

**EXPLANATORY MEMORANDUM TO
THE HOME INFORMATION PACK REGULATIONS**

2006 No. 1503

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

2.1. The Home Information Pack Regulations 2006 (“the Regulations”) prescribe the contents of home information packs. They also provide for exceptions from the home information pack duties set out in Part 5 of the Housing Act 2004 (“the 2004 Act”), and make provision for the approval of certification schemes in connection with home condition reports. The Regulations also specify the level of penalty charge that may be levied for a breach of the home information pack duties, and make transitional provision for homes already on the market when the home information pack duties come into force.

3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments

3.1. None

4. Legislative Background

4.1. The Regulations are made under sections 161, 163, 164, 165 and 250(2) of and paragraphs 2 and 11(b) of Schedule 8 to the Housing Act 2004 the 2004 Act.

4.2. Part 5 of the Housing Act 2004 (“the Act”) imposes duties on persons to have under their possession or control a home information pack which complies with the requirements of regulations made under section 163 of that Act. The principal duty is the one found in section 155 on “responsible person”, and the circumstances in which a person becomes a responsible person are described in sections 151 to 153. These relate to the marketing of a residential property for sale and provide that either a seller of the property or his estate agent will be a responsible person. The other duties in Part 5 of the 2004 Act relating to home information packs are a duty to provide a copy of a pack to a potential buyer on request (section 156), a duty to ensure authenticity of documents in other situations (section 158) and a duty on estate agents to have a pack when communicating that a property may become available for sale (section 159(2)). These are collectively described in this memorandum as the “home information pack duties”.

4.3. The Regulations refer to energy performance certificates as the certificate required by Council Directive 2002/91/EC (Energy Performance of Buildings Directive) whose form and content complies with any enactment which implements that Directive made in accordance with article 7. Article 7 is expected to be implemented by January 2009. These Regulations do not implement the Directive, and given that they do not do so, there is no requirement to provide a Transposition Note.

5. Extent

- 5.1. This instrument applies to England and Wales. Under section 250(3) of the 2004 Act, the Secretary of State must consult the National Assembly for Wales before making any regulations under Part 5 which relate to residential properties in Wales, and has done so.

6. European Convention on Human Rights

- 6.1. As the Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

- 7.1. The home information pack duties in the 2004 Act derive from the Government's 2001 manifesto commitment "to make it easier for people buying and selling homes through a new seller's pack [now known as the home information pack]". The purpose of the duties is to improve the home buying and selling process for the consumer by providing at the start information that is important to the decisions that buyers and sellers need to make. This should inject transparency into the process, make it more certain. The policy also aims to reduce the current high rates of transaction failure - almost 30% of transactions fail between offer acceptance and completion, and over 40% of transaction failures result from the contents of surveys and lenders' valuation reports. To address transaction failures due to surveys and valuations, a new document, a home condition report, is required to form part of a home information pack in most cases (see regulation 8). The Regulatory Impact Assessment attached to this Memorandum discusses this general policy in detail.
- 7.2. The Regulations are needed principally because the home information pack duties cannot operate without them (the 2004 Act refers to home information packs which comply with the requirements of the Regulations). At the time the Regulations are made, the home information pack duties will not be in force, but it is expected that they will come into force by order on 1st June 2007.
- 7.3. The reasons why the Government intends that there should be 12 months before commencement of the home information pack duties are:
 - to give Government time to conduct a publicity and educational campaign warning estate agents and sellers of residential properties of the effect of the home information pack duties, and inform them of what a pack complying with the Regulations consists of;
 - to give those involved in the home buying and selling industry time to prepare for the effect home information packs will have on their businesses, including time to develop and prepare businesses for supplying packs and documents which comply with the Regulations;
 - to give certainty to industry, particularly mortgage lenders that packs which comply with the Regulations will consist of documents useful and appropriate to the home buying and selling process;

