

## European Construction Sector Observatory

# Policy measure fact sheet United Kingdom Home Information Packs (HIPs) Thematic Objective 1

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Department for Communities and Local Government (DCLG) <sup>1</sup>
A set of documents that a seller or agent provides to a buyer with key information on a residential property – Home Information Pack (HIP)
1 August 2007 – 21 May 2010
Actual and potential buyers and sellers of residential properties in England and Wales.
Buyers, Sellers, Estate Agency Sector, Legal Sector, Mortgage Lending Sector
No budget indicated for the legislation. Cost of HIP was borne by the seller at a typical cost of $\in$ 346-406 (£ 299- 350)

## In a nutshell

In England and Wales, an offer to buy a home and acceptance of that offer are made "subject to contract". Offer and acceptance of the offer only become legally binding following exchange of contracts. In the interim period:

#### The seller's responsibilities include:

- Obtaining the title deeds to the property;
- Establishing title and producing Land Registry office copy entries <sup>2</sup> where the property is registered;
- Replying to pre-contract enquiries;
- Preparing a draft contract.
- The buyer's responsibilities include:
- Conducting local land charge searches;
- Commissioning a survey of the property, if required.

Prior to the introduction of Home Information Packs (HIPs) in 2007, these documents and this information normally became available only after terms had been agreed "subject to contract". It was, and still is, the case that the buyer or the seller can withdraw from the process without incurring a penalty at any time prior to

exchange of contracts. <sup>3</sup>

Research commissioned in the 1990s by the then Department of Environment, Transport and the Regions (DETR) <sup>4</sup> identified the following key issues with the house buying and selling process in England and Wales:

- Home buying and selling in England and Wales is cheap but slow by international standards.
- It typically takes eight weeks from acceptance of an offer on a property to exchange of contract. The majority of problems and delays arise during this period.
- The more prepared a buyer or seller is, the shorter and less prone to problems the period prior to exchange of contracts is.
- The typical cost to buyers of a transaction is £1,060. The costs for sellers are higher, at around £1,400.
- The process is inefficient, with professionals waiting to hear from other professionals, agencies or the consumers before they take action.
- Buyers, sellers and the professionals all agree that sellers should provide surveys/valuations on the property or offer more information up front. <sup>5</sup>

The rationale behind the introduction of HIPs was that the provision of more information at the start of the residential property buying/selling process would speed the whole process up. The aim was also to reduce the rate of failed transactions by narrowing the window of opportunity for gazumping (where a seller accepts a higher offer very close to exchange of contracts) or gazundering (where a buyer demands a reduction in price very close to exchange of contracts). A report published by the Office of Fair Trading in 2010 <sup>6</sup> showed that around 20% of transactions typically fail between offer and exchange. Depending on the stage at which a purchase falls through, a failed transaction can be costly, particularly for buyers. <sup>7</sup>

## General description

A **Home Information Pack (HIP)** is a pack of documents containing all relevant information on a residential property. From

December 2007<sup>8</sup>, anyone selling a residential property was required by law to commission the preparation of a HIP before marketing could begin. From April 2009, sellers were required by law to have prepared a HIP before marketing a property.

HIPs were made up of certain compulsory and authorised (optional) documents. The <u>compulsory documents</u> included:

#### For freehold properties:

- Home Information Pack (HIP) Index
- Property Information Questionnaire (PIQ) <sup>9</sup> (from 6 April 2009)
- Energy Performance Certificate (EPC) <sup>10</sup> or Predicted Energy Assessment (PEA) <sup>11</sup>
- Sustainability information (required for newly built homes)
- Sale statement
- Evidence of title
- Standard searches (local authority and drainage and water) For leasehold properties:
- All the compulsory documents set out above
- Copy of the lease

The **HIP Index** lists the documents contained in the HIP and provides a checklist for sellers, buyers, estate agents and enforcement authorities. <sup>12</sup>

The **Property Information Questionnaire (PIQ)**<sup>13</sup> provides a helpful checklist of simple information about a property that buyers need to know before making a decision on a property.<sup>14</sup>

The **Energy Performance Certificate (EPC)** gives home owners, tenants and buyers information on the energy efficiency of their property. <sup>15</sup> New homes sold 'off-plan' need to include a Predicted Energy Assessment (PEA). The PEA should be replaced by an EPC when construction of the property is complete. <sup>16</sup>

