



shoosmiths

## Shoosmiths advice to clients regarding **HOME INFORMATION PACKS ('HIPs')**

### **Can Shoosmiths help with the production of HIPs?**

Yes we can. A HIP is now integral to marketing a residential property for sale. Our HIPs are available at competitive rates forming part of the wider conveyancing process. Our HIPs are available online for ease of viewing and to minimise waste (paper copies can be made available on request). Please contact our New Business Team on 08700 862200 for the very latest price details.

### **Background to the Introduction of HIPs**

The government's stated aim is to improve the home buying and selling process in England and Wales, which they view as one of the most stressful processes for homeowners to undertake, in terms of cost, delay and a general lack of transparency. The aim of HIPs today is ultimately to provide a Buyer with a pack of information, prepared at the Seller's expense, prior to the property first being marketed for sale.

The pack of information is intended to 'inform' a buyer as to what they are proposing to purchase. However, the actual contents of the pack contain technical documentation which cannot easily be interpreted by a lay reader. The forms are customarily interpreted by highly skilled and professionally qualified conveyancers, including solicitors, as part of the conveyancing process.

Most of the pack is not new to the conveyancing process, but the government proposals alter who is ordering what and at what stage of the process. Accordingly much information is being ordered earlier in the process than previously was the case, and as some of this information has to be within certain date parameters to be accepted by buyers' conveyancers and mortgage lenders there is a concern that the information may become out of date before a property is sold or by the time of exchange of contracts.

The limited exceptions to the obligation to have a HIP basically relate to residential property being advertised for sale in to purchasers other than home owners i.e. as a portfolio properties, part of a business or similar.

### **Documents to be Included**

Some documents are 'required' to go into a HIP. Others may go in as 'authorised', but are not compulsory. Documents which are neither 'required' or 'authorised' must not be included in the HIP.

### **Required** documents include:-

- Contents Index;
- Property Information Questionnaire
- Energy Performance Certificate (EPC)
- Sale Statement (confirming details such as property, seller, property type i.e. freehold);
- Evidence of the Seller's title;
- Prescribed search of local authority records.
- Prescribed form of drainage and water search;

For leasehold properties, a copy of the lease must be included.

The list of **Authorised** documents is fairly wide ranging, including a Seller's ownership questionnaire, a list of items included or excluded from the sale, optional title and search information, guarantees and planning paperwork. However over a year into the HIPs regime in practice, only Required documents are appearing in HIPs being produced, likely as a result of issues of speed of production and cost.

### **The Energy Performance Certificate**

The Certificate (EPC) is produced following the physical attendance at the property by a **Domestic Energy Assessor**, who will be assessing the property to report on its energy efficiency and its carbon emissions rating.

The property will receive an Energy Rating similar to that customarily put on fridges and washing machines, and more recently new motor vehicles, with 'A' being the most efficient and 'G' the least. The large majority of the current housing stock, where EPCs have been ordered to date, are producing results in lower categories, typically D or below, with limited opportunity to change the rating after investing in the recommended energy performance improvement measures.

**For the latest price deals contact our New Business Team on:**

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The EPC is required as a result of a European Union Directive, requiring all properties sold or let to be re-assessed at least once in every ten years from 2009 for its energy performance.

### Issues with Local Authority Searches

The HIP must contain a prescribed search of **Local Authority** records, carried out in order to identify any proposed plans for development, or enforcement, which may affect the property or its immediate surroundings. There are two kinds of search available: **Official Searches** carried out by the local authority itself and guaranteed by statute to be accurate; and **Personal Searches**, carried out by commercial companies and backed by insurance. We believe that over 95% of Home Information Packs reviewed to date contain Personal Searches, which we further believe is because although they are not always as comprehensive as full Authorised Searches, they are the cheaper, they can often be obtained more quickly, and most significantly, for national HIP providers, they can be ordered for a single national price, typically in the region of £100. In contrast Official Search fees are set today by each local authority and vary widely from less than £50 to almost £300 between local authorities.

Although widely used in the current system of home buying, Personal Searches are not accepted by all mortgage lending companies and it has emerged that some solicitors are advising buyers against accepting them in the HIP.

### Enforcement

The Weights and Measures Authority and Trading Standards Officers are responsible for policing HIP compliance and Enforcement. Estate Agents and sellers risk fines, currently set at £200 per day per property for properties found without HIPs, which they are marketed for sale.

### Widespread Industry Concern

A substantial proportion of the stakeholders in the property industry, including the representative bodies of Solicitors, Surveyors, Estate Agents, and Lenders, as well as Which? The Consumer Association, have expressed doubts as to whether HIPs will achieve their stated objectives. However, the government have now rolled out the requirement for HIPs to the market, steadfastly believing that they will improve transparency, reduce cost for first time buyers and reduce delays due to information being readily available.

Negative commentary has only increased in volume as a result of the timing of the implementation of HIPs, coinciding with the weakening economy and challenges to the residential property market.

Against these concerns, HIPs are now a reality of residential property marketing, which we embrace in order to look after our client's interests as part of their overall needs of a conveyancing solicitor.

