



Office of the
Deputy Prime Minister

Creating sustainable communities

Contents of Home Information Packs

Recommendations of the Home Information Pack Components Project Board



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April 2005

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1 Introduction

- 1.1 The Housing Act 2004 provides for the Secretary of State to prescribe in regulations documents and information required or authorised to be included in home information packs (HIPs).
- 1.2 In 2003 ODPM published a consultation paper setting out detailed proposals for the contents of HIPs. Following enactment of the Housing Bill, the HIP Component Project Board was set up to assist the Government to review its proposals in the light of responses to the consultation and to make recommendations on which documents and information should be 'required' to be included in HIPs (that is, required to be included in all cases) and which documents and information should be 'authorised' for inclusion (this could be documents or information which will not be available in all cases or else is important to home buyers' and sellers' decisions only in some cases – such as properties in particular localities).
- 1.3 It is not the policy intention that documents and information should be precluded from being 'required' to be included in HIPs just because they might be difficult to obtain quickly (for example, obtaining service charge information from the landlord where the selling leaseholder has not retained that information). Ministers have announced that where, despite the best efforts of the seller or marketing agent, information required to be included in HIPs is not available or else is not supplied within 2 weeks marketing should be allowed to commence and the missing information added to the pack when it became available.
- 1.4 To assist its deliberations, the Project Board set up and considered reports from four working groups:
 - Working Group 1: Searches
 - Working Group 2: Leasehold and commonhold
 - Working Group 3: Legal and planning
 - Working Group 4: New homes
- 1.5 The organisations represented on the Project Board and working groups are set out in the attached annex.

2 Recommendations of the HIP Components Project Board

2.1 The Project Board recommends that the following documents and information should be prescribed for inclusion in HIPs:

2.1.1 Searches

2.1.1.1 Required

- a) Search of the **local land charges** register (based on form LLC1).
- b) **Standard enquiries of the local authority** (based on those currently set out in form CON 29 Part I).
- c) **Drainage and water enquiries** (based on those currently set out in form CON 29 DW). The Board noted that in some cases it is currently the practice of water companies not to allow public inspection of their records for the purpose of obtaining search information. The Board recommended that the inclusion of such information as a required component of HIPs should be subject to any safeguards necessary to ensure that in such a monopoly supplier situation consumers receive a satisfactory service and do not have to pay more than a reasonable charge for that information.

2.1.2 All searches required to be included in HIPs should be no more than 3 months old at the point marketing commences. The Working Group had suggested 1 month. However, the Project Board noted this would often mean sellers having to commission duplicate searches if they wanted to delay marketing while a problem revealed by the HIP (for example a condition problem revealed by the HCR) was addressed.

2.1.3 Authorised

- a) **Mining search** (based on form CON 29 M).
- b) **Supplementary enquiries of the local authority** (based on form Con29 Part II).

2.1.4 Other searches with potential for inclusion in HIPs

- a) **Contaminated land** – the Board was not satisfied that a suitable contaminated land search is yet available. However, it noted that private environmental search companies are consulting with the Environment Agency, DEFRA, local government representatives and others on agreeing appropriate information to be used and a set of standards for information providers. The Board's recommendation was that if this work results in a suitable search it should be 'authorised' for inclusion in the HIP. In the meantime it was noted that standard enquiries of the local authority (2.1.1.1(b) above) provided information about land on the authority's contaminated land register.

- b) **Flood risk** information should be 'required' to be included in HIPs, subject to the availability a satisfactory search. The Board noted that the Environment Agency had reported they were close to finalising a suitable search in consultation with DEFRA and that this should be finalised by the end of summer 2005.
- c) A new '**ground stability and subsidence**' search is being developed by the DTI, the Coal Authority and the British Geological Survey. This will cover coal mining, natural subsidence and Cheshire brine initially but could be expanded later to cover other mining activities (e.g. Cornish tin mining). The new search would be potentially relevant on a nation-wide basis. Subject to a satisfactory outcome, the Board recommended that this new search should be 'authorised' for inclusion in HIPs. It was noted that this search could eventually contain information relevant to all transactions, at which point it could be 'required' to be included in HIPs.

2.1.5 The Board recommended that in order to qualify for inclusion in HIPs these new searches should provide robust, risk-based, user-friendly, property-specific information, provide adequate consumer protection and avoid giving rise to unnecessary concerns and blight. In the interests of allowing the industry time to prepare for HIPs, the Board recommended that any new searches to be included in HIPs in January 2007 should be fully defined, tested and prescribed in regulations not later than December 2005.

