



*Home Information Pack  
Update: Towards 1 June*

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Consultation

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government

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# Introduction

## Aims

1. The Government is introducing Home Information Packs (HIPs) as part of wider reforms to cut carbon emissions from homes and to improve home buying and selling. The purpose of HIPs is to provide consumers with better information at the right time in order to improve the speed and certainty of transactions and reduce wasted costs. HIPs will also help improve competition in the home buying and selling market and support wider action to tackle climate change.

## Towards 1 June 2007

2. Home Information Packs “go live” on 1 June. This document:
  - updates our analysis of how the housing market is currently working, using the latest findings from the HIPs Baseline Research;
  - sets out the role of the Home Information Pack in the action to cut carbon emissions and the wider reform of the home buying and selling process ; and
  - explains how we intend to ensure the smooth introduction of HIPs on 1 June and take account of information from the area trials, the Baseline Research and discussions with stakeholders.
3. Views on the proposals outlined in this paper are welcome and should be sent to HIP Policy Team, Communities and Local Government, 2/J9 Eland House, Bressenden Place, London, SW1E 5DU; [homeinfopacks@communities.gov.uk](mailto:homeinfopacks@communities.gov.uk) before 21 February to allow the Department to use them to inform the final HIP Regulations. Your responses may be made public by the Department for Communities and Local Government. If you do not want all or part of your response or name made public, please state this clearly in the response.

## Section 1 – The current state of the housing market

### Background analysis: summary

4. The home buying and selling process is slow, costly, and uncertain. (See Box 1.) The process is fraught by information failures and lack of transparency for both sellers and buyers. It is also fragmented and requires a number of parties to work together in order for transactions to complete successfully. These problems are exacerbated by the fact that most home sales are part of a chain of transactions, with the consequence that a problem with any individual transaction impacts on all other links in the chain.
5. The combined result of all of these factors is to hinder effective price competition, contribute to delays, uncertainty, wasted costs and transaction failures, and leave many consumers with a raw deal.
6. Lack of information also prevents consumers recognising the impact their homes have on carbon emissions and on their fuel bills, and prevents them from taking sensible action to improve the energy efficiency of their homes. For instance, installing or improving loft insulation pays for itself in reduced fuel bills in just over two and a half years on average.

#### Box 1: The HIPs Baseline Survey

The HIPs Baseline survey found that:

- the average sale took 6½ months from marketing to completion.
- one sale in four took 8½ months or more.
- on average it takes 81 days from the point at which an offer is agreed to a contract being exchanged – about 10 days longer than in 1998.
- the average transaction costs £1,546 (not including estate agents' fees), with first-time buyers paying slightly more. Adding in estate agents' fees brings the total cost to around £6000.
- 23 per cent of buyers who had completed a sale had had at least one failed transaction.
- 20 per cent of failed transactions were due to the results of a survey. A further 57 per cent failed due to a collapse elsewhere in the chain.
- On the assumption that the reasons for failures elsewhere in the chain are the same as in the transaction surveyed, some 46 per cent of all transaction failures are due to survey-related issues.
- Where a transaction fails at a late stage between offer and exchange the buyer's wasted costs are typically over £1000.
- 11 per cent of sellers undertook repairs to their property prior to marketing.

7. The current home buying and selling process (see Box 2) does not serve consumers well. There are many market failures:

### Incomplete information

- Homeowners' lack of information about fuel bills and carbon emissions and what could be done to reduce them.

### Asymmetric information

- Buyers make offers on the basis of the estate agent's particulars and a tour of the property. They only commission a survey, if at all, after they have made an offer. This increases the likelihood of costly transaction failures occurring at a late stage when delays or failures will impact on others in the chain.
- Home buyers and sellers and their advisers cannot easily see what is happening up and down a chain of transactions. This reduces the pressure on those in the chain to ensure delays are minimised.

### Principal-agent issues

- Buyers and sellers often have limited awareness of what is required in the selling and conveyancing process and are not able to act as informed clients. Solicitors commission various documents, the costs of which are simply passed through to their clients as 'disbursements' at the end of the process. As a result, there is limited competition or transparency around the timeliness or cost of searches.

### Externalities

- When a seller withdraws a property from the market without paying anything, the costs that their estate agent has incurred in marketing their property are borne by those who do successfully complete a transaction through the fees that they pay.

### Duplication

- Searches and surveys need to be commissioned again by new buyers if a transaction falls through. This leads to wasted time and costs.

### Lack of Price Competition

- The OFT concluded in 2004 that more vigorous price competition is needed in the estate agency market. Estate agents' commissions continue to be charged at the same percentage rates as ten years ago even though property prices have trebled in this period. Lack of clarity about the selling process and the seller's focus on the price achieved in a sale tend to reduce the pressure for price competition.
- There is also limited price competition around the costs of valuations and surveys offered by lenders. Lenders tend to compete on interest rates and payment plans for mortgages, leaving valuations and surveys under little competitive pressure.