**Sustainability information**: The Code for Sustainable Homes measures the environmental impact of a new home against nine categories. The code requirements only apply to new homes where a local council has received a building notice, initial notice or full plans application after 1 May 2008. Newly built homes must have either:

- a certificate (or interim certificate) showing the sustainability of the home assessed against the standards under the Code for Sustainable Homes;
- a nil-rated certificate where the property has not been assessed against the Code. <sup>17</sup>

The **Sale Statement** provides some basic information about the property, including:

- the address of the property being sold;
- whether the property is freehold, leasehold or commonhold;
- whether the property is registered or unregistered;
- whether or not the property is being sold with vacant possession, for example with a sitting tenant;

• in what capacity the seller is selling the property (for example, selling on behalf of a deceased owner). <sup>18</sup>

Evidence of title proves who owns the property:

- <u>Registered property</u>: certain documents that are available on request from the Land Registry must be included in the HIP. These provide an up-to-date official record of who owns the land, and consist of: official copies of the individual register (made up of a property register, proprietorship register and, typically, a charges register); and an official copy of the title plan. In the case of the sale of a commonhold interest, official copies of the register and title plan should be produced for both the unit and common parts.
- <u>Unregistered land</u>: For sales of unregistered land, the HIP must include copies of a certificate of an official search of the index map (from the Land Registry). Also, it must have the documents that the seller intends to rely on to provide evidence of title to the property and the right to sell it. <sup>19</sup>

#### Standard searches: The HIP must include:

- A search of the local land charges register for the property being sold. <sup>20</sup>
- A search of the records held by the local authority on matters of interest to buyers.<sup>21</sup>
- Details of the provision of drainage and water services to the property. <sup>22</sup>

#### The optional documents in a HIP included:

- **Home Condition Report** which assesses the condition of the property using a 1-2-3 rating guide. It identifies and helps the buyer to understand any problems or risks associated with the condition of the property, as well as potential expenditure that may be required post-purchase;
- Legal summary of often complex legal content of a HIP;
- Home use/contents form which was superseded by the PIQ;
- Specialist searches where appropriate. <sup>23</sup>

There was no set format for a HIP. Most of the documents listed above have always had to be made available during the conveyancing process. The introduction of HIPs simply brought forward the point at which this information was provided.

The seller was responsible for paying for the preparation of the HIP. They had to be made available to potential buyers free of charge but a reasonable charge could be levied to cover photocopying and postage costs. Sellers could compile the HIP themselves or could ask an estate agent, solicitor or HIP provider to provide one on their behalf.

Certain transactions did not require a HIP, such as where there was no marketing (a sale to a family member), properties not sold with vacant possession and properties limited to use as holiday accommodation.

Local weights and measures authorities had primary responsibility for enforcing the requirement to have a valid HIP but the Office of Fair Trading (OFT) also had a role where the breach of duty was committed by an Estate Agent. Enforcement officers had several options at their disposal ranging from providing help and guidance to issuing a penalty charge of £200. <sup>24</sup>

## Achieved or expected results

The legislative and implementation processes that led to the introduction of Home Information Packs (HIPs) in late 2007 were both lengthy and controversial. The Government faced substantial opposition throughout the process, most notably from the Conservative Party in Opposition and the Royal Institution of Chartered Surveyors (RICS). Concerns about certain aspects of HIPs were also voiced by other stakeholders across the property industry, even if many also saw some benefits. As a result, between the 2004 Housing Act gaining Royal Assent and the full implementation of HIPs in April 2009, the original concept was substantially watered down. The then (Labour) Government brought in a series of amending Regulations "in order to lessen the burden which the requirement for a HIP placed on those marketing a residential property." <sup>25</sup>

The most significant changes included the phasing in of HIPs to properties of different sizes, the removal of the Home Condition Report as a compulsory document in the HIP and the "first day marketing" provision, which allowed sellers to have commissioned a HIP prior to marketing their homes rather than having a HIP already prepared. <sup>26</sup>

It was believed that providing a package of standard information (Home Information Pack – HIP) at the beginning of the house buying and selling process would result in sales progressing more quickly and a reduced rate of failed transactions. Figures produced by the Office of Fair Trading in 2010 showed that around 20% of transactions typically failed between offer and exchange.<sup>27</sup> Failed transactions can be costly, particularly for buyers, depending on the stage at which the purchase falls through.

