

Social Justice and Regeneration Committee

SJR(2)-07-06(p.2)

Date: Thursday 4 May 2006

Time: 9:30am to 12:30pm

Venue: Senedd, National Assembly for Wales

Title: Home Information Packs - Draft Regulations

1. Purpose

To consider the draft regulations relating to Home Information Packs (HIPs). This paper provides an introduction to regulations on HIPs which will be circulated at the meeting.

2. Summary

The Committee will wish to note and consider the draft regulations, prepared by the UK Government, to facilitate the introduction of HIPs to assist home buying and selling in England and Wales from 1 June 2007. Whilst the legislation concerning HIPs (part 5 of the Housing Act 2004) is not devolved, the UK Government has a duty (under section 250(3) of the Act) to consult the National Assembly for Wales upon the proposed regulations. The UK Government has asked the National Assembly to treat the regulations on a "draft in confidence" basis at the present time. Copies will therefore be circulated at the Committee meeting and members will be invited to comment upon them by [date to be inserted, following confirmation from ODPM].

3. Background

- Research by the UK Government has revealed a number of problems with the current home buying and selling process:
- Consumer dissatisfaction (nearly 9 out of 10 consumers are dissatisfied with the present process)
- Lack of transparency (at present key information about the property only becomes available after terms have been agreed)
- High transaction failure rate (28% fail after terms have been agreed)
- High abortive costs for consumers (over £350m a year)
- Slow transaction process (twice the European average)
- Uncertainty (60% of transactions are in chains. Delay or failure in one has a knock on effect through the chain)
- The UK Government expects that the introduction of HIPs will address all the above problems

and provide other direct benefits for home buyers and sellers including:

- Consumer redress – estate agents marketing homes with packs will be required, for the first time, to belong to an approved redress scheme
- First time buyers – will receive pack information ‘free’, thus reducing the cost of entry into home ownership
- Sustainable home ownership – information in the pack – for example about property condition – will ensure that buyers are less likely to be faced with unexpected repairs and other commitments they cannot afford
- More efficient housing market facilitating greater flexibility and labour mobility
- In addition, there are a number of benefits to other policy areas:
- Delivery of European Directive requirement for sellers to provide energy performance certificates to home buyers. The home condition report in the pack will contain an energy efficiency report and certificate
- Assisting delivery of UK Government target of 20% reduction in residential carbon emissions by 2010. The energy efficiency report will identify cost effective ways of improving energy efficiency
- Helping tackle disrepair in private sector housing stock without requiring extra public funds. The home condition report will identify any required repairs
- The home condition report will also complement the UK Government’s work with industry to develop a voluntary Code for Sustainable Buildings.

4. Contents of the pack

The draft regulations provide that the following items should be required to go in the pack:

- An Index (i.e. a list of the content of the pack)
- A sale statement (summarising the terms of sale);
- Evidence of title;
- Standard searches (i.e. equivalent of local authority LLC enquiries, CON.29 part 1 and CON 29 (DW) (drainage and water search));
- Home Condition Report (HCR) including energy efficiency assessment;
- Leasehold Information, if relevant (including - copy of lease, information on service charges and insurance);
- Commonhold Information, if relevant;
- New Homes Warranty, if relevant;
- Report on home not physically complete, if relevant.

The regulations also authorise the inclusion of other information that would be of interest to a potential buyer. The regulations provide a list of such information which includes, for example, information about matters of interest to potential buyers; list of contents, fixtures and fittings items to be included in sale; guarantees and warranties, and other searches.

Only items that are prescribed in regulations as either ‘required’ or ‘authorised’ may be included in the HIP.

5. Estimated Costs

The UK Government estimate the cost of a pack for the average home at between £600-700 (see below). But these are not additional costs as most of them are already incurred now in the current process. See also the table at Annex A comparing the cost of current system and HIP system.

Estimated average cost of assembling a HIP:

	£
Local Searches	200
Home Condition Report	300
Office Copy Entries	10
Legal Fees for pack assembly	125
Total	£635 (+ VAT, where appropriate)

The HIP will transfer some costs from buyers to sellers but additional costs will be balanced by corresponding savings which will, in effect, produce a fairer distribution of costs.

Consumers are also expected to benefit from significant reduction in wasted costs (estimated at around £1million a day in England and Wales at present). There will also be major savings for those in the industry who work on no sale, no fee basis. 3 out of 10 transactions fail between offer acceptance and completion. But these costs are paid for by consumers ultimately in higher fees.

The UK Government considers it unlikely that the cost of a pack will be paid for up front. In most cases, this will be deferred until completion of the sale, like estate agents fees are now.

The only entirely new element in the pack is the Home Condition Report, costing about £300 (plus VAT) for the average home. Buyers (and mortgage lenders) will have a legal right to rely on this report, so there will be no need for them to commission a separate survey.