## Co-ordination failures

- The fragmented nature of the home buying and selling process means that no single industry group is capable of driving the kind of market-led transformation that would address the problems outlined above. Nor is there an incentive for them to do so.
8. The overall result is a market that does not function to drive down prices or increase choice and quality over services for the consumer. The complexity of the arrangements and the fragmented nature of the market contribute to unnecessary delays and high failure rates – and have perhaps been the reason why competitive pressures have not led to the market reforming itself.

### Box 2: The home buying and selling process

- Most homes are sold through estate agents who operate on a ‘no sale-no fee’ basis. The seller can withdraw at any time without cost.
- Typically agents charge a commission of between 1.5 per cent and 2 per cent of the sale price, more where there is a multiple agency. These rates have not changed significantly in ten years even though house prices have trebled over the same period. Based on 1.75 per cent being charged on the average house price, fees are up from almost £1300 to £3850.
- The buyer makes an offer on the basis of the estate agent’s particulars and a tour of the property without any survey.
- Both buyer and seller engage a solicitor or licensed conveyancer. They handle the conveyancing process, which is near impenetrable to consumers. In particular, it is very difficult for them to find out what is happening and where or what the cause of delays is. Few buyers are aware of the alternatives on offer in the search market and will tend to accept whatever service their solicitor chooses – and charges for.
- Many buyers will also seek mortgages. The mortgage lender will seek a valuation for which charges vary widely. It is now possible for lenders to make valuations without commissioning surveys using automated valuation models although, although the baseline research shows that the price of valuations has not fallen.
- 60 per cent of buyers commission a survey. This can reveal anything from minor problems, for example, with woodworm and guttering, to major problems with asbestos or subsidence.
- Eventually the transaction reaches the stage where contracts are exchanged.
- In those cases where transactions do fall through, the buyer in particular faces wasted costs as surveys and searches are sought again by the next purchaser.

## Section 2 – Making home buying and selling better and greener

9. Home Information Packs are part of a broader set of proposals that will improve home buying and selling for consumers and reduce the harmful impact that carbon emissions from homes have on the environment. These proposals include:
  - HIPs, including EPCs and searches
  - Reforms to searches
  - Home Condition Reports
  - E-conveyancing
  - Consumer Redress
10. These proposals are expected to encourage a climate in which market-led changes will produce further innovation and streamlining of the home buying and selling process.

### 1. HIPs including Energy Performance Certificates and searches from 1 June

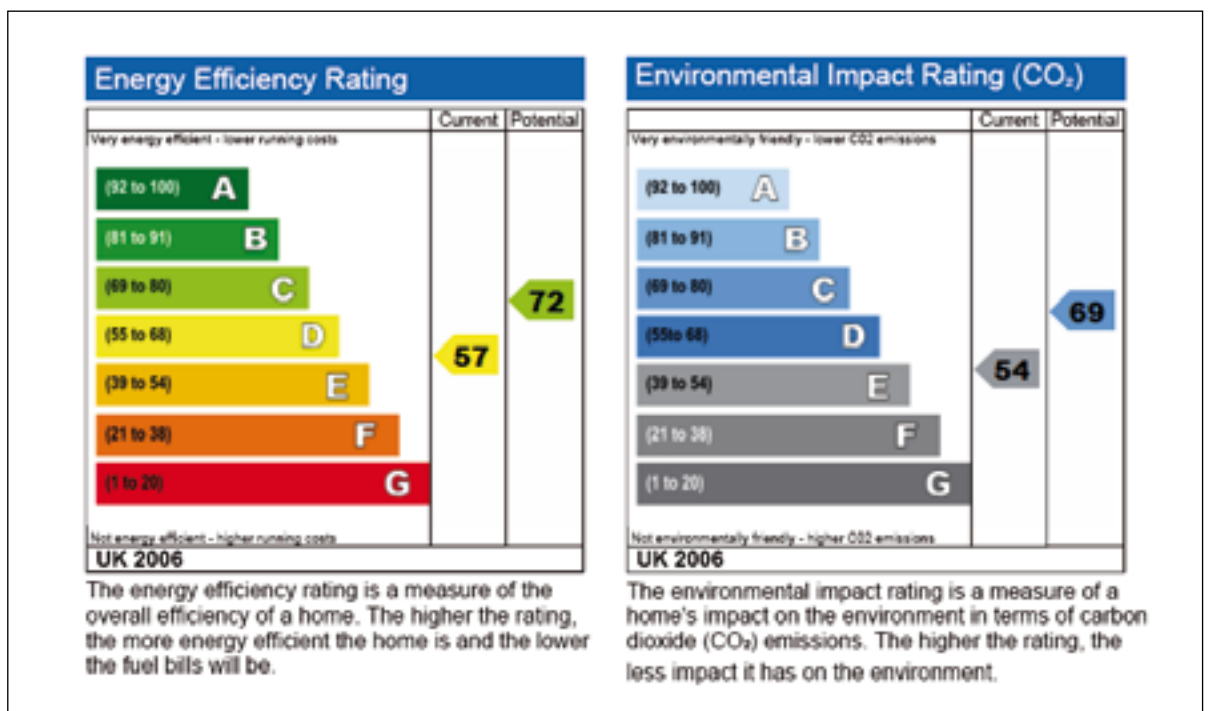
#### (a) Energy Performance Certificates