#### Figure 1: Costs of failed transactions



Source: Department of Communities and Local Government (DCLG) <sup>28</sup>

Failed transactions cost consumers and other stakeholders a considerable amount each year. If the number of failed transactions could be reduced, it could potentially result in significant cost savings. Estimates in 2007 indicated that £350m a year was being lost due to problems encountered during the buying process, <sup>29</sup> with the total cost to consumers for failed transactions being around £327m. Research suggests that 43% of failed transactions are due to problems revealed by condition or valuation surveys, and therefore the cost attributed to this could be around £140m. <sup>30</sup>

In November 2009, the Department for Communities and Local Government (DCLG) estimated that 815,922 Home Information Packs (HIPs) had been produced between 3 November 2008 and 1 November 2009. <sup>31</sup> There is no clear evidence however, that HIPs managed to significantly speed up the buying and selling process or reduce the rate of failed transactions. Some evidence does however suggest that a positive impact. Conveyancer and HIP provider myhomemove said the packs had caused the number of failed property transactions it was involved in to dip to 9% since the full introduction of HIPs last April. The figure is significantly lower than the 23% average failure rate published by the Government in 2007, before the introduction of HIPs. The data for more than 10,000 sales where myhomemove acted for buyers also showed HIPs had speeded up transactions by about six days, with the average time taken to complete now 50 calendar days. <sup>32</sup>

The Conservative Party in Opposition had opposed the introduction of HIPs throughout the 2004 Act's passage through Parliament and at all stages of implementation. Their 2010 Manifesto included a pledge to "Abolish Labour's expensive and unnecessary Home Information Packs which increase the cost and hassle of selling homes." The Liberal Democrat's 2010 Manifesto also included a commitment to "Scrap burdensome Home Information Packs, retaining the requirement for homes to have an energy performance certificate." On 20 May 2010, the new Secretary of State for Communities and Local Government, announced that the requirement to commission a HIP had been suspended with immediate effect. This was achieved by the use of order making powers contained in section 162 of the 2004 Housing Act. <sup>33</sup> The requirement on sellers to obtain an Energy Performance Certificate (EPC) remains in place. The longevity of EPCs has been extended from three to ten years. <sup>34</sup>

HIPs did not achieve their objective to improve the home buying and selling process for consumers. HIPs added an unnecessary hurdle in the process of buying and selling a home as sellers were paying extra money simply to be able to market their home. Often the quality and cost of documents acted as a deterrent to people wishing to sell their homes. <sup>35</sup> Of all the components, only the Energy Performance Certificate is now legally mandatory. A decision on the requirement for sellers of new homes to provide sustainability information will be taken in due course. It is highly likely the searches and evidence of title would still be purchased, even without the requirement for a HIP. <sup>36</sup>

#### Table 1: HIP requirements vs position after abolition

Required HIP Document	Position after Abolition
Index (list documents in HIP)	Not required
Property Information Questionnaire (prepared by seller and answers standard question about the property)	Not required
Energy Performance Certificate	Seller must still provide this
Sale statement (summary of property, terms of sale and seller)	Not required
Sustainability information (new homes only, Code for Sustainable Homes measures the environmental impact of a new home)	Responsibility of seller – but subject to commencement of powers in Section 279-293 of the Housing and Regeneration Act 2008
Standard searches (Local Authority and Drainage and Water Search)	Responsibility of buyer
Land registry evidence of title (for registered properties)	Responsibility of buyer
Land registry evidence of title (for unregistered properties)	Seller to provide, but only when requested to by buyer's solicitor
Copy of lease (leasehold sales only)	Buyer can obtain copy from Land Registry or request seller to provide

Source: Localism Bill: repeal of HIPs 37

## Perspectives and lessons learned

The **perspectives** of the **Labour Government** (1997-2010) and the **Coalition Government** (2010-2015) were completely opposed. The Labour Government defended HIPs throughout their difficult implementation period, consistently arguing that the provision of more up-front information for prospective buyers would speed up the process and help buyers make more informed decisions in regard to what is, for most people, the most significant financial commitment they will ever make. By early 2010, the Government was referring to survey evidence showing an average reduction of 6 days in transaction time where a HIP was used. The Government argued that HIPs were met with majority support from professionals within the industry, those who had paid for training and set up businesses based on the provision of HIPs were less enthusiastic. <sup>38</sup> The Coalition Government, on the other hand, viewed HIPs as unnecessary 'red tape' and an avoidable financial burden.

