

LAWPACK



Self-Help Kit

Home Information Pack

Guidance Manual

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This is an excerpt from Lawpack's *Home Information Pack Kit*.

To find out more about how you can prepare your own HIP and save ££s on professional fees, [click here](#).

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Introduction

Buying and selling a property in England or Wales is recognised as one of the most difficult and stressful activities you can do. Moving house is rarely an enjoyable process. When complete, it is unlikely you will recommend the process to your friends. Apart from the actual moving process itself, such as organising removals, insurance and dealing with estate agents and solicitors, the actual legal process is complex and fraught with potential problems.

The long history of English land law and the resultant contractual process (which is called conveyancing) has produced many complexities and anomalies. Governments have tried for many years to eliminate the problems, but passing a single law would be difficult. Although many see the system in Scotland as more attractive, it has its fair share of critics, and is currently under review.

There are many ways the house buying and selling process can be made more effective using the laws in place today. The legal system already has many options for reducing the number of problems such as non-refundable deposits and legally binding contracts.

In general, the rules for buying and selling houses favour neither side in particular and are based on trust. Unfortunately, a change in attitude towards property – from ownership of a home to a money-making activity – has meant that trust is less respected than in the past. With issues such as buyers reducing prices at the last minute ('gazundering') and other buyers offering higher prices after an offer has been accepted ('gazumping'), legal reform of any kind is welcomed.

The challenge is that reform must be introduced uniformly across the market, with everyone in agreement, working with the same standardised principles. This is where the problems begin. For example, chains are one of the major stumbling blocks in the English house buying process, where a person is dependent on others to enable the transaction to proceed. The breakdown of chains is acknowledged as a serious problem, but one that is very difficult to resolve. Although pre-contract agreements have been suggested as a solution, they are too expensive and time-consuming, relying on everyone in the chain agreeing the same contract terms. Chain-breaking methods have been talked about for many years, but the strength and unique nature of the housing market means that they are likely to be with us for many years to come.

Over the next few years, there will be a radical change in the philosophy of buying and selling properties. An idea that has been successfully used in a number of countries and is under consideration in several European countries today, aims to make house buying less stressful by giving buyers more information about a property at an early stage – the Home Information Pack (HIP) in England and Wales.

This Kit is designed to give you the background to the introduction of HIPs, how they can be used and how you can produce one yourself and make substantial savings.

The introduction of HIPs is just part of a much larger programme of reforms in the legal profession. Another reform currently being investigated is electronic conveyancing, or e-conveyancing, which will enable legal representatives to carry out the entire property purchase process electronically, including the financial transaction. This will mean that all parties involved in the purchase or sale of a property will have access to the documents in electronic form. This is currently being researched, with trials being carried out, before the system goes live in 2010.

What this Kit can do for you

This Kit will help you understand the background to one of the most radical reforms that the property market has ever seen. As with any major change, there will be companies trying to sell you services that you never knew existed, and taking advantage of the fact that most people will not understand what is involved in putting together a HIP.

We will give you guidance on:

- why the legal changes were introduced and what their aims are;
- the main people involved in HIP production and their roles;
- whether you should project manage your own HIP or find someone else to help you;
- what goes into a HIP and how to tell a good quality product from a poor one;
- what to watch out for when things go wrong and how to put them right.

Throughout this Manual, we will point out the pros and cons of particular issues and help you understand the implications. You can use this Kit to construct your own HIP, find companies that will carry out the legal work for you, including the new energy inspection and even package and distribute your final pack.

This Kit will not enable you to sell your property or to carry out your own conveyancing. This legal process requires expertise and more importantly, the necessary insurance if things go wrong. Although there is relatively little that can go wrong with putting a HIP together, there are potential implications if your buyer relies on any information you provide which turns out to be incorrect. That said, all you would have to do to put things right is to obtain the correct documents to minimise the impact of any such problems.

As with all self-help Kits, if you are unsure about how to proceed, we strongly recommend that you seek advice from a solicitor.

HIPs - background and overview

If you have ever bought a property, a solicitor or a licensed conveyancer will probably have carried out the legal paperwork; and a surveyor may have checked the property on your behalf either for faults, or to give an accurate valuation for the building society if you needed to get a mortgage. As a buyer, you probably paid a significant amount of money for these services. Indeed, instructing a solicitor or surveyor can cost anything from £500 to £2,000.

Therefore, if you are one of the many people who have had your prospective property purchase fail, you will be well aware of how expensive the cost of failure can be.

There are many reasons why a sale may not proceed, including:

- The survey reveals a problem with the property you want to buy, so you reconsider.
- A competitive buyer offers a higher price for the property and you lose the sale.
- The seller's purchase falls through so he cannot sell his property to you.
- The seller's circumstances change, forcing him to change his mind and withdraw his property from sale.
- The person buying your property changes his mind so you withdraw your offer on another purchase.

If, for whatever reason, you cannot proceed with the purchase, whether it is your fault or the seller's, the money that you have spent is wasted. For first-time buyers, the problems are particularly acute. The government has estimated that the cost involved in failed property transactions is a staggering £1million per day.

