where accounts have been issued -

It was agreed that where evidence is provided that the account has been issued then no further action need be taken by either the solicitor for the purchaser or the seller. In the case of the purchaser they cannot be held liable for an unpaid account which has been issued to the seller or a previous owner. In the case of the seller the solicitor may agree with their client to repay the accounts from the sale proceeds but there is no obligation to do so. This follows the opinion from Prof Kenneth Reid. A further copy of the opinion is attached to this email and it is also available on our website.

Responsibility for unimplemented Statutory Notices -

This issue was summarised in the email of 13 February 2014. Three ways of dealing with unimplemented Statutory Notices were outlined and were discussed at the meeting. There was unanimous agreement that Option 1 (the Retention Option) was no longer appropriate and that there was a need for a clean break between the seller and purchaser. It was agreed that the default position should be Option 3 which is that the purchaser is required to accept responsibility for unimplemented Statutory Notices without a reduction in the price. As discussed this is on the basis that the valuation of the property reflects the current condition and there is no reason why a seller should have to pay for a future capital improvement to the property. For this to work there needs to be a change in the way we advise our clients and in particular purchasing clients. It is also necessary for information on Statutory Notices to be provided by the selling agents at an early stage so that it is clear that the offer takes account of the Notice. A paper was attached to the email of 13 February 2014 setting out how this might best be achieved. It will be important that estate agency departments within offices are aware of the position. Statutory Notice information is available online and purchasers are therefore in a position to make their own enquiry if information is not provided by the selling agent.