Most **property industry stakeholders** concurred that providing buyers with valuable and timely information on a property was a good thing. Equally, however, many in the property industry also saw considerable flaws in the measure and voiced serious concerns about HIPs throughout the legislative and implementation process. According to a consultation paper published in 2003 - The Home Information Pack in Low Demand Low Value Areas 39 - stakeholders expressed concerns that the requirement to provide a HIP might be problematic for people trying to sell their homes in areas of low demand and low value, for example, in the North of England and in some parts of the Midlands. The up-front cost of providing a HIP and the disproportionate financial burden that it would impose on people that can least afford it were key concerns that stakeholders felt may prevent or put off some people from selling their property, which may in turn depress the housing market.

Serious concerns were also voiced by the Royal Institution of Chartered Surveyors (RICS) and the National Association of Estate Agents (NAEA). Neither organisation were great admirers of HIP legislation. NAEA expressed a preference for a simpler HIP which would be less burdensome. It could include a seller's questionnaire, an improved Energy Performance Certificate (EPC) and the Land Registry title and plan. <sup>40</sup> On 15 May 2007, RICS started Judicial Review proceedings against the Department for Communities and Local Government for what they regarded as the department's failure to carry out a full consultation on HIPs. <sup>41</sup> The judicial review was later suspended pending a consultation. <sup>42</sup>

The Chair of the Water Industry Property Information Network argues that service and product providers must demonstrate the value of their goods to consumers. One of the arguments against HIPs was that they confused consumers with a lot of information, much of which consumers failed to see the relevance or importance of. It is also suggested that there may be a benefit to dividing the results of standard searches, such as those on water and drainage, into two – a consumer-focused document telling the home buyer what they need to know, and a legal document designed for use by a conveyancer. <sup>43</sup>

From a **home buyer perspective**, research showed that buyers most valued information on the condition of a property. A survey carried out by Which? in 2008 <sup>44</sup> suggested that condition information often became a bargaining tool for buyers to push sellers for a discounted price. The buyers' survey showed that 41% of those who found a condition problem when viewing the house negotiated a reduction in the asking price and 10% ensured that the problem was corrected. Furthermore, 25% of the surveyed home owners found a problem in their house after they had moved in and on average they had to spend £2,500 to repair the faults. Of these, 10% stated that they had spent more than

£10,000 on repairs and remedial work. A quarter said that if they had known about the problems in advance they would have tried to renegotiate the price, and more than 10% said they would not have bought the property at all.

From a mortgage lending (financial services) perspective, the Council of Mortgage Lenders (CML) reported that its members were not persuaded that the perceived consumer benefits would be achieved. The CML believed that the introduction of econveyancing would have a much more positive impact. In a memorandum to a parliamentary select committee, <sup>45</sup> the CML states that it has consistently put the view to Government that HIPs are not necessary if other initiatives deliver the changes that everyone in the industry wants to see. One such initiative given as an example is the National Land Information Service (NLIS) 46 project. This government-backed project to automate and speed up the provision of property related information held by local authorities holds out the possibility of obtaining local authority searches in a matter of seconds as opposed to days/weeks. This would ease one of the industry's concerns with HIPs—i.e.: that they will delay the entry of properties to the market. Unfortunately, the degree to which local authorities have introduced the technology required to fully interact with NLIS is, to say the least, disappointing. 47

The Council of Mortgage Lenders reported that their members were not persuaded that the perceived consumer benefits will be achieved. They believed that the forthcoming introduction of e-conveyancing would have a much more positive impact.