11. Energy Performance Certificates (EPCs) are a key part of our strategy to reduce the 27 per cent of carbon emissions that come from homes. The Stern Review has underlined the urgent need for action to cut carbon emissions. The Government is committed to introducing EPCs from 1 June as a critical part of the drive to cut domestic carbon emissions.
12. Much has already been done and is being done to improve the energy efficiency of new homes. Energy efficiency standards for new homes are now 40 per cent higher than they were in 2002 and we have announced that we intend to move to zero carbon new homes in 10 years. The Code for Sustainable Homes will play a key role in this. This will be voluntary from April 2007 but we are currently minded to propose that all new homes should be required to have a mandatory Code rating from April 2008 – thereby ensuring that new home buyers have information about a wide range of factors that affect the sustainability of homes.
13. At present most buyers of existing homes have little if any information about the energy efficiency of the home they are thinking of buying, or what it will cost to heat. Nor do they know what might be done to make it more efficient and reduce both gas and electricity bills and carbon emissions. Often simple and relatively cheap measures can make a big difference. The Initial Analysis of the energy efficiency of dwellings, announced last autumn as part of the review of the sustainability of existing buildings, showed that around 8 million homes have unfilled cavity walls. Yet if all those homes were properly insulated it would save over 2 MtC in carbon emissions every year.

Consumers would benefit too as cavity wall insulation costs on average £342 and saves £133 a year – paying for itself in just over two and a half years.

14. Loft insulation, hot water cylinder insulation and improved heating controls were also identified as cost effective investments that could be quickly recouped through reduced energy bills. Yet few consumers are aware of the level of insulation in their homes or the difference such measures can make. By using such measures there is scope for significant improvements to be made that could both cut electricity and gas bills and carbon emissions. This matters because climate change is one of the biggest challenges any country faces today: we need urgent action to increase awareness of the part that everyone can and should play in reducing emissions.
15. From June, EPCs will enable buyers to compare the energy efficiency of a potential home before they buy it or even put in an offer. EPCs will also provide clear, simple advice on improvements that might be made. Providing this information at this stage is important as a substantial proportion of the improvements that are made to homes are made shortly after a new owner moves in. We want new owners to know about what might be done to make their new home more energy efficient before they plan what they might do to it ahead of moving in. As the baseline survey found that 11 per cent of sellers carry out repairs and improvements to their property before they sell, requiring sellers to get an EPC creates an added incentive for them to consider environmental as well as cosmetic improvements.
16. To maximise the benefits of Energy Performance Certificates they need to be read and understood by buyers. We want to make them more prominent in the HIP so that they are clearly visible to potential purchasers. We will do this by:

- a) **requiring that the EPC is the first document in the pack**
- b) **requiring that the EPC is attached to the estate agent’s particulars**



17. We want to go further and give home buyers greater encouragement to act on the advice they will get in EPCs on how to improve their homes. For example, EPCs might be used to focus a future campaign to encourage the take up of cavity wall insulation, enabling publicity and incentives to be brought to bear where they can have the biggest impact in reducing carbon emissions. Immediate steps we are taking include:
- a) **talking to the Energy Savings Trust** about strengthening their role as an impartial provider of energy advice to consumers, and ensuring their details are prominently displayed on the EPC;
  - b) exploring the possibility of **linking EPCs more closely to financial help already available to improve energy efficiency**, for example the Energy Efficiency Commitment and Warm Front schemes and locally run Council Tax incentive schemes such as that piloted in Brentford; and
  - c) discussing with the financial services industry the potential for encouraging **more provision of “green mortgages”**, linked to the take up of recommendations in the EPC.
18. However it is difficult to produce an EPC for an incomplete building bought off-plan. For those newly built homes that choose to have an assessment against the Code for Sustainable Homes, the Code certificate will provide them with information about the energy performance of their new home, as well as an overall sustainability rating for their home. Both the Code and the EPC are based on the same assessment methodology, and the EPC will clearly show how the rating relates to the Code. The Code is currently voluntary; with proposals currently out for all new homes to be required to have a mandatory Code rating from April 2008. However, should this happen it will still leave a period of time when a large number of prospective buyers of new homes are not required to receive either of these pieces of information.
19. To put this right we propose that an **“Interim Energy Assessment” should be required for homes that are sold before an EPC can be prepared for them.** This would be in a similar format to the EPC, providing similar information. It would, however, carry a warning that the completed home may not necessarily have the predicted energy performance rating.