3 Leasehold and Commonhold

3.1 Leasehold

- 3.1.1 (Copies of documents 'required' in all cases unless otherwise indicated). These documents are in addition to documents and information 'required' or 'authorised' for freehold sales.
- a) **Head lease and any other leases relevant to the property.** An official copy from the Land Registry or any complete copy would be acceptable.
 - b) As the buyer will wish to be satisfied that payments due for service charges and payments for ground rents have been made, **service charge accounts** (individual accounts for servicing common areas of the property) **over previous 3 years and the most recent ground rent notice** should be included. Because of the potential difficulty obtaining estimated and future service charges these should be 'authorised'.
 - c) **Notices under section 20/20ZA of the Landlord and Tenant Act 1985** which requires landlords to consult leaseholders about contracts of more than 12 months duration and works costing more than a prescribed amount – to be required but only where costs have not already been invoiced and paid, and where full consultation had not yet taken place or where the outcome is still unknown.
 - d) **Insurance information** with flexibility as to whether a summary or copy of the building insurance policy itself is provided. The buyer will need to know who is responsible for insuring the building.
 - e) **Current regulations relating to the property made by the landlord or residents' management company.** In some cases the terms of the lease may enable the landlord or residents' management company to make regulations covering a range of matters relating to the management of the block such as restrictions on the activities of leaseholders without having to change the lease. This facilitates the process and is particularly useful for those regulations which may need to be changed on a regular basis.
 - f) **Memorandum and articles of the residents' management company.** It was considered important that a buyer should be aware of the constitution of the landlord company.
 - g) **Name and address of current landlord or managing agent used by the landlord. The telephone number** should be 'authorised'.
 - h) **Search of the Companies Register** – for any landlord company or residents' management company to verify that the company is in existence and registered at Companies House.
 - i) **Share certificates** where the leaseholder is a member of the residents' management company should be 'authorised'.

- j) **Sellers Property Information form** specific to leasehold and similar to that adopted for the purposes of The Law Society's TransAction Protocol. (More detail is given under Legal and Planning).
- k) **Information on reserve funds** held in trust for lessees. However, there is no duty on the Landlord/Management Company to supply this information so it should be authorised.

3.1.2 The Board also recommended that guidance should accompany the regulations and HIPs providing a consumer-friendly description/definition of leasehold/commonhold/freehold tenure.

3.2 Commonhold

3.2.1 Copies of documents should be 'required' in all cases unless otherwise stated:

- a) **Memorandum and articles** of the commonhold association.
- b) **Commonhold community statement.**
- c) **Evidence of the title** to the common parts and the unit (see legal and planning for further details).
- d) **Commonhold assessments** (the equivalent of the service charges) and reserve fund levies as paid in last three years.
- e) **A summary or copy of the insurance policy for the building** should be included where the commonhold association is responsible for the insurance.
- f) **Current rules and regulations made outside the Commonhold statement** should be 'authorised'. These will sometimes contain detailed information, for example about rules concerning hygiene and safety.
- g) **Current address and name of any managing agent appointed by the Commonhold Association.** The **telephone number** should be 'authorised'.
- h) **Search of Companies Register** for the commonhold association.
- i) **Sellers Property Information form.**

4 Legal and Planning

(all should be required documents unless otherwise indicated)

- 4.1 **Summary of terms of sale** in a user friendly format based on appendix A to the ODPM consultation document with the following amendments (1) omit incumbrances (2) change title guarantee to title capacity (3) omit questions 7 and 8.
- 4.2 **Fixtures and fittings form** based on that adopted for The Law Society's TransAction Protocol. The Board suggested that there should be a column identifying items for negotiation. There would be no duty on the seller to complete this form.
- 4.3 **Evidence of title** as proposed in the ODPM consultation document. The Board suggested that guidance be provided for sellers of unregistered property.
- 4.4 **Sellers Property Information Form** based on that adopted for The Law Society's TransAction Protocol which covers general information about the property such as boundaries, notices and services. There would be no duty on the seller to complete this form.
- 4.5 **Copies of warranties and guarantees** relating to the building, the benefit of which would transfer with ownership should be 'required'. Other warranties and guarantees which transfer with ownership (eg covering boilers and central heating systems) should be 'authorised'.
- 4.6 **Copies of any current planning applications.** In view of potential cost implications and the increased burden on the seller, copies of accompanying plans and diagrams should be 'authorised'. The Board noted that other planning information is covered by standard enquiries made of the local authority (2.1.1.1(b) above) and potentially by the Sellers Property Information Form (4.4 above).
- 4.7 **Copies of Building Control Certificates** should be 'authorised'. As at present local authorities are not obliged to retain Building Control Certificates, it might be necessary for HIPs to rely on information requested in the Sellers Property Information Form. The Board noted that ODPM legislation was planned that would require authorities to retain these certificates, and recommended that once this had been introduced and brought into force the position should be reviewed with a view to Building Control Certificates being made 'required' documents.

