



HOME INFORMATION PACKS

A guide for leaseholders

This guide is not meant to describe or give a full interpretation of the law; only the courts can do that. Nor does it cover every case. If you are in any doubt about your rights and duties then seek specific advice.

Introduction

HIPs will become compulsory for 1 and 2 bedroom homes from December 14th 2007. There will be a phased introduction of the leasehold information required. The HIP regulations regarding such properties will be temporarily amended so that only the lease document itself must be included. Other leasehold information will be introduced as a requirement at the end of 2008.

Anyone wishing to sell a residential property, which has three or more bedrooms, on or after 10th September 2007 will have to prepare a Home Information Pack (HIP) before placing the property on the market; the pack provides information about the property considered essential to the purchaser. Failure to provide a HIP is an offence, punishable by a fine of up to £200.

Legislation sets out the required content of the HIP and this differs for freehold and leasehold properties. The requirements for leasehold, which relates mainly to flats, are more demanding and much of the required information may not be in the flat-owner's possession but will have to be obtained from the landlord, the flat-owner's solicitor or mortgage lender or, more probably, the managing agent for the building. The managing agent is fully entitled to charge for the provision of the information, but legislation may limit how much.

This note is produced by the Leasehold Advisory Service, the Association of Residential Managing Agents and the Association of Retirement Housing Managers as a guide both for flat-owners and for managers and details the information required and where to obtain it.

(The legislation relating to HIPs is Part 5 of the Housing Act 2004 and the Home Information Pack Regulations 2007.)



What must the pack contain?

The legislation sets out lists of *required* documents and information and of *authorised* information; no other documents or information can be included in the pack. The required documents are obligatory and a HIP will satisfy the legal requirement if it consists only of these. The authorised documents are to provide extra information which might be useful to a purchaser and so help in selling the flat.

Some of the information will already be in the flat-owner's possession and can easily be located. Some, however, may only be available from the landlord or the managing agent, and these will have to be requested. A flat-owner putting together a HIP will need to appreciate the time involved in obtaining all the necessary documents.

It is important that flat-owners keep all communications from the landlord or the managing agent relating to the flat as some of these may be needed for a HIP.

The documents and information that are required for all types of property, leasehold and freehold, are:

- an index of the contents of the HIP;
- the sale statement (this summarises the terms of the sale such as whether the property is leasehold or freehold and whether it has been registered with the Land Registry);
- the standard property searches (the local authority searches on planning, future development, drainage etc);
- an Energy Performance Certificate.

This note does not deal with these documents. [Information on these documents is available [here](#)]



What information will leaseholders need?

PLEASE NOTE: There will be a phased introduction of the leasehold information required. The HIP regulations regarding such properties will be temporarily amended so that only the lease document itself must be included. Other leasehold information will be introduced as a requirement at the end of 2008.

The documents and information that are required for leasehold are:

- **A copy of the lease.** All flat-owners should have their own copy of the lease although sometimes this is held by the mortgage lender or the solicitor who handled the purchase.
A copy can be obtained from the Land Registry (www.landregisteronline.gov.uk). It is unlikely that the managing agent will be able to provide a copy of the lease.
- **Any amendments presently proposed to the lease.** It is unlikely that there will be any amendments to the lease and the flat-owner should be fully aware of any proposals in that these would have to be agreed by him or her.
- **The name and address of the lessor (the landlord).** This may include a resident management company which has acquired the freehold of the building. This information should be found on any demand for service charges and ground rent.
- **The name and address of the managing agent, if one has been appointed, or any proposed for appointment.** In some cases the managing agent may be the resident management company itself. This information should be found on any demand for service charges or ground rent.
- **A copy of any management regulations relating to the building or estate.** Some leases allow landlords to make additional regulations about how the building is to be used, perhaps relating to pets, parking or use of shared open spaces or gardens. Most blocks do not have separate regulations but, if they apply, all flat-owners should have been sent a copy. Sometimes these regulations are included in any handbook issued by the landlord or manager.
- **Statements or summaries of the annual service charge accounts for the past three years** (36 months preceding the first date of marketing the flat). There is no current legal obligation on the landlord to send such a statement or summary but most managing agents do provide these as a matter of good practice. Flat-owners should keep these documents when provided to them but the agent will normally have retained a copy. Where the flat has been owned for less than three years the summaries will have to be requested from the managing agent (although they may have been retained by the seller's conveyancer who dealt with the original purchase).