## (b) Title documents, the sale statement and leasehold documents

20. The other components of the mandatory pack have an important role to play in speeding up the home buying and selling process and drawing attention to any problems at an early stage before they delay the transaction or, possibly, cause it to fail.
21. The title documents, the sale statement and, where relevant, the leasehold documents are all documents that need to be provided at some stage in a transaction. Providing them up-front has a number of advantages.
22. For leasehold properties, obtaining the lease documents, if they haven't been kept by the seller, can be a major cause of delay. Where fresh copies of the documents need to be obtained from the landlord or managing agent this can take several weeks and come at a cost. This could delay an entire chain if the documents are not to hand

before a chain forms. Moreover, if, when they do arrive, they identify unexpected issues such as restrictions that would be unacceptable to a potential purchaser (e.g. restrictions on keeping pets) or unexpected liabilities (e.g. an obligation to contribute to major repairs to a block of flats) these could lead to last minute re-negotiations or the complete failure of the transaction.

23. Problems with title documents may be rarer – although there are still a significant number of properties with unregistered titles. Such problems are best revealed and tackled at an early stage as they are going to come to light sooner or later.

## 2. Reforms to Searches

24. Searches are one of the most important parts of the home buying and selling process. They tell buyers, for example, about planning permissions which might affect their property, compulsory purchase orders or road schemes. Yet performance in providing searches is very variable

- **Time to produce a search.** Some searches are slow and delay transactions. Searches can be produced in less than two days, some taking less than a day. The majority take between five and ten days. In the worst 10 per cent of local authorities they can take between two and four weeks. The fastest searches can be done in minutes; the worst take over 40 days. This disparity has been a significant issue in the area trials where delays in providing searches have disrupted the swift preparation of HIPs.
- **Cost.** The cost of an official search varies from £59 to £269 in different local authority areas and it is difficult to see how such a large variation can be justified – speed and price are not necessarily related.
- **Quality.** In some areas private search companies are prevented from providing searches based on the full data available to local authorities.

25. Early evidence from the Area Trials has demonstrated that delays in providing searches can cause serious delays in the preparation of HIPs. We need to speed up the provision of searches for consumers and address the postcode lottery that has been created
26. There is already evidence that competition between private search companies and local authorities has helped deliver a better and faster service. Some authorities have made dramatic improvements in the service they provide for consumers, cutting costs and delays.
27. We want to see improvements across the board involving both local authorities and private search companies. That is why the Government is keen to implement as soon as possible the conclusions reached by the OFT in its report on the provision of searches. The OFT's view was that better competition and a level playing field between local authorities and private search companies would improve services for consumers. We agree and intend to take the following steps to create it:

a) **Access to information.** Consumers need the fullest possible picture of the property they are buying. At present access to the authoritative information held by local authorities is governed by a patchwork of statutory provisions. Some is available as a matter of right; other information is available only on a discretionary basis. Local authorities also vary widely in how long it takes them to provide their own searches or to offer access to data to private search companies. The Government wants all local authorities to provide private search companies with prompt access to all the data they need to compile searches. We will:

- **consult on and publish guidance on access to information.** We expect authorities to adhere to this guidance;
- **take measures to identify the least well-performing authorities and work with them to improve performance** on turnaround times and the quality of the information provided;
- work with stakeholders **to establish mechanisms for monitoring local authority performance on searches;** and
- **look at the potential for removing statutory obstacles** to improving access across the board.

b) **Charging.** The Government's response to the OFT report favoured allowing local authorities to charge private search companies to recover costs to ensure that there is a level playing field between local authorities and personal search companies. However, it was not clear whether this would be viable. Guidance was therefore commissioned to inform the final decision. The Government will:

- **seek tenders for the production of a final charging methodology and guidance by independent experts** to give a clear basis for taking that decision; and
- **carry out a review of the local land charges fees** that are charged to personal searches companies.

28. We also welcome the moves already made by the private search industry to adopt a code of practice, and will work with stakeholders to build on this.

