

A HOUSING REVOLUTION – HOME INFORMATION PACKS

By Peter Ambrose, The Partnership



Landlords planning to sell any residential property next year should start considering how they are going to collect the type of information required for the new Home Information Packs.

From June 2007, before a residential property can be marketed for sale (with a few exceptions), it will be necessary to produce a Home Information Pack (HIP). Formerly called "Sellers Packs", these will become an obligatory legal requirement with financial penalties for those who try to sell a property without one.

HIPs are intended to overcome many of the problems that buyers face today with property transactions. The goal of their introduction is to reduce failures and increase the speed with which homes are sold. They contain basic legal information such as details of the legal owner, a description of how the property is used and its contents and a new survey called a Home Condition Report, which includes a report assessing the energy efficiency of the building.

HIPs do not replace the traditional conveyancing process, but are just a component of it. They will change the timing for obtaining documentation and will make a survey obligatory. By providing all the details in advance, it is hoped this will reduce current issues of late price negotiations due to the result of a survey or a slowdown in proceedings due to problems with the documentation.

Types of properties requiring a HIP

All properties classed for residential use in England and Wales that are sold with vacant possession will need a HIP. Buildings that are designated for commercial or mixed use will not require one, nor those for which there is an existing tenant in residence. Therefore, landlords selling properties with a sitting tenant have no obligation to produce a HIP for that property. However, a leaseholder wishing to sell their own property must have a HIP.

Newly-built or off-plan properties will require a HIP, although if they have an NHBC or equivalent guarantee, they will not need a Home Condition Report (see below). This applies to new property sales only; properties that are resold and still covered by existing guarantees will nevertheless require a HIP.

The contents of a HIP

There are two types of documents in a HIP, **Required** and **Authorised**. All other documentation such as advertising or marketing materials are prohibited, a move designed to avoid confusion amongst buyers.

Required Contents

At the minimum, a HIP for a freehold property must contain the following documents;

- Official Copies of the Register (or necessary title information for unregistered properties)
- A local authority search
- A drainage search
- Home Contents Form (or equivalent, such as a Fixtures, Fittings and Contents form)
- Home Use Form (or equivalent, such as a Sellers Property Information Form)
- Home Condition Report
- Energy Performance Certificate
- For leasehold properties, additional documents are required (see below)

Authorised Contents

Additional searches and warranties can be included within a HIP but are not obligatory. Examples include environment (recommended), coal mining and radon gas searches, building warranties and electrical and gas inspection certificates.

Leasehold Property Sales

The obligations for leaseholders are no different than they are today for a sale of their property, where provision of leasehold documentation is a standard requirement. As this information should be available before the property is marketed, there may be a problem if it cannot be obtained. However, to overcome this, the law states that after 14 days, marketing can proceed even if not all the documents can be found. Required contents for leasehold HIPs are as follows:

- Lease (or an official copy or summary if the lease is not available)
- Landlord contact details
- Managing agent details
- Rules of the management company, including memorandum and articles of association
- Three year's summary of service charges
- Summary of works due to be undertaken
- Last 12 months service charge / ground rent / insurance requests

Additional documentation such as warranties and guarantees for work completed can be included for leasehold properties in the same way as for freehold.

The Home Condition Report

The only documentation in a HIP that is not part of the current conveyancing process is a new survey called the Home Condition Report. This is designed to provide the buyer with a snapshot of the condition of the property at a specific point in time. The report must be less than three months old when it is included in the HIP and whilst it does not include a valuation figure, it is similar in content to a traditional Home Buyer's Survey. The report is written by a Home Inspector, who must carry adequate insurance and have suitable qualifications; chartered surveyors need to qualify for a diploma before they can produce such a report.

The Home Condition Report includes a section which rates the energy efficiency of the building. As required today for new properties, this energy rating report forms part of the European commitment to identify and reduce emissions under the Kyoto Protocol.

Timings and Validity

The seller must produce a HIP at least 14 days before the property can be marketed, which should be achievable for most registered freehold properties. However, for leasehold or unregistered properties, it is unlikely that all the documentation will be available during this time. Therefore, if, despite using reasonable endeavours, the seller cannot obtain all the documentation after 14 days, they can proceed with marketing the property.

As shown above, the documentation in a HIP is the same as required in the conveyancing process today. Like today, there are no time limitations on the validity of the contents of a HIP. If a mortgage lender only accepts searches up to three months old then the buyer's solicitor will only accept a HIP with searches up to that age. There are no time restrictions other than those for the age of a document when the HIP is first constructed. If the property has been on the market for a long time, the contents of the local authority searches can be refreshed for a reduced fee.

Neither the official copies of the register nor the Home Condition Report can be more than three months old when first included in a HIP. This means that in the case where a property is taken off the market for more than 28 days and then remarketed, the original obligations apply, and these documents will need to be updated.

The Cost of a HIP

The work to complete a HIP is the same process as today, albeit displaced from the current process in terms of timing. In the future, it will be the seller not the buyer

who pays for surveys or searches. The cost of a HIP will range from £600–£1000 for most properties.

Who may view a HIP?

Although a HIP must be made available to potential buyers in the form that they require, (see below) this does not mean that the seller must allow all buyers to see the contents. It is expected that most estate agents will only give copies of the HIP to serious buyers who are about to make an offer. If the seller or the estate agent selling the property feels that a potential buyer cannot afford to buy the property or is someone who the seller would not want to sell the property to, then under the law, they do not have to grant them access to it.

Format of a HIP

Whilst it is expected that most HIPs will be delivered in electronic format, either over the internet or by CDROM, the buyer must agree to accept it in this form. If a buyer requests a printed copy of the HIP, and if the seller thinks they are serious and are willing to sell their home to them, then they must produce a printed copy of the HIP. The seller may charge the buyer a reasonable fee for the production of the printed copy.

Who owns the HIP?

Whilst the seller must ensure that a HIP exists before marketing a property, the estate agent who is selling the property on their behalf will carry the responsibility, (and any resultant action) if there is no HIP available to a potential buyer. There will be competitive situations where the agent will pay for a HIP to enable them to keep control of the process and win the client's business. In general terms, whoever pays for the HIP has ownership, so if a seller chooses to produce a HIP themselves or uses a financing model provided by the estate agent, then the seller will own the HIP. This provides the seller with the flexibility to take the HIP to another estate agent if they choose.

Conclusions

HIPs represent a major change to the housing market in England and Wales. They will introduce more transparency and potentially discourage vendors from 'testing' the market to gauge the price for their properties. By eliminating such people, HIPs could serve to bring more certainty and predictability to a notoriously difficult market.

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For more information, go to www.thepartnershiplimited.com or email pambrose@thepartnershiplimited.com.

SCOTLAND: PIPs not HIPs

At present there are no plans by the Scottish Executive to introduce Housing Information Packs in Scotland. This reflects the very different market for property sales in Scotland and the different concerns that have arisen about the Scottish housing stock. The Housing (Scotland) Act 2006 does however contain provisions which would allow the Executive to require certain documents to be made available by a seller to a potential buyer when a house is put on the market.

The Scottish Executive is currently considering what if any documents might be required as part of what is likely to be known as a Purchaser's Information Pack. It is likely that this will consist of as little as a simple questionnaire outlining the main points of interest in respect of the property rather than the original documents and Home Condition Report that will be contained within a HIP. The NLA has taken part in the informal consultation on the PIP and will continue to ensure that landlords' interests are protected.

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