## Endnotes

- <sup>1</sup> https://www.gov.uk/government/organisations/department-forcommunities-and-local-government
- <sup>2</sup> By obtaining a print out of the title sheet from Land Registry: https://www.gov.uk/get-information-about-property-andland/copies-of-deeds
- <sup>3</sup> Home Information Packs: A Short History (2010) http://researchbriefings.parliament.uk/ResearchBriefing/Summa ry/RP10-69
- <sup>4</sup> Lord Chancellor's Department, Department of Trade and Industry and DETR, "Key research on easier home buying and selling: Main report", December 1998

http://www.communities.gov.uk/documents/housing/doc/15682 5.doc

- 5 Ibid
- <sup>6</sup> http://webarchive.nationalarchives.gov.uk/20140402142 426/http://www.oft.gov.uk/shared\_oft/reports/property/OFT118 6.pdf

http://webarchive.nationalarchives.gov.uk/20140402142426/ht tp:/www.oft.gov.uk/OFTwork/markets-work/buyingandselling

- <sup>7</sup> Home Information Packs: A Short History (2010) http://researchbriefings.parliament.uk/ResearchBriefing/Summa ry/RP10-69
- <sup>8</sup> HIPs were required by law from 1st August 2007 for fourbedroom properties or larger properties, from 10<sup>th</sup> September 2007 for three-bedroom properties, and from 14<sup>th</sup> December 2007 for all one and two-bedroom properties.

Home Information Packs: A Short History (2010)

http://researchbriefings.parliament.uk/ResearchBriefing/Summa ry/RP10-69

<sup>9</sup> Example PIQ:

http://www.nfopp-regulation.co.uk/media/1011000/nfopp-residential-estate-agency-piq-freehold.pdf

<sup>10</sup> https://www.gov.uk/buy-sell-your-home/energy-performancecertificates

https://www.epcregister.com/

<sup>11</sup> The requirement to prepare EPCs has its roots in the Directive on the energy performance of buildings (EPBD), Directive 2002/91/EC – EU Member States were required to implement the Directive by 4 January 2006.

<sup>12</sup> If a document that must be included in the HIP is unavailable, the Index must say so, give the reason it is missing, and list what steps are being taken to get it. The Index should be updated whenever documents are added or removed. http://webarchive.nationalarchives.gov.uk/+/www.direct.gov.uk/ en/HomeAndCommunity/BuyingAndSellingYourHome/Homeinfo

- <sup>13</sup> A PIQ includes questions on: access arrangements (to the property); utilities/services and details of the provider(s); the (Local) Council Tax band; property boundaries; changes to the property; parking arrangements; damage to the property; leasehold information.
- <sup>14</sup> http://webarchive.nationalarchives.gov.uk/+/www.direct.gov.uk/ en/HomeAndCommunity/BuyingAndSellingYourHome/Homeinfo rmationpacks/DG\_171808
- <sup>15</sup> Energy Performance Certificates (EPC) report on the energy efficiency of a home and its impact on the environment, using a scale of A-G. They also provide improvement recommendations. The most efficient homes and those with the least impact on the environment are in band A. These homes should have the lowest fuel bills and should generate the lowest carbon dioxide (CO2) emissions.
- <sup>16</sup> http://webarchive.nationalarchives.gov.uk/+/www.direct.gov.uk/ en/HomeAndCommunity/BuyingAndSellingYourHome/Homeinfo rmationpacks/DG\_171808
- <sup>17</sup> Ibid

- <sup>19</sup> Ibid
- <sup>20</sup> This is carried out by a local council or personal search company.
- <sup>21</sup> This includes planning decisions and road building proposals. These are referred to as local enquiries in the Home Information Pack Regulations and are carried out by a local authority or personal search company.

http://webarchive.nationalarchives.gov.uk/+/www.direct.gov.uk/ en/HomeAndCommunity/BuyingAndSellingYourHome/Homeinfo rmationpacks/DG\_171808

<sup>22</sup> The local water company or a personal search company can be used (however, the search must comply with the HIP Regulations).

http://webarchive.nationalarchives.gov.uk/+/www.direct.gov.uk/ en/HomeAndCommunity/BuyingAndSellingYourHome/Homeinfo rmationpacks/DG\_171808