### 3. Home Condition Reports

29. At present many buyers know very little about the condition of the properties they want to buy before they make an offer. Many people are bidding in the dark. They only obtain solid information about a property's condition when their offer has been accepted. 40 per cent rely entirely on the valuation survey carried out for their mortgage lender rather than commissioning a survey of their own, notwithstanding that a valuation survey is designed to tell the lender whether the property is a good security for the lender, rather than to tell the buyer what condition it is in. Should problems emerge at this point the buyer will already have spent a significant amount of money. In many cases problems can and are dealt with by a re-negotiation between the buyer and the seller, often facilitated by the estate agent. Transactions fail for a wide range of reasons, including people changing their minds, their circumstances changing or a lender refusing to grant a loan of the size required. However, evidence from the HIPs Baseline Research suggests that

over two fifths of failed transactions, between an offer being accepted and contracts being signed, may be related to a survey or the condition of the property. Where a transaction does fall through, the buyer's expenditure is wasted as the survey is not usually made available to subsequent purchasers.

30. Home Condition Reports are designed to address these issues to the benefit of both buyers and sellers. In particular they can:
  - enable buyers to make properly informed bids;
  - by providing information up front, reduce the chances of late surprises leading to re-negotiations and, potentially, the breakdown of the transaction;
  - cut the wasted costs when a transaction fails as the survey can be made available to a subsequent bidder who can rely on it as if it had been commissioned for them;
  - from a seller's point of view, minimise the risk of being asked to accept a price reduction at a late stage in a transaction due to something being discovered in survey carried out for the buyer. Often a seller can be put under pressure to accept a reduction much larger than the cost of the works required to rectify the fault discovered;
  - The Home Condition Report has also been designed so that it can provide data that can be fed directly into lenders' automated valuation models – thereby avoiding the cost of a separate lenders' valuation survey in a substantial number of cases.
  - Provide consumers – particularly first time buyers – with information about their home and any work needed to prevent unexpected bills at a later stage.
31. The Government is keen to promote the voluntary take up of Home Condition Reports. A key objective of the Area Trials is to understand how we can maximise the benefits for both buyers and sellers and encourage them to add an HCR to their pack. Mori's independent research into the Area Trials will identify the reasons sellers choose to take-up HCRs and the barriers to doing so, it will also seek to identify the impact the HCR has on the overall home buying experience.

#### **4. E-conveyancing**

32. E-conveyancing will transform the current manual conveyancing process and deliver a new web-based system through which:
  - authorised parties involved in a conveyancing transaction can exchange information quickly, securely and reliably with each other and the Land Registry, thus removing the postal delays and the risk of documents going missing that is a feature of the current system;
  - registration will be confirmed immediately on completion, thus eliminating the "registration gap" between completion and registration, during which problems can arise;

- up-to-date and accurate information is available on the progress of all linked conveyancing transactions (the “chain matrix”), thus introducing much needed transparency into the system and enabling those involved in the chain to see what stage everyone else has reached;
  - funds can be transferred immediately electronically through a system that is secure and reliable. The present system is wasteful and inefficient and causes enormous stress at completion.
  - all financial obligations, including Stamp Duty, Land Tax and Land Registry fees as well as payments between buyers, sellers, lenders and conveyancers, will be settled electronically. With the help of e-technologies, the amounts of Stamp Duty, Land Tax and Land Registry fees will be correct in virtually all cases.
  - The end result should be to reduce substantially the time taken in the conveyancing process and to reduce the risks and uncertainty it involves.
33. E-conveyancing will be rolled out over the next year, on a voluntary basis in the early stages. In the first stage in March the “chain matrix” will be released in three sample areas. The national roll-out of the full functionality will follow at the start of 2008.

## 5. Consumer Redress

34. Establishing robust redress arrangements for consumers who are treated unfairly in the home buying and selling process is a key part of the Government’s strategy for overhauling the home buying and selling process. There are a number of strands to this:
- **All** estate agents selling homes with HIPs will have to belong to an approved redress scheme. Applications for approval to operate these schemes closed on 1 December 2006. We are working closely with DTI and other stakeholders to assess the proposal submitted and expect a scheme to be in place by 1 June 2007.
  - The Consumers, Estate Agents and Redress Bill currently before Parliament is **seeking powers to extend independent redress schemes to cover all estate agents’ activities**, not just those related to HIPs. It will no longer be possible for rogue estate agents to choose not to belong to a redress scheme. This should help to drive up standards. Approved schemes will be expected to cooperate with the OFT and make provision for the passing of information to the OFT (or any other regulator) about infringements of the Estate Agents Act. This will enable regulators to take appropriate action as a result of a complaint, if necessary.
  - The current patchwork of statutory and voluntary redress arrangements across the home buying and selling market make it difficult for consumers to know where to go when they have a grievance. To help here we intend to put in place before June **a single point to which buyers and seller can go to get advice as to where they should take their complaint**. This service is currently being provided by Consumer Direct, the consumer advice service supported by the Office of Fair Trading, in the six Area Trials.