- to undertake testing exercise of systems and processes for providing and utilising home information packs and pack documents being used on a voluntary basis before 1st June 2007, and their effectiveness (“the dry-run”);
- to ensure that there are enough home inspectors qualified to prepare home condition reports (see section 164(3) of the 2004 Act and regulation 8 of the Regulations)

7.4. The bulk of the Regulations deal with the contents of home information packs, but other parts of the Regulations deal with exceptions from the home information pack duties and the level of penalty charge (for breaching the home information pack duties). Given that the Regulations require home condition reports to be made by members of an approved certification scheme, they must also make provision for the approval by the Secretary of State of one or more suitable certification scheme (section 164(3) and (4)).

7.5. The Regulations prescribe the documents to be included in home information packs and the circumstances in which they are included. The Regulations make a distinction between “required” documents which must be included in home information packs and “authorised” documents which may be included. A pack must not include any other documents and not all required documents are necessary in every case. For example, certain documents are required for the sale of a leasehold property but not where the sale is freehold.

7.6. In deciding which documents should be required and authorised, the Government has taken into account the needs of buyers and sellers of residential properties, and those involved in the home buying and selling process, including mortgage lenders, conveyancers, estate agents, and surveyors. If it proves necessary as a result of experiences during the dry run, the Government will amend the Regulations before the coming into force of the home information pack duties to address any deficiencies in their practical effect, to adjust the balance between required and authorised documents, or to prescribe standard forms for pack documents. The Government has powers under section 162 of the 2004 Act to suspend the home information pack duties after they come into force.

7.7. The Government has consulted extensively on these Regulations and the principles underlying them. In particular:

- It published a consultation paper in 1998 entitled “The key to easier home buying and selling”. 919 responses were received. The majority of all those who responded (78 per cent) agreed with the overall objective of making home buying and selling more efficient and less stressful. Among all respondents 63 per cent agreed that the seller should assemble an information pack (see page 8 of the Regulatory Impact Assessment for more details). This included strong support from businesses, professional bodies and consumer representatives. There was strong support for the home information pack to be made compulsory - 61 per cent of all responses, including all the key professional bodies.
- Part 5 of the 2004 Act was subject to consultation and pre-legislative scrutiny in the draft Housing Bill published in March 2003 (“The Housing Bill - Consultation

on draft legislation”). The consultation paper asked for views on the proposed enforcement arrangements based on civil sanctions and the effect of the proposals on limiting pre marketing activity by estate agents.

- A further consultation paper, “The contents of the home information pack” was published in March 2003 and the consultation period closed at the end of June 2003 with responses published in January 2004. There were 255 responses to this paper and 68 per cent agreed that the seller should provide a home information pack. There was general agreement with the proposed contents of the pack (see page 9 of the Regulatory Impact Assessment).
- It set up a Home Information Pack Components Project Board (“the Project Board”) in September 2004 to consider the contents of the home information pack in the light of responses to the consultation paper. The Project Board included representatives from the Royal Institution of Chartered Surveyors, the Law Society, the National Association of Estate Agents, the Council of Mortgage Lenders and consumer organisation, Which? The Board was also advised by four specialist working groups on searches, planning and legal issues, commonhold and leasehold properties, and new homes. These were composed of additional stakeholders, including the Department for Constitutional Affairs, the Department of Environment Food and Rural Affairs, the Local Government Association, the Council for Licensed Conveyancers, HM Land Registry, the Office of Fair Trading, the National Land Information Service, the Council for Property Search Organisations, the Association of British Insurers, the Association of Residential Letting Agents, the Leasehold Advisory Service and the National House Building Council. The recommendations of the Project Board were endorsed by the Government and published in March 2005.
- During the period March 2005 to April 2006, the Project Board were involved in the process of drafting the Regulations and were consulted on successive drafts. Other stakeholders affected by particular parts of the regulations were also selected and further consulted on drafts (for example, the Local Government Association and others involved in the searches industry were consulted on provisions on searches, property professionals dealing with agricultural land were consulted on exceptions and new homes warranty providers were consulted on provisions on such warranties).
- Draft regulations based on these recommendations were published for a further public consultation with the intention of eliciting comments on their technical effect (rather than their policy objectives). This consultation began in October 2005, and lasted 11 weeks (this period was extended from an original 9 weeks). 110 responses were received. A consumer testing exercise of proposed home information pack forms was also undertaken at this time. The issues raised by this consultation were considered by the Project Board and the Regulations revised taking account of the Board’s recommendations.