HIPs will help make the process more affordable for first time buyers since they will receive this

information without having to commission and pay for it.

The cost of a home condition report for an average 3-bed semi-detached home is estimated at £300. As with existing surveys, this price will vary according to the time taken by the home inspector to carry out the inspection. It is therefore likely to be higher for larger and more complex properties. We expect the additional cost to be proportionate to the value of the home.

6. Impact on the market

The UK Government is in discussion with stakeholders about possible impacts on the market and ways of mitigating them. However, they expect HIPs to have a positive impact overall (i.e. a more efficient and cost effective market where costs are shared more fairly between buyer and seller).

The UK Government plans to undertake a detailed market study in 2006 and again 18 or 24 months after implementation to assess the impact of HIPs on the market.

It also intends to have a "Dry run" where elements of HIPs are used on a voluntary basis, prior to being used within a mandatory framework. Discussions are taking place with the industry on the operation of the dry run.

7. Safeguards for consumers

Much of the information in the pack is information already provided by sellers. It will include a survey report and local searches - items normally obtained by buyers now, although many buyers do not currently obtain a survey, relying instead on a mortgage valuation. But the HCR will have to come from a qualified Home Inspector and buyers, sellers and mortgage lenders will have a right to rely on it. This will also apply to local searches included in the pack.

For the first time, all buyers and sellers will have access to redress through a mandatory redress scheme to which all estate agents marketing homes with HIPs will have to belong.

8. Home Condition Reports (HCR)

The home condition report will be an objective report on the condition of the property that buyers, sellers and lenders will have a right to rely on. Home inspectors will need to have suitable insurance that will be backed up by insurance of last resort provided by the certification scheme.

Only inspectors qualifying under a certification scheme, approved by the UK Government, will be able to prepare home condition reports. The scheme will be responsible for monitoring and auditing inspectors' work.

Independent research suggests that buyers will trust a report commissioned by the seller, provided

proper safeguards are in place. The evidence from voluntary HIP schemes suggests that both buyers and sellers welcome the information provided and rarely question its authority.

9. Use of the HCR in mortgage valuations

Although the HCR does not contain a valuation, the UK Government is working with the Council of Mortgage Lenders and their members to ensure that the summary section of the HCR contains the information lenders need to generate valuations

10. Supply of home inspectors

Home inspectors will need to obtain an approved qualification before applying for membership of a certification scheme. The scheme will be responsible for monitoring and auditing inspectors' work.

The UK Government estimates that 48 full-time and 96 part-time Home Inspectors will be required in Wales to deal with an estimated 40,244 properties marketed each year.

To monitor the supply of Home Inspectors, the UK Government receives monthly information from all of the approved assessment centres about the number of inspectors in training.

11. Energy performance certificates in HCR

EU Directive on the Energy Performance of Buildings (2002/91/EC) requires Member States to introduce provisions to "ensure that when buildings are constructed, sold or rented out, an energy performance certificate is made available to the owner or by the owner to the prospective buyer or tenant, as the case may be."

The Directive came into force on 4 January 2006. It allows 3 years for implementation, though there is provision for this period to be extended in certain circumstances.

The HCR will include an energy performance certificate, complying with the EU Directive. The energy performance certificate rates the energy performance of the building, and provides recommendations for possible improvements. Buyers will therefore be able to make comparisons between properties and take energy efficiency considerations into account when choosing which home to buy.

12. New homes

There will be an exemption from the requirement to provide a home condition report if the home is covered by a new homes warranty which is about to start. This provision only applies to certain warranties which will be listed in the Regulations, which the UK Government believes provide sufficient consumer protection to home owners.

13. Shelf life of HIPs

The main time-sensitive items in the HIP are local searches and the HCR - and sellers won't have to renew these. Most sales are likely to go through in less than 6 months so this should not be a problem in most cases. The UK Government expects the market to develop solutions to enable sellers to update HIP contents more cheaply.

14. Responsibility for the content of HIPs

Liability will rest with whoever provided the item in question. For example, the home inspector will be responsible for the HCR and the search provider for the content of the search.

15. Estate Agent redress scheme

The Housing Act 2004 provides a power to require estate agents, marketing homes for which a HIP is required, to belong to an independent redress scheme, and makes provision for the UK Government to approve one or more redress schemes.

At present only around half of estate agents belong to the existing Ombudsman scheme so the majority of consumers are unable to make use of this complaint mechanism. From 2007, all estate agents marketing homes with HIPs will have to belong to an independent redress scheme so all consumers will have access to this means of redress.

16. Exceptions from the requirement to provide a HIP

The HIP requirements are intended to apply to single residential properties marketed for sale with vacant possession. There will be no requirement to provide a HIP for; right to buy sales, properties sold for re-development, mixed commercial and residential properties etc.