## 6. Future market-led developments

35. The Government-led initiatives described so far in this section will both deliver real benefits and create a climate in which there is scope for further market-led change.
36. There are already plenty of signs that the home buying and selling market is ripe for change. There are new entrants into the market with large supermarkets starting to set up estate agency businesses. The number of personal search companies has risen sharply. Key parts of the information chain are now available on line such as the services provided by the Land Registry. Use of the internet to advertise homes for sale as well as to buy them is also increasing. And in some cases decisions on mortgages can be made in minutes rather than the weeks it has taken in the past.
37. Against this backdrop, HIPs have the potential to act as a catalyst to drive change. By bringing information together at the start of the process, HIPs will change the way in which the market works. They will make it clear to consumers what it costs to collect the information needed and how long this takes, increasing competition and putting pressure on suppliers to improve their performance and reduce costs.
38. With better information, particularly where a Home Condition Report is provided, buyers will be able to make well-informed bids. The expectation should increasingly be that once made, offers are not re-opened and that transactions will move quickly from the acceptance of an offer to the signature of contracts. E-conveyancing will also help substantially here, creating pressure on all those involved in a chain to act quickly to avoid holding others up. This may in turn lead to further streamlining of processes.
39. First time buyers will be among the biggest beneficiaries as they will receive from the seller much of the information they now have to pay for and they will stand to lose much less if transactions fall through.
40. Already new businesses are being set up to service the new market place. And the more innovative organisations are not satisfied with simply providing the packs or supporting other aspects of the new transaction process: they are looking for ways in which they can build on HIPs to provide even better services to buyers and sellers, streamlining the process, speeding it up and cutting costs.
41. The Government is keen to see such developments occur and to ensure that they benefit consumers. We want to hear views on how the market could and should develop and what further action the Government ought to take to support this.

## Section 3 – Ensuring the smooth introduction of HIPs in June

### Dry Run and Area Trials

42. In September 2006, the Department pledged £4 million of funding to support six Area Trials for the packs in Bath, Newcastle, Southampton, Northampton, Huddersfield and Cambridge, beginning in November 2006. The trials are being rolled out by the Department in partnership with industry and aim to help test both the Packs and full Home Condition Reports.
43. Since November 2005 HIPs have also been ‘dry run’ by ‘early adopters’ keen to test the benefits they offer. More than 18000 packs have been produced, varying from packs consisting simply of key legal documents to packs that included searches and surveys. More than 100 organisations are participating in the Dry Run.
44. In November 2006 we began the 6 Area Trials in co-operation with the Association of Home Information Pack Providers (AHIPP). These are intended to:
  - test the practicalities of producing full packs using certificated home inspectors;
  - enable us to understand how we can maximise the benefits of HIPs for consumers and, in particular, how we can encourage the take up of Home Condition Reports and the benefits they could bring
  - test consumer reactions to Energy Performance Certificates and enable us to understand how we might maximise the carbon reductions they could bring.
45. We will shortly be launching two further Area Trials – in North West Wales (Gwynedd, Conwy and Isle of Anglesey) and in the London Borough of Southwark – to expand our experience of HIPs in different housing markets. AHIPP will also be rolling out packs in 12 additional areas.
46. The £4m that has been set aside to support the Area Trials is being used to publicise the availability of packs in the trial areas; to explain the benefits; to subsidise the production of packs; and to fund independent research by Ipsos Mori to monitor the trials.
47. More than 150 organisations are participating in the Area Trials and so far almost 1000 packs have been commissioned, 60 per cent of these with Home Condition Reports.
48. Findings from the Dry Run and Area Trials to date are as follows:
  - HIPs are being produced in around 10 days. However, the time taken varies depending on the area between 4 days and 4 weeks. The main cause of delay is in obtaining the Local Search.
  - HIPs for Leasehold properties take on average 7 days longer to produce.

- The majority of buyers have said that they would be likely to make changes suggested in the EPC, but there is a need to improve the clarity of information contained in the HIP for buyers and sellers.
  - The Home Use and Home Contents forms require further amendments to avoid creating an added burden for industry and consumers.
49. The Government has also commissioned independent reports on the trials – the first of which will be received in February. Evidence from the area trials on the impact of HIPs, and in particular HCRs, on transaction times and failed transactions will not be available until later in the year. The Government will assess those results as part of the work to support the market-led roll out of HCRs. In addition the impact of HIPs on competition and the operation of the market will take time to feed through.

