



HOME INFORMATION PACK LEGAL GUIDE – DECEMBER 2007

TRANSITIONAL ARRANGEMENTS

1. From 14 December 2007, HIPs are required for most residential properties.
2. Until 1 June 2008 sellers can market their properties immediately provided they have commissioned a HIP.

Whether a HIP will be required

HIPs will be required for all residential properties marketed with vacant possession (including investment properties marketed for sale with vacant possession). HIPs will not be required for certain properties, particularly residential properties sold without full vacant possession. For other exceptions visit www.kellyhips.co.uk

Documents to be included

Only documents and information prescribed as “required” or “authorised” in the HIP Regulations may be included in a HIP.

Required Documents

a) All properties:

- Index (a list of the contents of the HIP);
- Energy Performance Certificate (EPC);
- Sale statement (summary of the terms of sale);
- Evidence of title (to be no older than three months at the first point of marketing); and
- Standard searches – e.g. local land charges register, local authority enquiries, drainage search, and water search.

The most recent versions of all documents must be included, and if there is any delay in getting the EPC, searches or evidence of title, you must include proof that they have been ordered and where necessary paid for. The HIP should be presented so that the index is the first document, relevant documents dealing with energy performance should then follow. The remaining documents may be presented in any order.

b) Leasehold properties

The only document which is compulsory for leasehold properties is a copy of the lease.

Authorised Documents (optional)

The HIP may be enhanced by the provision of additional (authorised) documents. Whether an authorised document is included should depend upon the particular property and the particular wishes of the seller.

Sellers can choose to include the following:

- Home Condition Report
- Home Use Form
- Home Contents Form
- Legal summary of a Pack, or a Pack document
- Other searches
- Warranties and guarantees
- Leasehold documentation

Please note: this is not a complete list of the optional documents that can be included. Full details of what can and can't be added to the Pack can be found in the Home Information Pack Regulations:

www.homeinformationpacks.gov.uk/industry/137_pubregulations.html

The Pack must not contain any form of advertising of goods and services.

Assessing potential buyers

HIPs must be provided to any buyer who has (or has the potential to gain) sufficient means to buy the property, is genuinely interested in buying properties of a general description that applies to the property in question and is a person to whom the seller is likely to be prepared to sell the property. Detailed records of all potential buyers are kept to record this information and justify the reasons why HIPs were or were not provided.

Provide HIPs to potential buyers

The buyer is advised that delivery of the HIP is available on line, free of charge or by CD or paper copy on payment of a fee plus VAT per copy.

The HIP will be provided to buyers meeting the necessary criteria within 14 days of the request being made or payment (for a copy) being received. Any request for payment should be made within 14 days of the request for the HIP. Kelly & Co will not accept liability for hard copies that are not produced by them.

If a buyer does not satisfy the criteria set out for a “potential buyer” or for any other reason cannot be provided with a HIP, this will be explained. Where it is not clear whether a HIP should be provided to a particular buyer, this will be discussed with the seller.

Handling specific queries from buyers about HIPs

All queries from buyers regarding HIPs will be acknowledged within one working day and responded to promptly. Where necessary, answers will be sought from Kelly & Co who as subscribers to the HIP Code are required to respond “promptly” to all queries.

What a buyer should do with a HIP

Once an offer has been accepted, the buyer should provide the HIP to his or her conveyancer.

QUESTIONS ASKED FREQUENTLY BY SELLERS

Q. How much is a HIP?

A. The cost of commissioning the HIP will depend upon a number of things, including type of property and location. The contents of the HIP are not superfluous costs – the vast majority of the components in the HIP are already borne by the buyer in the current process, so HIPs are largely a reordering of the current conveyancing process. The only item in the HIP with no previous equivalent in the conveyancing process is the Energy Performance Certificate, which is required under legislation implementing an EU directive.

Q. Why do I have to have one?

A. The Home Information Pack is a set of documents providing important information about a property such as searches, copies of the deeds, and information regarding its energy efficiency. Previously, much of this essential information only came to light when an offer had been made and accepted. In the meantime, buyers were negotiating in the dark and wasting money on legal fees and searches. Providing this information, at the time of marketing a property, can make the home buying and selling process more efficient and transparent.

Q. How long will a Domestic Energy Assessor (DEA) of Home Inspector take to do my Energy Performance Certificate (EPC)?

A. The DEA or Home Inspector has to physically visit your home in order to undertake the energy performance assessment. The assessor is likely to be in your property for on average an hour, although this will vary according to the size of the property.

Q. When should a seller include an explanatory document in a HIP?

A. Whenever a seller or buyer may find a component difficult to understand an explanatory document would be useful.

QUESTIONS ASKED FREQUENTLY BY BUYERS

Q. What is a HIP?

A. A Home Information Pack (HIP) is a pack of documents about a property that the seller (or agent) has compiled. The HIP contains useful information which a buyer can use the HIP to inform the offer he or she decide to put on a property.

Q. How much is a HIP?

A. HIPs are provided by sellers and should be free for buyers (although a cost can be charged for copying or posting a paper copy of the HIP).

Q. What should I do with a HIP?

A. You should look at the HIP on a property you are interested in buying – your estate agent should be able to give you a copy of a government leaflet called "What to look for in your HIP". You may also wish to give a copy of the HIP to your solicitor before you put in an offer, so that he or she can advise you on any legal issues. You are definitely recommended to give your solicitor a copy of the HIP once your offer has been accepted – it should save you time and money in the rest of the process.

Q. Who will answer my questions?

A. Your estate agent would be your first port of call for questions, although they may pass you on to Kelly & Co if he or she does not feel sufficiently experienced to answer your questions.

Q. Can I trust it?

A. Yes, although it is still your responsibility to check whether the property is suitable for you. You should seek your solicitor's opinion on the documents included within the HIP. If something comes to light after you have bought a property you may be able to seek redress from your estate agent or Kelly & Co depending on who is at fault.

Q. Why are there things missing?

A. Certain documents, such as searches and leasehold documents can be added later. A pack may contain proof that these documents have been ordered. If your offer has been accepted on that property before these documents arrive, it is advisable to make sure that your solicitor knows to expect them – otherwise your solicitor may order them again, and charge you!

Q. What is the shelf life of a HIP?

A. On the assumption that all regulations have been complied with when a HIP is compiled, none of the components of a HIP has a prescribed shelf life whilst the property remains on the market. The contents may, however, be reviewed at any time.

Q. Where should buyers go if they have complaints?

A. A number of complaints services and redress schemes exist. The right one for the buyer depends on the nature of the complaint, and who it's about (i.e. solicitors, licensed conveyancers, energy assessors, etc). Every estate agent selling residential properties for which a HIP is required must belong to a redress scheme – agents should provide confirmation of details to the buyer.

Consumer direct, the government funded consumer advice line from the Office of Fair Trading, provides a single point to which buyers can go to get advice on where to take their complaint.

Further information can be found on their website at: www.consumerdirect.gov.uk or the Home Information Pack website at: www.homeinformationpacks.gov.uk/consumer/53_Complaints_procedure.html.