7.8. As a result of the various consultations, the Regulations were amended so that:

- Standard forms are no longer prescribed. The consumer testing exercise indicated that the design and content of the forms needed further thought, and the

Government intends to postpone prescribing any forms until draft versions have been comprehensively tested during the dry run.

- The content of certain required property searches now better reflects existing property searches which are common to most residential property transactions (the “CON 29 (Part 1)” and “CON 29(DW) search” - see Schedules 9 and 10 to the Regulations). Consultation responses indicated that local authorities and conveyancers wanted to be certain that home information packs will include the searches that they are familiar with.
- They no longer require that a logo is applied to pack documents. A logo was proposed to distinguish pack documents from other documents supplied at the same time (for example so that a buyer would be aware that an estimate for work to a particular property proposed as a result of a home conditions report was not part of a pack and would not feel pressure to buy particular services). Consultation responses indicated that there were likely to be practical difficulties in applying the logo to every document. Instead, there is a prohibition on a responsible person including advertising information in a pack (regulation 12).

7.9. Once the Regulations come into force, the Government intends to publish versions of guidance on their effect. These will be aimed variously at those involved in the home buying and selling process and at members of the public.

8. Impact

8.1. A Regulatory Impact Assessment is attached to this memorandum

9. Contact

9.1. Richard Potter at the Department for Communities and Local Government, Tel: 020 7944 3816 or e-mail: richard.potter@communities.gsi.gov.uk can answer any queries regarding the instrument.

Annex to Explanatory Memorandum
Home Information Pack Regulations 2006

Regulatory Impact Assessment

Purpose

The Regulatory Impact Assessment (RIA) is a key tool in delivering better regulation. The RIA process will help departments deliver successful policy. It is an analysis of the likely impacts of a policy change and the range of options for implementing it. It is a comprehensive and flexible tool which considers:

- any form of regulation - for example formal legislation, codes of practice or information campaigns;
- the full range of potential impacts - economic, social and environmental; and
- where the impact may fall - business, the public sector, the voluntary sector or other groups.

RIAs should be carried out for all policy changes, whether European or domestic, which could affect the public or private sectors, charities, the voluntary sector or small businesses.

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TITLE OF PROPOSAL

1. The Home Information Pack (Part 5 of the Housing Act 2004).

PURPOSE AND INTENDED EFFECT OF MEASURE

Objective

2. The aim of the Home Information Pack programme is to make buying and selling a home simpler, quicker and less stressful for consumers. By ensuring that the key information is provided at the outset, the process should be more transparent, fewer transactions should fail and wasted cost should be reduced. Including Energy Performance Certificates with Home Information Packs should encourage buyers and sellers to improve the energy efficiency of their homes, reducing carbon emissions.

Proposed Measure

3. The government proposes to meet this objective by requiring sellers of residential properties in England and Wales to produce a standard pack of information, referred to as a "Home Information Pack". The pack must be produced for a property marketed for sale and must be made available to prospective buyers. The relevant legislation will come into force on 1 June 2007¹.
4. The Home Information Pack will ensure that important information about a property is available to buyers, sellers and others involved in the process when a property is first marketed for sale. It is anticipated that this will result in fewer re-negotiations once an offer has been made and accepted and fewer transactions falling through, as the offer will have been based on a clear understanding of what is actually being sold. We also expect that a majority of mortgages will be agreed by the lender on the basis of a Home Information Pack without a separate property inspection, bringing costs down.
5. Once Packs are fully implemented and bedded in they are expected to deliver a range of benefits:
 - a reduction in waste and duplication;
 - a reduction in the number of failed transactions;
 - quicker transactions, with a shorter period between offer acceptance and exchange of contracts;
 - increased competition exerting downward pressure on prices, including reduced buyer and seller conveyancing costs;
 - reduced costs per successful transaction as well as overall costs in the market;
 - improvements in the condition and energy efficiency of homes, reducing carbon emissions;and