## Transitional measures to ensure smooth introduction from June.

### Delivering Home Information Packs promptly

50. A key objective of HIPs is to provide information at an early stage in a transaction so that buyers can make informed choices. The ideal is that sellers can have packs prepared in 3-5 days and that they are available when marketing starts. However, the experience in the area trials is that packs can take between 4 days and 4 weeks to be produced. Delays have been caused by the time taken to obtain searches and difficulties in obtaining leasehold documents where the seller has not retained these and they need to be obtained from the landlord or the managing agent. Data from search providers suggests that 30-40 local authorities can take more than 10 days to return searches and that 7 of these take over 30 days.
51. Paragraphs 24-28 describe our strategy to improve the performance on searches. We expect to see improvements made rapidly but it is not realistic to expect these to be put in place by June. We need to put in place transitional arrangements to avoid large numbers of sales being delayed whilst packs are produced.

### (a) Enabling homes to be marketed quickly

52. To avoid significant delays until the current difficulties with obtaining searches in certain areas are resolved, we propose that, for a transitional period, sellers should be allowed to market their homes if a pack is produced containing:
- the **Energy Performance Certificate, sale statement, evidence of title and index**; and

- **evidence that the other documents have been commissioned** – for example a letter from a HIP provider or other providers confirming that an agreement has been entered into to provide the missing documents as soon as practicable and within 28 days except in exceptional circumstances. If this takes longer than 28 days providers will be expected to demonstrate that they have made all reasonable efforts and enquiries to obtain them.

53. We expect all concerned to do all that they can to ensure that packs are complete as soon as possible. Whilst we are sure that reputable estate agents and pack providers will comply fully with the letter and the spirit of the legislation we will be consulting with LACORs (the Local Authorities Coordinators of Regulatory Services) in drafting the regulations to ensure that the provisions are as easy to enforce as possible.
54. As HIPs bed down and performance on searches improves there should be less and less need for these transitional arrangements. We will review them by December 2007 and consider whether they are still required. The experience in enforcing the transitional arrangements will be one factor that we will take into account in deciding how long they last.

#### (b) Ensuring that private search companies can continue to operate

55. We hope that all authorities will quickly adjust their procedures to ensure that there is a level playing field with personal search companies over access to information. Currently, private search companies use insurance policies in situations where they have only been able to provide incomplete data so that buyers may be compensated if they are adversely affected as a result. We understand such policies are used in about 650,000 transactions every year. It is extremely rare for the information in question to contain anything that significantly affects a purchase. **Personal search companies will therefore be allowed to continue to use insurance for a transitional period** where buyers or their solicitors are content.
56. The concession allowing the use of insurance will last **until April 2008**. It will be strictly limited to those parts of searches for which private search companies cannot gain access to the authoritative data **within 14 days**.
57. This is in the interests of consumers not only because it will maintain competition, but also because it will ensure that the market has the capacity to deliver searches.

#### (c) Properties that are already on sale on 1 June

58. The current regulations allow properties that are on the market before 1 June 2007 to continue to be marketed until 31 October 2007 without the need to produce a pack. This is to ensure that the market is not disrupted by a massive demand for the production of packs in the weeks before 1 June.

59. A number of stakeholders have queried whether the period between 1 June and 31 October is long enough given how long it takes to sell a property and the downturn in the housing market in the summer months. The HIPs Baseline Research has enabled us to model this and has confirmed that there could still be a significant number of properties marketed before 1 June that remain unsold on 31 October. To avoid this disrupting the market **we propose to allow properties marketed before 1 June to continue to be marketed without a HIP until 31 March 2008.**

#### (d) Ensuring that buyers can use HIPs easily to inform their choices

60. If HIPs are to help buyers make informed decisions they must be able to pick out the important information quickly and easily. This is particularly important where buyers are trying to compare a number of different properties. Early results from the area trials have already made clear the advantages of providing additional information to assist buyers in gaining the most benefit from their packs. We therefore propose to:
- a) produce a **“What to look for in your HIP” leaflet** to explain what is in a pack and where to look for important pieces of information; and
  - b) **encourage pack providers to produce summaries** explaining the key issues in simple terms. These might appear at the front of packs – after the EPC or HCR. Some pack providers are already proposing to do this and we would encourage all to do. Such summaries would not, of course, be a substitute for a buyer seeking legal advice.

#### (e) Re-marketing after a property has been taken off the market

61. The current regulations provide that, where marketing is continuous there is no duty to update the HIP: it is for the market to decide whether the documents in the pack remain valid. In addition, where marketing has stopped because the seller has accepted an offer or the property has been withdrawn from the market for some other reason, the rules provide that there is no duty to renew the pack, provided that the property is remarketed within 28 days of the withdrawal date or the date on which the transaction failed. However, if a property is taken off the market for any reason within the first few months and remains off the market for longer than 28 days a new HIP may be required and this could potentially create an additional unnecessary burden on the seller. It became clear following representations by stakeholders that this could present an additional and unnecessary burden for these sellers.
62. To correct this **it is proposed that the duty to refresh time sensitive parts of the HIP will not arise where the property is remarketed by the same seller within one year of the original marketing date.** Again, it will be up to the market to determine whether any documents in the HIP require updating and at what intervals. We will continue to keep this under review following 1 June.