17. Financial Implications

The UK Government estimates that the current system costs consumers in England and Wales £1million per day in wasted costs. The cost of providing HIPs will be met by the private sector and consumers. However, the UK Government considers that most of the costs are not new, but are already being incurred in the current process.

The only additional cost expected to result for the public sector in Wales is the cost of local authority Trading Standards Officers (TSOs) in monitoring the provision of HIPs by those marketing properties for sale. The UK Government has estimated the average cost of monitoring HIPs at around £5,000 pa for each local authority TSO department in England and Wales. Whilst Trading Standards is not devolved, funding for local authority TSO departments is provided through the Assembly. However, the UK

Government has undertaken to meet any additional costs involved for implementing HIPs in Wales.

In overall terms, it is considered that the improvements in the home transaction system provided by HIPs should benefit consumers in Wales and the Welsh economy - through less abortive sales, improvements in people's ability to move, and job opportunities for around 48 full time and 96 part time Home inspectors.

18. Use of the Welsh Language in HIPs

Officials of the Welsh Assembly Government and Welsh Language Board have had discussions with the UK Government about the use of Welsh in HIPs. Regulation 7(3) refers to people marketing properties in Wales being able to prepare packs in English, Welsh or a combination of the two languages. Assembly officials will continue to advise the UK Government on the use of Welsh in other aspects of HIPs, eg bilingual format of forms etc.

19. Compliance

Whilst the legislation on HIPs (Part 5 of the Housing Act 2004) is not devolved, the UK Government has a duty (under section 250(3) of the Act) to consult the National Assembly for Wales before making any regulations which relate to residential properties in Wales. The UK Government has written to the Welsh Assembly Government on the matter and the comments of the Social Justice and Regeneration Committee are requested to assist the Assembly Government in responding.

20. Cross-cutting themes

References to the use of the Welsh language and sustainable development (through the EU Directive on energy performance are outlined above.

21. Welsh Assembly Government comments

The Welsh Assembly Government considers that the introduction of HIPs is a positive move to improve the home buying and selling process in the interest of consumers.

Home buying and selling represents probably the largest investment most people undertake in their lives and can be the cause of significant stress and frustration.

The Assembly Government welcomes provision in the Regulations enabling people to provide packs in the Welsh language, where they wish to do so. However, to ensure the smooth introduction of HIPs, it will be important to ensure that there are sufficient home inspectors trained before the mandatory scheme begins on 1 June 2007.

22. Action for the Subject Committee

To note and comment upon the draft regulations.

Edwina Hart AM MBE, Minister for Social Justice and Regeneration

Contact Point: John Rees, Housing Directorate, Welsh Assembly Government (tel 02920 823898)

Annex A

Comparing Cost Of Buying And Selling A Home In 2007

(At Current Prices)

If the current system were maintained, the requirement to provide an energy survey under the EU Directive would still exist. In this case, the total cost for the seller of providing the survey, and conveyancer’s fees is estimated at £285. The buyer, under the current system pays for local searches and their own survey if one is carried out. This is estimated at around £600 including a mid-range survey similar to a home condition report.

Under HIPs, the costs for the seller will increase from £285 to £635, as the responsibility for searches and survey transfers to the seller, and there is a small additional cost in legal fees (£25) for checking the pack. The cost for the buyer decreases from £600 to £175.

The total cost for seller and buyer in the case where a mid-range survey is carried out is estimated to decrease from £885 to £810.

Using Current System	Using HIP System

Seller

Office Copy entries £10

Energy survey compliant

with EU Directive 2002/91 £150

Total cost of information

Provision for seller £160

Conveyancers fees for providing standard pre-contract enquiry

Information etc £125

Total cost for seller £285

Buyer

Local searches (local authority

standard enquiries and drainage

and water search) £200

Seller

HCR including energy survey £300 (+VAT)

Local searches (local authority

standard enquiries and drainage

and water search) £200

Office copy entries £10

Total cost of pack £510

Legal fees for checking pack

and providing summary terms

of sale. £125

Total cost for seller £635

Buyer

Legal fees for checking HIP £100

Lenders valuation fee (without £75

Inspection)

Total cost for buyer £175

Legal investigation of title and

search information £100

Cost for buyer without

Any Survey (20%), £300

OR

Cost for buyer with

mortgage valuation

inspection (£180 in 60% of transactions), £480

OR

Cost for buyer with

Homebuyer survey and valuation (£300 in 20% of transactions) £600

TOTAL COST FOR BUYER AND SELLER =

- With no survey £585

- With valuation inspection £765

-With mid-range survey similar

To HCR £885

TOTAL COST FOR BUYER AND SELLER

£810

Note:

VAT should be added to the above costs, where appropriate.