¹ Although Part 7 of the statutory instrument comes into force on 6 July 2006, enabling the Secretary of State to approve a Certification Scheme for Home Inspectors making Home Condition Reports, discussed further below.

- reduced costs for first time buyers.

The overall result should be a more efficient and sustainable housing market with lower average transaction costs and much less wasted expenditure. The whole process should be more certain and less stressful for consumers, with fewer unexpected bills for new home owners.

The enforcement arrangements will be risk based and proportionate, and comply with the recommendations of the Hampton review.

Background

6. Under the current home buying and selling system transactions are often delayed or fail altogether when important information about a property comes to light later in the process. Independent research shows that nine out of ten consumers are dissatisfied with the current home buying and selling process. Research² shows that the current system is:
 - slow by international standards;
 - wasteful and inefficient, resulting in a high rate of failed transactions;
 - particularly prone to delays and other problems during the period between offer acceptance and exchange of contracts; and
 - the cause of considerable frustration and stress to both buyers and sellers.
7. The central problem is that key information is not available at the start of the process. This means that buyers and sellers are negotiating and agreeing terms of sale without all of the facts. This often causes problems later in the transaction, or causes it to fail altogether.
8. To address these problems Part 5 of the Housing Act 2004 will require sellers of residential property in England and Wales to produce a standard pack of information, referred to as a "Home Information Pack". The pack will have to be produced before a property is marketed for sale and will have to be made available to prospective buyers. The legislation will come into effect on 1 June 2007.
9. The Home Information Pack will ensure that important information about a property is available to buyers, sellers and others involved in the process when a property is first marketed for sale. This should result in fewer re-negotiations once an offer has been made and accepted and fewer transactions falling through, as the offer will have been based on a clear understanding of what is actually being sold.
10. Another change occurring in the property industry is the need for sellers to provide an Energy Performance Certificate (EPC) for their property, as specified under the EU Directive 2002/91/EC. The Directive covers all property transfers (i.e. commercial and residential property sales as well as private and public

² *"Key Research on Easier Home Buying and Selling"*, DETR, 1998.

sector lettings). It came into force 1 January 2006 and will have to be implemented by January 2009 at the latest. The directive will have to be introduced irrespective of the Home Information Pack.

11. It has always been the intention that the Home Information Pack would include data on the energy efficiency of the property and suggestions on how it can be improved. This is important because it provides the consumer with information about the running costs of the property. Its inclusion in the Home Condition Report provides a more cost effective means of delivering the requirements of the Directive (see paragraph 122). A separate RIA for the EU Directive will be produced by DCLG before the regulations are laid in April 2007 (the partial RIA was issued within the public consultation document in July 2004).
12. The Home Information Pack is part of a wider set of Government measures aimed at:
 - Making the home buying and selling process more efficient. Electronic conveyancing (or e-conveyancing) is also designed to speed up the conveyancing process.
 - Tackling climate change. The Energy Performance Certificate will offer advice on making the property more energy efficient. Thus consumers will not only be able to save money, but reduce the carbon dioxide emissions associated with their property at the same time.
 - Improving the condition of the housing stock - the Decent Homes initiative and the Housing Health and Safety Rating System.

This RIA covers: the content of the Home Information Pack; exceptions; enforcement; the terms of approval for the Home Inspector Certification Schemes; details of the Home Condition Report register; and Home Information Pack forms.

As these are an integral part of the same process, this impact analysis is based on the cumulative impact of these SIs.