- <sup>23</sup> For example, it's standard practice to obtain a mining search in areas where coal mining has taken place. Sellers in these areas will save time if they provide this search in the Pack. Other searches cover rights of way, ground stability and actual or potential environmental hazards such as flooding and contaminated land. Sellers may also want to include guarantees and warranties for work already carried out on their homes.
- <sup>24</sup> Home Information Packs: A Short History (2010)

http://researchbriefings.parliament.uk/ResearchBriefing/Summa ry/RP10-69

<sup>25</sup> HL Paper 24 of 2007-08

(Home Information Packs: A Short History (2010)

rmationpacks/DG\_171808

<sup>&</sup>lt;sup>18</sup> Ibid

http://researchbriefings.parliament.uk/ResearchBriefing/Summa ry/RP10-69)

- <sup>26</sup> Home Information Packs: A Short History (2010) http://researchbriefings.parliament.uk/ResearchBriefing/Summa ry/RP10-69
- OFT, Home buying and selling A Market Study, 2010 http://webarchive.nationalarchives.gov.uk/20140402142426/ht tp://www.oft.gov.uk/shared\_oft/reports/property/OFT1186.pdf http://webarchive.nationalarchives.gov.uk/20140402142426/ht tp:/www.oft.gov.uk/OFTwork/markets-work/buyingandselling
- <sup>28</sup> The role of condition information in the home buying and selling process – Research and cost/benefit analysis (DCLG) https://www.gov.uk/government/uploads/system/uploads/ attachment\_data/file/6343/1705137.pdf
- <sup>29</sup> Dixon, R, "Will the withdrawal of the HCR as a mandatory element of the HIP still make the pack worthwhile to the consumer?" (2007)
- <sup>30</sup> CLG, Marketing of Residential Properties Regulations: Regulatory Impact Assessment – Annex on Costs/Benefits to Businesses and Consumers of the HIP with and without the HCR, 2001

This document is no longer available but it is referenced in the following cost/benefit report published by the Department for Communities and Local Government in 2010.

The role of condition information in the home buying and selling process – Research and cost/benefit analysis (DCLG) https://www.gov.uk/government/uploads/system/uploads/ attachment\_data/file/6343/1705137.pdf

- <sup>31</sup> http://www.publications.parliament.uk/pa/cm200809/ cmhansrd/cm091112/text/91112w0054.htm
- <sup>32</sup> http://www.lawgazette.co.uk/news/hips-reduce-failedtransactions-and-benefit-solicitors-providerclaims/54162.fullarticle
- <sup>33</sup> The Home Information Pack (Suspension) Order 2010 (SI 2010/1455)
- <sup>34</sup> Energy Performance of Buildings (Certificates and Inspection) (England and Wales) (Amendment) Regulations 2010 (SI 2010/1456)
- <sup>35</sup> Localism Bill: repeal of Home Information Packs (HIPs) Impact Assessment.

https://www.gov.uk/government/publications/abolishing-homeinformation-packs-impact-assessment

http://www.parliament.uk/documents/impactassessments/IA11-010BD.pdf

- <sup>36</sup> Ibid
- 37 Ibid
- <sup>38</sup> Home Information Packs: A Short History (2010)

http://researchbriefings.parliament.uk/ResearchBriefing/Summa ry/RP10-69

<sup>39</sup> Reforming the home buying and selling process: The Home Information Pack in Low Demand Low Value Areas – A Consultation Paper, 2003

http://webarchive.nationalarchives.gov.uk/20060522090829/o dpm.gov.uk/pub/206/TheHomeInformationPackinlowdemandlo wvalueareasaconsultationpaperPDF752Kb\_id1151206.pdf

- <sup>40</sup> http://www.hip-consultant.co.uk/blog/naea-and-rics-ask-forreview-of-hips/
- <sup>41</sup> https://www.mortgagestrategy.co.uk/rics-to-take-hips-tojudicial-review/
- <sup>42</sup> http://www.building.co.uk/rics-suspends-hips-case-asgovernment-agrees-to-review/3092627.article
- <sup>43</sup> https://www.bsa.org.uk/bsa/media/migrateddocuments/ publications/home\_buying\_reform.pdf
- <sup>44</sup> 'The point of viewing', Which?, May 2008
- <sup>45</sup> http://www.publications.parliament.uk/pa/cm200203/ cmselect/cmodpm/751-ii/751w10.htm
- <sup>46</sup> www.nlis.org.uk
- <sup>47</sup> http://www.publications.parliament.uk/pa/cm200203/ cmselect/cmodpm/751-ii/751w10.htm