To help to address this, people selling their homes in England and Wales are now required to provide much of the information that buyers currently pay for. This includes much of the legal paperwork, a certificate measuring the energy efficiency of your property, and an optional survey which will examine the condition of the property and give buyers a clear view of any potential problems.

In November 2004, the Housing Act was passed which, among many housing reforms, meant that HIPs (although you may have heard them previously referred to as 'Sellers' Packs') would become obligatory. This Kit will help you understand their contents, how you can construct your own and save yourself money if you are planning to sell your home.

HIP content

Under The Housing Act 2004 and the Regulations that support it, there is a minimum number of documents that a HIP must contain. The documentation falls into three categories:

- **Required** - documents that **must** be included.
- **Authorised** - documents that **may** be included.
- **Prohibited** - documents that **cannot** be included.

Required contents

All HIPs must include the following documents:

- Index;
- Energy Performance Certificate (EPC);
- Sale statement;
- Title information;
- Local authority search;
- Drainage search; and
- Leasehold and commonhold documentation (where appropriate).

The Index must be the first document in the HIP, followed by the EPC. The other documents may be in any order you choose.

Authorised contents

While a HIP will be legally complete if it contains the required contents, there are many other documents that a buyer's solicitor will need in order to complete the sales transaction. These may include environmental, flooding and radon reports, additional guarantees, translations into different languages, the new Home Condition Report and legal summaries of the documentation.

Prohibited contents

If a document is not listed as required or authorised, it is a prohibited document. This is to ensure there is no confusion over whether a document is allowed or not. For example, advertising documentation is prohibited, so details of a local central heating or double glazing supplier cannot be included.

Required contents

The following documents must be included in a HIP:

Index



A HIP is a snapshot of the property at the time when the documentation was produced.

However, as there will be additional documents added or updated and to help buyers understand the history of the HIP, a full Index must be included. While there is no obligation on the seller to update this information, it is a useful service, and the Index page will show where documents have been added. If some documents are not in the HIP yet, details must be given in the Index about the steps being taken to find them. For an example of a completed Index see pages 39 - 42.

Home sale statement



This is a single page form that can be filled in either by the estate agent or you. It is straightforward and simply gives details of the property being sold, whether it is registered or unregistered, and if it is freehold, leasehold or commonhold. For an example of a completed Home sale statement see pages 43 - 44.

Title information



In recent years, when a property is sold or there have been dealings with the land, such as a remortgage, the information will be recorded at Land Registry. This means that finding the documentation that proves the ownership of the property is straightforward in most cases.

In your HIP you must include an 'Official Copy', which is an authorised copy of the title information held at Land Registry, along with the plan of the extent of the property. This is a map of the location, with the actual property, typically highlighted in a specific colour, which must be included in a HIP, in the same colour.

To obtain this information over the internet, all you need is an address and postcode of the property, although it is important to check that the correct property is identified. These details are returned almost instantly by email. See www.landregisteronline.gov.uk for more information on this service.

Other documents may be referred to in this title information, such as any covenants or deeds that are associated with the land. Although these additional documents are

not defined as 'required', they will be needed by the buyer's solicitor, and are therefore extremely useful. It costs more and may take extra time, but it may be worth the effort to obtain them.

As an aside, Land Registry is currently going through the process of scanning all original title documentation into electronic format and destroying the original paperwork. This process, called 'dematerialisation' is required because of the spiralling costs and practical difficulties of storing the current paper volumes.

Unregistered properties

Properties that have not been sold in the past 15 years or so, may not be stored on the Land Register. Such properties are called 'unregistered' and obtaining their title information requires more time and effort and will usually need a solicitor's help.

Unregistered titles raise some interesting complications for historical reasons. For example, in Middlesex and the Yorkshire Ridings, Deeds Registries were set up before land registration and they kept records of certain land transactions but these were registered against the names of the people, rather than addresses. Therefore, to make a search of a Deeds Registry you need to know the name of a previous or current owner of the property.

For unregistered properties, it is necessary to obtain the original documentation to prove who the previous owners of the land were and also that the current owner has the right to sell it. This is called 'determining a good root of title' and an index is produced that shows the history of the ownership of the property called an 'Epitome of Title'. To produce this a solicitor is required.



Local authority and drainage searches

When you buy a property, it is very important to ensure that the buyer, and more importantly, their mortgage lender, knows about potential problems that may arise with it or the land it sits on, such as access to the property or to the sewerage system. For example, if there is a local environmental problem, such as a landfill site, this could cause subsidence problems with the building. If there are major planning applications or road schemes being made locally, this could affect the price and saleability in the future.

This is why, whenever you are buying a house, your solicitor will carry out a variety of searches on the property. Searches can be made of local authority information, which may reveal important information about the property.

For the HIP, only two searches are obligatory: the local authority and the drainage searches. The local authority search will reveal many aspects of a property, such as physical access to it. While this may sound trivial, you may find that a person owns a critical strip of land (sometimes called a 'ransom strip') and may in future decide to charge a fee for you to access your own home. The drainage search will check to see that there are public drainage connections to your property. These searches can

sometimes reveal surprises, particularly with flats, where it is not always clear who owns access to a particular drain.