Rationale for Government Intervention

13. There is a view that the market will develop solutions to the problems we have identified without the need to introduce a mandatory Home Information Pack. However, the current problems are very longstanding and, to date, the market has failed to come up with solutions.
14. Advances in information technology and the introduction of e-conveyancing will speed up part of the process. However, e-conveyancing will not make key information available at the start of the process which is what we believe is necessary following our research and consultation³.

³ "Key to easier home buying and selling", DETR, 1998.

15. Research suggests that 28 per cent,⁴ of transactions fail between offer acceptance and completion. Based on data from the Land Registry, which shows that 1.2 million transactions are completed each year; we estimate that 467,000 transactions fail between offer acceptance and completion per annum. This suggests that approximately 1.6 million properties are marketed for sale each year.
16. The 1998 DETR research paper entitled *Key research on easier home buying and selling* found that typically a failed transaction cost consumers about £900 (£680 for buyers and £226 for sellers). This cost was made up mainly of conveyancing, mortgage valuation and survey fees. Not all of these will necessarily have incurred the same level of costs, but we estimate that the total cost of wasted expenditure to consumers is approximately £350 million a year⁵. This total does not include additional and abortive costs incurred by marketing agents and other professionals who normally work on a “no sale no fee” basis.
17. The effect of delays should also be taken into account. The research found that, on average, it takes eight weeks to move from acceptance of offer to exchange of contracts, which is slow by international standards. Although the financial impact of such delays cannot be quantified they undoubtedly add to the stress surrounding home buying and selling and increase the risk of chains breaking down. Home Information Packs should reduce the time taken to complete a sale once an offer has been agreed. The packs will ensure that information about the property is available when the terms of the sale are first agreed to. This should reduce the likelihood of the terms of sale need to be renegotiated, which can delay the sale and any associated transactions in the chain.

⁴ Current industry estimates are that between a quarter and a third of transaction fail between offer acceptance and exchange of contracts. See also footnote 2

⁵ The £900 was based on a low sample number. We have made allowances for this and taken the average cost of the figure to be £750.

CONSULTATION

Within Government

18. A number of government departments and agencies have been consulted on the Home Information Pack policy (please see Annex A).

Public Consultation

19. Both the general public and industry have been consulted on the general principle of the Home Information Pack and its contents.
20. The consultation paper *The key to easier home buying and selling* was published in December 1998 for comments by the end of March 1999 and received 919 responses. Respondents were largely individual consumers (29 per cent) and professional individuals (solicitors 21 per cent, estate agents 16 per cent, surveyors/valuers 15 per cent). The main representative bodies for the key interest groups - The Consumers' Association (now Which?), the Council of Mortgage Lenders (CML), the National Association of Estate Agents (NAEA), The Law Society, The Royal Institution of Chartered Surveyors (RICS) and The Local Government Association (LGA) - also responded.
21. There was strong support for the Home Information Pack to be made compulsory.
22. Sixty-three per cent of the respondents agreed that sellers should assemble an information pack about the property. This included strong support from businesses, professional bodies and consumer representatives.
23. Fifty-six per cent of the respondents were concerned about the inclusion of a Home Condition Report. Opposition to the Home Condition Report was largely based on issues of practicality. One of the main concerns was that buyers and lenders would not trust a report commissioned by a seller. DCLG has worked to address this concern by specifying that:
 - the Government will set the standards that Home Inspectors must meet when producing Home Condition Reports;
 - only Home Inspectors registered with a Certification Scheme approved by the Secretary of State will be able to prepare Home Condition Reports;
 - the Certification Schemes will monitor and audit the Home Condition Reports produced by Home Inspectors to ensure that they meet the standard set by the Government;
 - Home Inspectors will be required to have suitable insurance to provide redress to buyers, sellers and lenders when necessary;
 - buyers, sellers and lenders will benefit from an independent redress scheme; and
 - if a Home Inspector fails to maintain the standards set by the Government (either by producing a substandard Home Condition Report or by acting unprofessionally) their certification can be removed. Therefore, any inspector who fails to meet the standards set by the Government would be jeopardising their livelihood, would risk being sued by buyer, seller or lender and would risk losing their insurance.