5 New Homes

5.1 Where a new home is being marketed, the pack should have the same contents as for other homes apart from the following:

5.1.1 New homes marketed ‘off plan’

When a home is being marketed ‘off plan’ (ie before physical completion) a Home Condition Report, warranty or insurance policy would not be ‘required’. However, where the home is intended to be registered with the provider of such a warranty or insurance cover on completion the pack should include evidence to that effect and include details of this cover as ‘required’ information. If the home is not to be registered with such a warranty/insurance scheme but a professional consultant is monitoring the building work details of the name of the consultant, his/her professional qualifications and details of any insurance cover held by the consultant that gives protection to the buyer should be ‘required’ information.

5.1.2 New homes marketed ‘physically complete’

When a new home is being marketed ‘physically complete’ a Home Condition Report including an energy efficiency assessment should be ‘required’ unless the property is registered with a housing warranty scheme designated by the Secretary of State. This exemption from providing a Home Condition Report should apply only to the first sale of the home after physical completion. Transfer of ownership prior to marketing for sale would not count as a first sale so long as the transfer was to a company in the same group of companies as the developer or to another company that is a member of a designated warranty scheme. In such cases the first sale would be the first marketed sale.

Annex

Membership of Hip Components Project Board and Working Groups

THE HIP COMPONENTS PROJECT BOARD

ODPM (Chair)

Which?

National Association of Estate Agents

Royal Institution of Chartered Surveyors

Council of Mortgage Lenders

Law Society

WG 1. SEARCHES

ODPM (Chair)

Local Government Association

Law Society

Council for Licensed Conveyancers

Council of Property Search Organisations

HM Land Registry

Council of Mortgage Lenders

Office of Fair Trading

Sub Group 1 (LLC 1 and CON 29)

ODPM (Chair)

Local Government Association

Law Society

Council for Licensed Conveyancers

Council of Property Search Organisations

Department for Constitutional Affairs

Local Land Charges Institute

National Land Information Service

Office of Fair Trading

Sub Group 2 (CON 29 (Drainage and water))

ODPM (Chair)

Local Government Association

Law Society

Council for Licensed Conveyancers

Council of Property Search Organisations

Department for Constitutional Affairs

Local Land Charges Institute

National Land Information Service

Office of Fair Trading

Department of Environment Food and Rural Affairs

WaterUK

Watervoice

Sub Group 3 (Environmental Searches and Others)

ODPM (Chair)
 Local Government Association
 Law Society
 Council for Licensed Conveyancers
 Council for Property Search Organisations
 Council of Mortgage Lenders
 Department of Constitutional Affairs
 Local Land Charges Institute
 National Land Information Institute
 Office of Fair Trading
 Department of Environment, Food and Rural Affairs Environment Agency
 Coal Authority
 Association of British Insurers
 British Geological Survey

WG 2. LEASEHOLD

ODPM (Chair)
 Law Society
 Council of Licensed Conveyancers
 Council of Mortgage Lenders
 Local Government Association
 Department of Constitutional Affairs
 National Association of Estate Agents
 Association of Residential Letting Agents
 Association of Residential Managing Agents
 Association of Retirement Housing Managers
 Leasehold Advisory Service
 Federation of Private Residents Association
 Housing Corporation

WG 3. LEGAL & PLANNING

ODPM (Chair)
 Law Society
 Council of Licensed Conveyancers
 HM Land Registry
 Council of Mortgage Lenders
 Department for Constitutional Affairs
 Local Government Association

WG 4. NEW HOMES

ODPM (Chair)
 Law Society
 Council of Licensed Conveyancers
 Council of Mortgage Lenders
 National House Building Council
 Premiere Guarantee plc
 Zurich Insurance plc
 Royal Institution of Chartered Surveyors
 Department of Environment Food and Rural Affairs