



## **Background note on the development of home information packs (HIPs)**

The Housing Act 2004 introduces a new requirement for the seller of a property or their agent to prepare a home information pack (HIP) prior to marketing the property.

HIPS are the UK Government's most recent attempt to reform the house-buying and selling process in England and Wales. Scotland, although long held as having the model system in the UK, is also introducing its own parallel reforms (via a property information pack (PIP) and single survey), and Northern Ireland has yet to decide if any reform is needed. A separate page on the CML's website describes the changes in Scotland. The variety of stances reflects both the scale of the different housing markets, the nature of professional roles, networks and collaboration in each country and the differing legal systems.

HIPs will be introduced on 1 June 2007. The pack will include all the legal documentation necessary for the sale, including title documents and searches which are currently obtained by the buyer's solicitor after an offer has been accepted. The pack will also include a home condition report (HCR). The HCR will be equivalent to the current homebuyer survey, providing an independent assessment of the condition of the property carried out by a qualified 'home inspector' but without a valuation. Currently only 20-25% of purchasers obtain such a detailed survey, the remainder relying on the lender's valuation.

Previous attempts to reform the system have typically involved the registration of estate agents and the imposition of a set of rules of conduct. The first such attempt was in 1888 but even in recent years there have been continuing inquiries into a system long regarded as flawed (eg, Monopolies Commission 1969; Price Commission, 1979; Office of Fair Trading, 1990; see MacLennan, 1980; Clarke, Smith and McConville, 1994). The Housing Act 2004 will require estate agents, marketing homes for sale, to belong to an approved redress scheme.

Following the housing boom of the late 1980s and the subsequent housing market recession of 1991-93, the then Labour opposition began to consider whether fundamental reform was needed in the housing market. This finally took expression in the Labour Party manifesto in 1997 which stated, "The problems of gazumping have reappeared. Those who break their bargains should be liable to pay the costs inflicted on others, in particular, legal and survey costs. We are consulting on the best way of tackling the problems of gazumping in the interests of responsible home buyers and sellers."

However, as the now Labour government then discovered via research commissioned after the election, gazumping (where a transaction agreed between a buyer and a seller is reneged on because the seller has then accepted a higher price from another buyer) occurred in less than 2% of sales (Randolph et al, 1999). The research concluded that the current home sales process was wasteful and inefficient with around 28% of agreed transactions falling through between acceptance of the offer and exchange of contracts. It was suggested that this was because of a lack of information available to the buyers in the period before an offer is accepted, and the Government then proposed the HIP as a way of tackling this. As the then Minister of State, Jeff Rooker commented (28/12/2002) "Sellers' Packs will make the home-buying and selling process more transparent, faster and consumer friendly. They will reduce the stress and wasted costs suffered by hundreds of thousands of consumers each year."

Details of proposals for HIPs were published for consultation in *"The key to easier home buying and selling"* (DETR, 1998) and in chapter 4 of the Housing Green Paper *'Quality and choice: A decent home for all'* (DETR, 2000a). This policy was confirmed in chapter 2 of the subsequent Housing Policy Statement *"The way forward for housing"* (DETR, 2000b). A pilot study in Bristol (ODPM, 2001) examined the practicality of HIPs although the number of packs evaluated was small. There was widespread criticism of the proposals but, despite that, the Government introduced a Homes Bill in 2000 that would have made a seller's pack mandatory. The Bill ran out of time as a result of the general election in May 2001. The Labour party reaffirmed its commitment to introduce a seller's pack in its manifesto and when re-elected consulted further on proposals for a HIP as part of a wider Housing Bill in March 2003. The Housing Bill was introduced in November 2003 and became an Act in 2004.

The Government faced a number of choices when it set about reforming the transaction process. These included the use of a binding contract over buyers and sellers, requiring lenders to provide faster mortgage offers and encouraging greater use of information technology to speed up the process. However, the Government took the view that ensuring buyers were better informed about the property they were purchasing would be the most practical way forward. A particular issue was the condition of the property. Only 20-25% of home buyers commissioned their own surveys before completing a purchase and it was felt that better information on condition in particular would improve price bargaining and make for a more efficient market. The Government argued that HIPs would:

- Enable buyers and sellers to negotiate from an informed position;
- Increase openness and transparency, helping to make the process less adversarial and stressful;
- Help the parties commit more quickly to the transaction, shortening the period of uncertainty between acceptance of an offer and exchange of contracts;
- Increase certainty by avoiding unwelcome surprises which currently cause renegotiation and transaction failures after terms have been agreed;
- Reduce wasted costs resulting from high rates of failed transactions; and
- Help shorten the overall transaction timescale.