Given these safeguards we believe that buyers, sellers and lenders will have every reason to have confidence in the report.

24. The other main concern was that the Home Information Pack would have a limited shelf-life. However we do not believe that this should be a significant problem. The most time sensitive documents are the Home Condition Report and the searches (as this information can change over time). Under the current system searches are usually accepted to be valid by lenders for six months. As with any survey, the Home Condition Report will provide a 'snapshot' of the condition of the property at the time it was inspected. As the Home Condition Report will not contain a valuation it should, in most cases, be reliable for around six months. The condition of a property would not normally change dramatically in this period, unless there is an intervening event, such as fire or flood damage. Ninety-seven per cent of sales go through within six months under the current system and we are expecting that the Home Information Pack will reduce the time taken to buy and sell properties. We consider that decisions on whether the Home Condition Report needs to be updated are best left for buyers, sellers and their professional advisers to take depending on the circumstances of each case. This is an issue that will be examined as part of the dry-run.
25. The consultation paper entitled *Contents of the home information pack* was published in March 2003 for responses by the end of June 2003. As well as seeking views on the Home Condition Report, ODPM also consulted on the searches that should be incorporated in the pack and who could, or should, provide such information.
26. There were 255 responses to this consultation paper. The largest group of respondents were the representatives of trade organisations (32 per cent), followed by social housing providers (28 per cent). Other groups that responded were estate agents, private and corporate business, academics and other government bodies.
27. Of those respondents who made explicit comments on whether they agreed or disagreed with the pack, 68 per cent agreed that the seller should provide a Home Information Pack. Concerns about the pack included the cost (including the potential for costs to rise over time) and the complexity of the pack. Respondents also raised concern about the impact on low income households (see paragraphs 84 to 87).
28. Thirty-nine per cent of respondents commented on the searches to be included in the pack. Eighty-two per cent of those that commented thought that these should be no more than three months old at the time the property is first marketed. This requirement will be included in the regulations.
29. Of those who responded, nearly all (91 per cent) thought that private search companies, as well as local authorities, should be able to provide searches for inclusion in the pack so long as there was adequate insurance in the event of inaccurate replies. The main reason respondents gave for this view was that allowing private search companies as well as local authorities to provide searches would prevent a monopoly in the market and increase consumer choice. The regulations reflect this view.
30. The Home Information Pack Components Project Board (which consisted of representatives from RICS, Law Society, NAEA, CML and Which?, as well as DCLG officials) considered the responses to the consultation and sought advice

from the working and stakeholder groups before making recommendations on the contents of the pack. For details about the working and central stakeholder groups see paragraphs 33 to 36.

31. In March 2003 ODPM published *The Home Information Pack in low demand low value areas* consultation paper for comments by the end of June 2003. The largest group of respondents were representative/trade organisations which made up 40 per cent of the responses. Other groups that responded included social housing providers (29 per cent), private and corporate businesses (17 per cent), government bodies and academics (7 per cent) and other individuals (7 per cent). See paragraphs 84 and 85.
32. It should be noted that DCLG has commissioned a benchmark study into the current operation of the housing market which will be published at the end of 2006. This will update the study *Key Research on Easier Home Buying and Selling* which was conducted in 1998.

Working and Central Stakeholder Groups

33. Throughout the development of the pack. DCLG and its predecessor Departments have discussed options and sought feedback on policy ideas from key external stakeholders via working groups, project boards and the Central Stakeholder Group (CSG).
34. The working groups were set up to consider each of the main policy areas in detail (e.g. the legal content of the pack and searches). Membership of the working groups was based on knowledge and interest. Their collective advice was then considered by the relevant project board, including the board advising on the components of the Home Information Pack.
35. The project boards comprised representatives from key industry and consumer organisations but were chaired by DCLG and its predecessor Departments.
36. The CSG was assembled to consider the industry wide impact of Home Information Packs. The CSG is made up of representatives from across the housing industry. This group meets on a monthly basis and their views are fed back to the programme board.

