



Improving Consumer Information in the Home Information Pack

Summary of consultation responses



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December 2008

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Introduction

Consumers need and should expect to be better informed about the home buying and selling process. They need the right information at the right time and they need information about the energy efficiency of properties. They want an efficient process that delivers better value for money.

The introduction of Home Information Packs (HIPs) is an important first step in delivering these benefits. Buyers are now receiving information about a property earlier, helping them to make more informed choices about whether or not to make an offer. However, we recognise that more needs to be done to achieve our aim of an effective and efficient home buying and selling process. That is why we are focusing our actions on improvements in three key areas:

1. quality and flow of information provided to consumers
2. standard of services provided by property professionals
3. enforcement and redress arrangements available to consumers

Improving Consumer Information in the Home Information Pack, published on 29 July 2008, set out our proposals for improving the first of these – the quality and flow of information to consumers.

The proposals set out in the consultation intend to provide consumers with the information that they need, in a form that they can readily relate to and use. The consultation paper proposed two key changes to achieve this:

- simplifying the leasehold requirements by requiring the lease plus a summary of key leasehold information become the only mandatory documents for inclusion in the HIP for leasehold properties
- introducing a Property Information Questionnaire (PIQ) as a required document within the HIP to provide the type of information most useful to a buyer when considering a property

Views were sought on the proposals outlined in the paper by 30 September 2008. 145 responses in total were received of which 101 responded to the consultation questions, with others commenting on matters outside the scope of the consultation. Respondents to the consultation proposals included 30 conveyancers/solicitors, 13 estate agents, nine HIP providers, nine Home Inspectors/Domestic Energy Assessors, seven property and housing organisations, six industry safety organisations and five local authorities. Four people responded in an individual capacity and the remaining responses included consumers' groups, building and construction organisations, mortgage providers and surveyors. It should be noted that not every respondent replied to each individual question.

Summary of consultation responses

The consultation paper put forward two separate proposals, aimed at improving consumer information in the HIP. Each of the two proposals had five specific related questions on which views were sought. Overall, responses were broadly positive in relation to both the PIQ and the proposal to simplify the leasehold requirements in the HIP. A summary of the responses to the proposals is below.

Part one

Leasehold requirements in Home Information Packs

This section of the consultation document considered the type and format of leasehold information in the HIP that would be of benefit to consumers. It proposed that a summary of key information about the cost and use of a leasehold property could provide buyers with the information they want to know in a format that is easy to understand. Therefore, the summary, together with a copy of the lease, was proposed as the permanent leasehold requirement in HIPs.

Five specific questions were put forward on proposals for leasehold requirements in the HIP:

Q1 Do you agree that the inclusion of a summary of leasehold information in the HIP would be a positive step in enhancing the information provided to the consumer?

The majority (74 per cent) of the 57 responses received in answer to this question supported the inclusion of a summary of leasehold information within the HIP. Some respondents stated that in order for this proposal to truly benefit the consumer, appropriate safeguards must be put in place to ensure the summary information is accurate.

There were a number of different reasons given by the minority of respondents who did not support this proposal. These included the potential for the complexity of the information to confuse a seller, increased cost in providing the information, further delays and creating an unnecessary burden for the seller. Two respondents raised the issue of leasehold information going out of date and a small number of solicitors/ licensed conveyancers felt that it should be left to the legal profession to collect this information.

The summary of leasehold information was designed to be easy for the seller to provide without professional assistance. The information will be current to the best of the seller's knowledge at the time it is provided and remain valid for as long as the property is on the market. This approach will also remove the need for a seller to provide large volumes of leasehold information prior to marketing their property, making HIPs for leasehold properties easier and cheaper to assemble.

The summary will not replace work normally carried out by a solicitor or licensed conveyancer during the conveyancing process, but will provide a buyer with the answers to many of the questions they would expect to ask during a viewing of a property.

We will be taking forward the summary of key leasehold information, together with a copy of the lease as mandatory leasehold requirements for HIPs.

Q2 Do you agree that the leasehold summary should include questions on:

- details of to whom ground rent and service charges are paid
- amount of ground rent, service charge and buildings insurance premium currently payable
- whether building works are proposed for the property
- whether the lease allows or prevents certain types of activity.

A total of 56 responses to this question were received. The majority of these agreed that the four themes set out above are the right ones for inclusion in the leasehold summary. Some suggested minor revisions to improve clarity and make the questions easier for the seller to complete.

Other respondents felt that the questions could go even further and include information on whether there are restrictions on who can occupy the property, historical data on charges and restrictive covenants. Some respondents suggested the questions ought to include information for commonhold properties.

Six respondents, who were supportive of the proposal to include the first three sub-questions, queried the necessity of asking whether the lease allows or prevents certain types of activity, stating that this would be included in the lease and therefore a copy of the lease would suffice.