#### Other issues and potential longer term changes to HIPs

63. The following issues have also emerged from the Area Trials and consultations with stakeholders. **We do not intend to make changes in any of these areas for June** but in some cases we will be considering changes in the longer term.

## (a) Flood and Ground stability searches

64. Knowing whether a property is at risk of flooding or in an area liable to subsidence is clearly very important to buyers. At present, flood and ground stability (subsidence) searches can be included in packs but this is not compulsory. This is because they are not relevant in all areas and we did not want to impose the cost of providing them where that would be a waste of money. However, systems are now being developed that would enable pack providers and sellers to find out quickly and cheaply whether a property is in a high risk area.
65. These systems are still being developed so we cannot plan to use them in packs from 1 June 2007. We will monitor their development and when they become available we will consider whether it should be mandatory to include in a pack either
- i) a certificate stating that the property is not in an area identified as at high risk of flood or ground instability; or
  - ii) a full search where the property is in an high risk area,

## (b) Penalty charge

66. It is in the interest of buyers that all properties have a pack. Concern has been expressed that the current £200 penalty charge will be an insufficient incentive to encourage unscrupulous estate agents to ensure sellers commission packs. The penalty is small compared with the potential commission on an average sale (1.75 per cent commission on a property sold at the national average price of £220k would be £3850) and significantly less than the likely cost of producing a HIP.
67. We believe that there is a case for increasing the fixed penalty for estate agents to £500 whilst leaving the penalty charge for individuals selling their own homes at £200. This would recognise that professionals who break the law should pay a higher penalty than private individuals. It would also make it more worthwhile for Trading Standards Officers to pursue the debt in cases of non-payment. We will consider this issue in the light of experience following 1 June.
68. In addition, to encourage prompt payment it has also been suggested that we make provision for the penalty to be halved where payment is made promptly (i.e. within 10 days). This would apply to both estate agents and private individuals. Again this will be considered as a longer term measure.

## (c) Home Use and Home Contents Forms

69. The current regulations authorise a number of sellers' forms to be included in the pack. Two of these are the Home Use and Home Contents Forms, the intention being to bring together in a consumer-friendly format property information about the contents of the home that would be requested as part of the conveyancing process in the current system. This information could inform the buyer and reduce the possibility of delays later in the process.

70. We previously consulted on making these forms mandatory, the intention being that a standard set of forms would help reduce confusion for consumers. Further proposals suggested that signatures should be provided, again to help consumers, by providing the confidence that the information provided had been checked and agreed by the seller.
71. Following consultation and early feedback in the area trials, it has become clear that the introduction of these forms as required documents could potentially create an added burden for industry, without adding significant benefits to the consumer. **It is therefore proposed that the forms remain authorised documents in the pack.**

## Section 4 – Next Steps

72. The basic arrangements for the introduction of HIPs and Home Condition Reports have been in place for some time. The main regulations were made last June. Home Inspector qualifications have been in place since September 2004. A certification scheme has been operational since last November and two more were approved before Christmas. The Home Condition Report Register is now operating and has lodged over 500 HCRs or EPCs in support of the dry-run and area trials.
73. Work is also well advanced on putting in place the qualification and quality assurance regime for Domestic Energy Assessors (DEAs). The first two qualifications for DEAs have been approved by the Qualifications and Curriculum Authority; training courses are under way and the standards for DEA accreditation bodies are close to being finalised. The Department envisages giving provisional approval to the first accreditation bodies in March 2007 prior to formal approval being given in April 2007 as soon as the EPBD regulations have legal effect. There are large numbers of people who have relevant experience and could qualify as DEAs relatively quickly.
74. The period for comment on these proposals end on 21 February 2007. From then, the timeline to 1 June 2007 is as follows:

21 February	Consultation Ends
27 March	Energy Performance of Buildings Directive Regulations laid, which will set out the requirements for provision of an EPC for both homes and other buildings. Provision of the EPC in the HIP for marketed domestic properties from 1 June will be the first step in implementing the requirements of these regulations.
29 March	HIPs Regulations laid. These will amend the 2006 Regulations, setting out requirements to produce a HIP when marketing a property. They will set out both the mandatory and authorised contents of the packs and their enforcement arrangements. The Home Condition Report will become an authorised document.
19 April	HIPs Regulations come into force
1 June	HIPs “go live”

## Responses

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances; this will mean that your personal data will not be disclosed to third parties.