OPTIONS AVAILABLE

37. Three main options were identified:

- A. Do nothing.
- B. Impose a compulsory Home Information Pack, including a Home Condition Report, on everyone marketing homes for sale; including estate agents, home builders and private individuals marketing their own homes. Under this option every seller would have to assemble a Home Information Pack⁶ whatever the route that is used to sell their property.
- C. Impose a compulsory system on everyone, but exclude the Home Condition Report from the Home Information Pack.

Alternative Options Considered

38. Other options considered were:

- D. Try to achieve the Home Information Pack objectives by voluntary means (e.g. codes of practice etc).
- E. Only impose a compulsory system on those marketing homes as a business (e.g. estate agents).

39. Although previous attempts at voluntary reforms have not been successful, **Option D** might have some effect. For instance, if 10 per cent of sellers provided a Home Information Pack this could reduce the annual cost of failed transactions by up to £35 million. However this is probably overly optimistic. Transactions with Packs would become caught up in chains with other transactions without packs. Thus any time savings attributable to the presence of a Home Information Pack would probably be lost in these circumstances.

40. In addition, sellers who provided and paid for the Home Information Packs might find that they were expected to pay for these items again in their role as buyers. The Law Society's experience with its voluntary "TransAction" scheme is relevant here. When it was first introduced, sellers were encouraged to pay for a local search at the beginning of the process. This element of the scheme was dropped, however, when it became apparent that sellers were not willing to incur this cost voluntarily when there was a real risk of having to pay for the searches and surveys again as a buyer.

41. The results of the consultation on the contents of the Home Information Packs also found strong support for making the packs compulsory (see paragraph 21).

42. **Option E** would avoid involving private individuals in legal obligations and potential sanctions. Currently, less than 5 per cent of people choose to sell their home without involving an estate agent. This proportion might increase substantially, with the growth in home sale websites, particularly if marketing one's own home was a means of avoiding the cost of preparing a pack. It is likely that those with "something to hide" would be particularly attracted to this option.

43. Like Option D, transactions with a Home Information Pack would become linked with transactions without a pack. This would cancel out the benefits of the pack.

⁶ Consisting of legal documents, such as terms of sale and evidence of title, searches and information on the condition of the property.

44. There may also be unintended consequences as businesses may adapt their selling procedures with greater home seller involvement simply to avoid the requirement to produce a Pack. This would further reduce the proportion of homes marketed without a Home Information Pack and therefore further undo the intended benefits of the pack.

COSTS AND BENEFITS: SECTORS AND GROUPS AFFECTED

Firms Operating in the UK

45. Only firms operating in England and Wales will be affected by the Home Information Pack proposals. Under **Option A** there would be no change to any of these businesses.

Estate Agents and Others Marketing Property for Sale

46. There are approximately 11,000 estate agency offices in England and Wales⁷. As well as estate agents, house builders/developers also market properties for sale (there are over 19,000 builders/developers registered with the National House Builders Council, which covers 85 per cent of the market)⁸. There may also be some instances where conveyancers market properties for sale. Under **Options B** and **C** they would need to make changes to the way they operate, as they would no longer be able to market a property for sale until a Home Information Pack had been assembled. The changes required to their systems, business processes and any additional staff training required would mean additional expense in the short term (see paragraphs 154 to 157).
47. **Option B** would require the most radical changes, as this option sets out a new surveying process and introduces a new group of professionals (Home Inspectors).
48. However both **Options B** and **C** would create new opportunities, as well as reducing the cost of failed transactions (see paragraphs 129 and 130) for these businesses.