By contrast gazumping is not high on the list of problems with the market and this has led many to ask why the Government continues to seek reform when the initial reason for putting reform in the 1997 manifesto is not a significant feature of today's market. Clearly gazumping is still possible. However, the Government had also given considerable weight to failed transactions (arising in part from both speculative listings) and the need for better information about the property being bought.

The Government's resolve to introduce legislation has been strongly tested. Although it was an original commitment was made in 1997 it was not until 2004 that legislation was introduced and passed. Throughout there have been strong expressions of doubt about the need for reform and the political support for taking this forward. Indeed after a number of years with no firm plans to legislate and a market with little evidence of gazumping it began to look likely that this commitment would be dropped. However, it survived partly because the Government felt that despite the arguments being posed by solicitors and estate agents against reform, popular support remained very strong the Office of the Deputy Prime Minister (ODPM), or Department for the Environment, Transport and the Regions (DETR) as it was then had experienced its biggest ever post bag of public support for the reforms when they were announced). Whether such support will be sustained when the new HIP regime is introduced in June 1997 is open to question.

As mentioned above, in 2000 the Government ran a pilot test of the HIP in Bristol. The aim of the pilot was to test out how a pack might work, who needed to do what and how long it would take to be assembled. The pilot ran for eight months, and during that time 190 HIPs were issued for free (the actual pack is likely to cost between £600 and £1,000). This was, by most standards, a modest evaluation (in Scotland a recent similar pilot scheme secured 74 surveys in 4 areas) and consequently attracted widespread criticism as being an inadequate test of the proposals. However, the Government argued this was the biggest market test it had undertaken on any policy proposal and found the results persuasive.

Our own research (CML, 2002) supported the view that there are problems with the way in which houses are bought and sold in England and Wales. But the research also showed that there have been significant improvements in the process over the last five years and that a number of initiatives are being developed that will build on those improvements over the next five years. In legislating to deliver its policy objectives, we believe that the Government has a responsibility to ensure that it does not restrict the ability of the market itself to contribute to those objectives.

Industry developments that are already contributing to a more efficient process for buying and selling homes include:

- the use of information and communications technology, such as the National Land Information Service (NLIS), to improve the way services are provided and information is made available to consumers;
- a more rapid credit-checking system that has helped reduce to 14 days the average time taken to make a mortgage offer;
- greater systems integration that will allow data to be transferred more rapidly between businesses using different information technology systems;
- the CML lenders' handbook which has rationalised the detailed requirements required by many lenders from solicitors and thus has speeded up the legal process; and
- the CML new homes warranty initiative where lenders will not release funds for house purchase until the solicitor is in possession of a valid warranty thus protecting home buyers from purchasing new homes that are incomplete.

What this begins to suggest is that, by encouraging continuing innovation and the use of technology, many of the Government's and the industry's desired aims could be delivered independently of the introduction of HIPs. One important consideration is the way that proposals for HIPs interact with developments like the NLIS project and electronic conveyancing. Our view is that realising the full potential of NLIS and e-conveyancing is critical to the success of HIPs. The Government has a crucial role in encouraging local authorities to interact fully with NLIS, but lenders continue to have grave concerns about the extent to which it is driving through the necessary changes. In February 2004, for example, only 48 out of 375 local authorities in England and Wales (13%) had introduced the technology needed to interact fully with NLIS. While the Government continues to press ahead with plans to introduce HIPs, many local authority searches are still taking too long. There has also been no reduction in the cost of providing searches. This adds to the continuing concerns about increased costs for sellers as a result of the introduction of HIPs and the effect these could have on the supply of properties coming on to the market.

Following robust scrutiny of the legislation during the passage of the Bill through Parliament, we now have the Housing Act 2004 and a firm implementation date of 1 June 2007. But we have continuing concerns about how the Government plans to implement HIPs, not least the number of issues outstanding and that have still to be resolved over the next 18 months. Further information about our concerns can be found on our website at [www.cml.org.uk](http://www.cml.org.uk).

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