Of the respondents who were not supportive, various reasons were given such as the information being expensive to obtain from the relevant parties and further costs being incurred if the information was out of date before exchange, the questions creating duplication as the information being asked for was already required as part of the conveyancing process, sellers finding the questions too difficult and choosing the 'don't know' option for ease.

The development of the proposed leasehold summary and its suggested content drew heavily on the work of the Leasehold Information in HIPs Working Group, convened and chaired by Ted Beardsall CBE, former Deputy CEO of the Land Registry.

We have carefully considered all the responses to this question and concluded that the inclusion of these questions in the summary, including information on the lease, would provide potential buyers with the type of information they want to know and in a form they can understand.

It was decided that a separate set of questions for commonhold properties would not be devised given the current requirements for commonhold information in the HIP. We will be publishing the final version of the summary alongside the Regulations.

Q3 Do you agree that these questions fit with the principles above?

There were 55 responses to this question, most of which agreed that the proposed questions fit with the principles. Almost half of these simply responded in the positive without further elaboration.

Of the minority of respondents who did not agree that the questions fit with the principles, issues raised were that the seller may not understand the questions and may not know the answers.

Again, it is important to stress that the questions have been designed in such a way that they can be answered by the seller, as they ask for information that the seller should know or have readily to hand, and should be in a position to provide without professional assistance.

Q4 Do you agree that a summary of leasehold information and a copy of the lease should form the permanent leasehold requirements in the HIP for a leasehold property?

The majority of the 56 respondents supported this proposal, with many viewing both as valuable information that would add value to the HIP. One respondent noted that speed and cost of availability of leasehold information would be improved if all leasehold information was held on a central database.

Of those respondents who were not supportive, opinion was divided over whether a copy of the lease should be included in the HIP – some thought only the lease should be included, while others thought only the leasehold summary should be included. One felt that the lease was not required as all the pertinent information should be contained in the summary, while another thought that including a copy of the lease in the HIP may be unworkable owing to the difficulty, in many cases, of obtaining a copy.

The summary of key leasehold information is not intended to include all the information which would normally be found in a lease. It is intended to capture the key information that will be useful for a potential buyer to know up-front when considering a leasehold property.

All leaseholders should have their own copy of the lease, although on occasion it will be held by the mortgage lender or the conveyancer who handled the purchase. Where none of these is the case and the property is registered, a copy of the lease can normally be obtained from the Land Registry.

In his report on Local Property Searches and Leasehold Information published on 12 June 2008, former Deputy CEO of the Land Registry Ted Beardsall considered the idea of a centralised national database for leasehold information. While the report acknowledged there was some attraction to such a proposal, it rejected the idea on the grounds of complexity and practicality and that such a scheme was likely to represent poor value for money for the tax payer.

We intend to make it a mandatory requirement that the HIP include the lease plus a summary of key leasehold information.

Q5 Should the 28 day period for the inclusion of leasehold documents within the HIP be removed if the lease and summary sheet are made permanent requirements within the HIP?

There were 56 responses to question 5. Marginally more respondents did not support removal of the 28 day period than those that did. Nine respondents said that the 28 days were needed to allow information to be gathered (most referring directly to the copy of the lease). A further two respondents said that removing the 28 day period would restrict marketing of the property.

We remain committed to having important information made available upfront in the home buying and selling process to help inform decisions for the consumer. A large proportion of properties are now registered and a copy of the lease can normally be obtained from the Land Registry. However, we are aware that in the case of some unregistered leasehold properties, it may prove more difficult to obtain a copy of the lease. The HIP Regulations already provide for such circumstances providing a 'grace period' of up to 28 days when the lease is not available at the first point of marketing.

We believe that in the majority of cases obtaining a copy of the lease will not cause a delay, but where there is a delay, it would not be acceptable to prevent marketing from beginning. Therefore, we intend to retain the 28 day period for the inclusion of the lease within the HIP.

Part two

Property Information Questionnaire (PIQ) including leasehold information

This section of the consultation addresses the proposed draft PIQ. The aim of the PIQ is to enable consumers to make informed choices when buying a new home by giving them the information they want when they want it, before they have invested financially and emotionally in a property.

The consultation sought views on the PIQ and asked a number of specific questions regarding its content.

Q6 Do you agree that the inclusion of a PIQ in the HIP would be a positive step in enhancing the information provided to the consumer?

There were 68 responses to this proposal of which the majority (69 per cent) were in favour of the inclusion of the PIQ in the HIP.

Some respondents felt that some sellers may need professional help in completing the PIQ, while others felt that the PIQ could potentially include more information. Two of those who supported the proposal in principle, did so on the condition of a wider review of HIPs policy.

A small number of respondents questioned whether or not the information provided would be reliable. Some also suggested that sellers may find completing the PIQ daunting, too many sellers would opt for 'don't know' and information on building regulations may be confusing.