Should flat-owners experience difficulty in obtaining summaries they do have a statutory right to demand them from the landlord under Section 21, Landlord and Tenant Act 1985. The request must be in writing and can be sent direct to the landlord or managing agent. It can require a summary of the 'relevant costs relating to the service charges payable' in respect of the past accounting year, or, where accounts are not kept by accounting years, the past 12 months preceding the request. The landlord must provide the summary within one month, or within six months of the end of the 12-month accounting period, whichever is the later. Failure to comply is a summary offence.

- **Requests for payment of ground rent, service charges and insurance for the past 12 months** (12 months preceding the first date of marketing the flat).
 - The request for ground rent should be in the prescribed form, as required by Section 166, Commonhold and Leasehold Reform Act 2002.



- Service charges may have been invoiced for separate items during the year and flat-owners should check they have all requests for payment relating to the 12-month period.
- The Regulations refer to requests for payment for insurance premiums for damage insurance and third-party insurance as separate items. Some landlords will include insurance premiums within general service charge demands, some may issue separate demands; the HIP must include whatever requests for payment have been made.
- **Information on the landlord's proposals for future works or long-term agreements.** Where the landlord has proposed or proposes to carry out any works likely to cost more than £250 per flat or to enter into a long-term agreement (a contract) likely to cost more than £100 per year per flat, he or she must formally consult the flat-owner by issue of what is generally referred to as a Section 20 notice. Where Section 20 notices have been served on the flat-owner but some payment remains outstanding, the HIP must contain:
 - a summary of the proposed works or agreement;
 - the total or estimated costs;
 - the contribution still to be paid by the flat-owner;
 - the date on which it is expected the works will be completed, or the agreement entered into;
 - any further contribution that will need to be paid.

These notices should be kept by the flat-owner but the managing agent will have retained copies.

This is the extent of the documents required for the HIP, without which it will not comply with the Regulations. As stated earlier, there is an additional list of authorised documents which, although not a statutory obligation, could provide extra information to purchasers which might help in selling the flat. It will be entirely for the flat-owner to decide whether or not to include all or some of these in the HIP. In that they are not obligatory, it may be prudent to include those which are already in the flat-owner's possession but it may not be worthwhile to seek them, at a cost, from the landlord.

The full schedule of authorised documents is set out in the Appendix [*\(see below\)*](#).



Documents the flat-owner should keep

Whilst many of the documents can be supplied by the landlord, solicitor or manager, this is likely to incur a charge and it would be useful for the flat-owner to retain copies of certain documents provided by the landlord in the normal course of managing the building for future use in a HIP.

It will be to the flat-owner's advantage to retain the following:

- All demands for payment of ground rent , service charges and insurance;
- The annual statement of account for the service charges (for the three years proceeding sale);
- Any budget statements provided by the landlord for the annual service charge;
- Any management regulations, management handbook or welcome pack relating to the block;
- Copies of notices (S20) about proposed works or long-term contracts.

Obtaining documents from the managing agent

Where the property is managed by a professional managing agent, many, although not all, of the documents should be held by, and available from the agent; however, it is not always the case that the agent will have a copy of the lease.

Most agents will charge a fee for the provision of documents required for a HIP. The work is additional to the agent's general management duties for the block and cannot be recharged to the other flat-owners as a general management charge. As an individual service to a single flat-owner the fee will be charged directly to the flat-owner making the request.

However, there may be limits on the amount of the fee the agent or other party is able to charge.

It is possible that the provision of information for the HIP will constitute an Administration Charge (Section 158 and Schedule 11, Commonhold and Leasehold Reform Act 2002), although this will have to be confirmed by caselaw. The amount of the Administration Charge must be reasonable and the flat-owner will be able to challenge a charge considered unreasonable at the Leasehold Valuation Tribunal. An Administration Charge demand will not be valid unless it is accompanied by a summary of the leaseholder's statutory rights and both agents and flat-owners must be alert to this.