Energy Performance Certificate (EPC)



The government, along with other EU states, has made a commitment to cut greenhouse gases by reducing emissions and promoting more cost-effective ways of living. To that end, the concept of an EPC is being introduced for all buildings over the next few years.

These certificates carry a rating similar to a refrigerator, but also give a general idea of the energy efficiency of a property. These ratings have been on new buildings since January 2006, and will be required for all buildings, including commercial and rental property as well.

Before producing a certificate a Domestic Energy Assessor will look at various aspects of the property, such as the windows, the age and condition of the boiler, the thickness of the insulation in the roof and walls and what energy efficiency devices such as solar panels and energy saving light bulbs are in use.

Obviously, for older properties, this may not be such an important factor, as most people will have an understanding that such properties cannot be compared to newly-built houses for efficiency.

Leasehold/commonhold documentation (where necessary)

If you are a leaseholder or commonholder (i.e. in a shared property such as a block of flats where you own the freehold of your own property but the shared part of the building is owned by a commonhold association), you will need to ensure you have the necessary documentation available before you can produce a HIP. It is the same information that you will need to provide today when selling, but you will need to be more organised to ensure that you have it available in advance.



Currently, at a minimum, only the lease is required for a leasehold or commonhold HIP, although the complete list of documents that are expected to become mandatory after June 2008 are:

- Lease
- Landlord contact information
- Managing agent information
- Management rules
- Service charge information, and
- Details of work undertaken on the whole property

Authorised contents

In addition to the required documents, you may include a number of documents in the HIP that you feel will be useful for a potential buyer. Obviously the more information that you can include, the more likely it is that the buyer's solicitor will have fewer questions and the sale can proceed more quickly.

The following are authorised documents:

- **Translation** – into any language
- **Additional version** – a copy in large print or Braille
- **Summaries** – summarising the legal documentation
- **Pictures/plans, etc** – more details of the property for the use of the owner
- **Registration documents** – any additional documents referred to in the land register
- **Commonhold information** – any useful additional documents
- **Leasehold information** – any useful additional documents
- **Guarantees and warranties** – any evidence of repair or maintenance of property
- **Additional searches** – commons registration information, environmental, flooding, radon gas, telecommunications, transport or others that may be of interest.
- **Home Condition Report** – an objective report of the condition of your property
- **Home Use/Contents Forms** - useful information on various matters relating the property



Home Use Form

This form, or its equivalent, which the sellers need to complete at some point before the transaction goes ahead, gives details about the property itself. It asks basic questions about what type of property it is, but includes a number of sections that go into far more detail about the property. It is very similar to the traditional Sellers Property Information Form (SPIF) that you would have filled in if you have sold a property recently.

Although it is not an obligatory document for the HIP, it would be very useful if this information was made available to the buyer before purchase.

The Home Use Form asks questions about the following matters:

- **Boundaries** – who is responsible for maintaining these?
- **Access** – are there any restrictions over access to the property?
- **Changes** – what, if any building works have been carried out?

- **Use** – are there any complaints about the property or are there any restrictions in its use?
- **Insurance** – provide details of who insures the buildings themselves
- **Commonhold** – if the property is commonhold, details of that ownership including insurance and maintenance
- **Leasehold** – details of the lease, relationship with landlord, ground rent, maintenance and insurance information

For an example of a completed Home Use Form see pages 45 - 52.

Home Contents Form



This form contains information about items at the property that the owner may or may not wish to sell with it. It is very similar to the Fixtures, Fittings and Contents Forms that you may have seen if you sold a property recently.

Sometimes people want to hold back information about particular fittings for later in the sale, as this can help with negotiation. Remember that this is an optional document and items can be flagged as negotiable. You will have to fill in a document like this as part of the conveyancing process before exchange of contracts, when it becomes legally binding. For an example of a completed Home Contents Form see pages 53 - 56.

Environmental searches



One of the most important searches mentioned is the environmental search. About 70 per cent of property transactions normally include such a search, and the Law Society (which regulates the solicitors' profession), recommends they are carried out for all purchases. While it would be very useful to include this as a required document, it would increase the price of the HIP by about £40.

The Home Condition Report



The optional Home Condition Report is also an authorised document designed to provide buyers with an overview of the property and highlight any potential problems in advance (see page 33 for further details).

Legal summaries

Some companies offering a HIP provision service want to include a summary of the documentation to help buyers understand what is included. The idea behind this is that people may see information in a title or search document, for example, that may raise concerns unnecessarily. By providing an interpretation, people's fears may be allayed or it may suggest that they need to look closer at a particular issue. These summaries may be included in a HIP.

Guarantees and warranties

If you have bought a property, you are often presented with bundles of instruction manuals and warranties for items such as woodworm treatment or central heating inspections. Clearly, these are important documents and they are easily lost. By allowing these to be included in a HIP, this should help you store all this vital information in one place, so when you come to sell your property the next time, there will be less work involved tracking down these documents.