A number of respondents, both those in favour of and those against inclusion of the PIQ stated that they felt care should be taken that the PIQ was not duplicating some of the work carried out by the legal profession.

Following the positive response to the consultation, we propose to require the PIQ to be included in the HIP as a mandatory document.

The PIQ will accompany the buyer as they take their first steps in a property transaction, before, during and after an initial viewing of a property, providing them with the type of information they want to know before they have made any financial or emotional investment in a property. It will also act as a 'trigger' for seeking more information further down the line. However, the PIQ is not intended to replace the work of conveyancers and other property professionals, which will continue to be required as the transaction is finalised.

Q7 Do you feel the questions asked in the PIQ are the right ones? Do they fit with the principles outlined above?

There were 61 responses to this proposal. Those respondents who felt changes should be made to the questions ranged considerably. Some respondents stated they would like to see more questions added, while others thought that the existing questions were unnecessary or irrelevant. Different respondents also suggested the questions asked were too basic and too complicated for sellers.

A small number of respondents expressed concerns over duplication of questions normally asked by solicitors and licensed conveyancers.

We have carefully considered all the responses to this question and taken on board suggestions for additions, deletions and changes to questions (see question 9).

We accept that there is some duplication of questions asked later on in the conveyancing process. However, we feel that the benefits of the PIQ in providing simple information up front to the buyer in order to help inform their decision makes such duplication worthwhile.

Q8 Should a leasehold section be included in the PIQ, incorporating the summary of leasehold questions outlined in Part One of this consultation?

There were 52 responses to this proposal, with 31 of these supporting the inclusion of a leasehold section in the PIQ.

Comments included that the proposal was logical and would save time, avoiding the need to request information later on.

Of those against this inclusion, a small number commented that the leasehold section should be separate in order to prevent sellers of freehold properties being confused by questions not relevant to them.

Given the clear links between the summary of leasehold information and the PIQ, we intend that the PIQ should incorporate the summary of leasehold questions outlined in part one of the consultation. However, we are considering ways in which a clearer delineation between the leasehold section and the rest of the PIQ can be made.

Q9 Are there further questions that you feel should be included in the PIQ? Would they fit with the principles highlighted above?

There were 66 responses to this question, although most responded only to the first part.

Common themes for further questions included utilities and services, installation and servicing of heating appliances, safety certificates and safety devices such as smoke alarms. Other suggestions proposed questions on subsidence, conservation areas and tree preservation orders.

One respondent stated that more thought should be given to different questions on sales of existing homes and new build property.

A limited number of respondents felt that no more questions were needed in the PIQ, with one respondent suggesting a reduction.

Following suggestions made in response to this question we have made a number of changes to the PIQ. These are listed in the table at Annex A to this summary.

Q10 What is the best way for the seller to complete and provide the form as part of the HIP? Should the form be freely available for download from the Communities and Local Government website?

56 responses to this question were received. Many suggested that the best way for the seller to complete and provide the form was electronically. Some respondents also pointed out that the form should be available in hard copy for those without internet access. Many respondents agreed that the PIQ should be freely available to download from the Communities and Local Government website. There were also suggestions that it should be available through HIP providers, estate agents, conveyancers and other sources.

We will ensure that the PIQ is made freely available, both electronically and in paper format for those who do not have internet access, from a number of sources.

Annex A

Suggestion in consultation	Response and proposed action
Separate questions for New Build	<p><i>We accept that many of the questions as phrased in the PIQ would be difficult to complete for sellers of new homes.</i></p> <p><i>We are therefore introducing a new PIQ specifically for new build properties, alongside the existing form. This will be less confusing for buyers and sellers alike than adding specific new build questions to the existing form.</i></p>
Flood Risk	<p><i>We have included two additional questions on flood risk covering:</i></p> <ol style="list-style-type: none"> <i>1) Awareness of previous flooding at the property; and</i> <i>2) Whether the seller has checked the flood risk status of the property on the environment agency website.</i>
Gas and electrical safety.	<p><i>It was felt that both of these suggestions were in keeping with the principles of the PIQ and would add valuable consumer information to the form.</i></p> <p><i>We are therefore introducing two new questions on:</i></p> <ol style="list-style-type: none"> <i>1) the last time the central heating system was serviced; and</i> <i>2) the last time the wiring in the property was checked.</i>
Inclusion of septic tank, not just the presence of mains drainage.	<p><i>Included an amendment to reflect the possibility of a septic tank or cesspool at the property.</i></p>
Concerns over the current wording in relation to building regulations consent.	<p><i>Wording has been simplified.</i></p>
Remove title number.	<p><i>Reference to title number has been removed.</i></p>
Seller confusion over differences between 'legal boundaries' as opposed to the 'boundary feature'.	<p><i>Although this would be useful information for the prospective buyer, given the difficulty in standardising answers to this question we propose to remove the question relating to boundaries.</i></p>

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