It is most important that flat-owners appreciate that, other than where stated, there is no statutory obligation on managing agents to comply with requests for HIP documents, nor to comply in a timely manner. Most managers will comply, as it is a legitimate, fee-generating service, but they cannot be required to operate to other than their own timetables, according to their own working practices and individual workloads. Flat-owners proposing to put their properties on the market should be mindful that they cannot place any time limits on managing agents in the provision of required information.

Where the pack is being assembled by a professional HIPs provider or estate agent it will be necessary for the leaseholder to give written authority to the managing agents to release the information. All requests to managers for information must be specific in what is required, not just for 'the HIPs information'.



There is provision in the Regulations for properties to be marketed without all required documents being present; a period of 28 days is allowed for these to be provided as long as:

- the request for the documents is made before the property is put on the market;
- the person responsible for compiling the HIP (usually the estate agent or HIP provider) reasonably believes that the information will be provided within 28 days of marketing the property, and uses all reasonable efforts to obtain it;
- the request is made in a proper form and is accompanied by a payment or an undertaking to make a payment.

It must, however, be understood that the 28-day period places no obligation upon the managing agent to comply with the request within that period and it should not be assumed that he or she will necessarily be able to do so.

All requests to managing agents for HIP documents should be made in writing and a copy retained as proof, if required, that the request has been made.



Unobtainable information

In some cases required documents simply cannot be obtained. A HIP can comply with the Regulations where the flat-owner reasonably believes, after making all reasonable enquiries, that the information or documents no longer exist in any form and cannot be created or obtained.

Where can I get advice?

For information on any aspect of Home Information Packs visit the HIPs website

www.homeinformationpacks.gov.uk

or email: homeinfopacks@communities.gsi.gov.uk

Further information for leaseholders can be obtained from the following organisations:

LEASE – The Leasehold Advisory Service

31 Worship Street, London EC2A 2DX

Tel: 020 7374 5380 or local rate on 0845 345 1993 Fax: 020 7374 5373

Email: info@lease-advice.org

Website: www.lease-advice.org

ARMA – The Association of Residential Managing Agents

178 Battersea Park Road, London SW11 4ND

Tel: 020 7978 2607 Fax: 020 7498 6153

Email: info@arma.org.uk

Website: www.arma.org.uk

ARHM – the Association of Retirement Housing Managers

Southbank House, Black Prince Road, London SE1 7SJ

Tel: 020 7463 0660 Fax: 020 7463 0661

Email: enquirers@arhm.org

Website: www.arhm.org

Appendix

Authorised documents for leasehold property

These do not have to be included in the HIP; they may be included at the choice of the flat-owner on the basis they might be useful to the purchaser or might assist in selling the flat.

- any other lease of the flat, including any lease above or below the lease of the flat;
- any licence relating to the flat;
- details of the freehold to which the lease relates, including any proposals to buy the freehold;
- details of the rights and obligations of the leaseholder and the landlord and whether these have been complied with;
- information relating to the landlord of the building and any information that might affect the purchaser's relationship with them;
- information relating to any agent or manager of the building and any information that might affect the purchaser's relationship with them;



- details and membership of any body which manages the building (such as a Resident Management Company (RMC) or Right to Manage Company (RTM));
- a copy of the memorandum and articles of any company related to the management of the building (such as a RMC or a RTM);
- information on the ground rent payable for the flat, including whether any payments are outstanding;
- information on the service charges payable for the flat, including whether any payments are outstanding;
- information on any sinking fund or reserve fund for the building, including whether any payments are outstanding;
- information about any proposed or recent work to the flat or building;
- information about who is responsible for insuring the building, including the terms of the insurance cover and whether any payments are outstanding.

Authorised documents for all property, leasehold and freehold

- a Home Condition Report;
- documentary evidence of any safety, building or maintenance work carried out to the flat since the preparation of the Home Condition Report, including any guarantees and warranties;
- a translation of a HIP document, or a Braille or large print version;
- a summary or explanation of any HIP document;
- information identifying the property, such as a photograph, a plan or a map;
- any other searches which might be relevant, such as rights of access, ground stability or risk of flooding, telecommunications, water, drainage, gas and electricity supplies, effects of local transport services.

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