Mortgage Lenders

49. **Option B** would mean significant one-off setting up costs for the industry (see paragraph 155). There are, however, considerable savings that could be made by the industry following the introduction of the Home Information Pack, and the Home Condition Report in particular. DCLG has been working very closely with mortgage lenders to ensure that in the majority of cases lenders will be able to rely on the Home Condition Report, together with an automated valuation, to assess the condition of the property, rather than undertake their own separate physical valuation inspections.
50. The CML said they believe the Home Condition Report will be used in conjunction with other methods for valuation purposes in the majority of cases. However they say a physical valuation inspection is still likely to be required:
- where the loan to value ratio exceeds 80 per cent (32 per cent of all transactions, or approximately 40 per cent of cases where a mortgage is required);
 - for unusual properties; and
 - in cases where the buyer has a poor credit rating.

They also say they believe the proportion using the Home Condition Report in conjunction with AVMs, as opposed to a separate valuation inspection will increase over time.

51. Evidence suggests that lenders are already moving away from physical inspections (particularly where the loan to value ratio is low) in favour of credit checks on the borrower backed by automated valuation modelling, "drive-by" inspections and desk top valuations. Also, the Home Condition Report is considerably more comprehensive than the standard valuation survey currently in use. Thus, as the lending market is very competitive there is a strong argument that once lenders have confidence in the Home Condition Report they will eventually use it in the place of physical valuation inspections even in cases where the loan to mortgage ratio exceeds 80 per cent. However, for the purposes of this RIA we have assumed that the Home Condition

⁷ *The Estate Agency Market in England and Wales*, OFT, March 2004.

⁸ *The National House Builders Council Annual Review*, 2005.

Report will be used in place of physical valuation surveys in 50 per cent of cases in the early stages of the new system.

52. **Option C** would not mean any significant changes to the mortgage industry.

Private Search Companies

53. The proposals brought forward under **Options B** and **C** could have a considerable impact. Under the regulations commercial search companies will be able to provide search information for inclusion in a Home Information Pack. This will widen the market opportunities for these companies. However, unlike the existing system the regulations will specify standards of consumer protection which these companies must meet (e.g. terms of insurance cover).

54. It should be noted that because the Home Information Pack will need to be produced before the property can be marketed for sale there will be an increased focus on speed of delivery for search products. This will affect local authorities as well as private search companies (see paragraphs 65 and 66).

Establishment of the Certification Schemes

55. Responses to the consultation paper *The Key to Easier Home Buying and Selling* indicated that people's main concern over the inclusion of a Home Condition Report in the Home Information Pack (**Option B**) was that the report would not be seen as independent, because it will have been commissioned by the seller. To address this concern - and to ensure that buyers and lenders can trust the Home Condition Report (see paragraph 23) - Home Inspectors will be required to register with a Certification Scheme. It is envisaged that there will be more than one Certification Scheme approved by the Secretary of State. They will be responsible for ensuring that Home Inspectors and Home Condition Reports meet the standards set by DCLG.

56. DCLG will set the standards in home inspection. The Certification Schemes will be responsible for:

- Enforcing the professional standards DCLG sets for Home Inspectors. This will include checking that applicants meet and maintain the schemes' requirements for membership.
- Maintaining a public register of Home Inspectors it has registered. However the exact nature of the register and how it will operate will be determined by the schemes themselves.
- Storing the Home Condition Reports produced by their members and lodging them with the Home Condition Report register owned by Government. Sellers, buyers, agents and mortgage lenders will - via a portal - be able to access to the Home Condition Reports stored by the Certification Schemes. Access to Home Condition Reports will be restricted to those with a direct interest in property to which the Home Condition Report refers.

57. The Certification Schemes might be professional bodies or commercial organisations run by industry. As there will be more than one, the Certification Schemes will compete on price and quality of service. However they will only be able to operate with the approval of the Secretary of State and must uphold the standards in home inspection set by DCLG.

58. We anticipate that Home Inspectors will register with one or more of the Certification Schemes. Upon registering, the Certification Scheme will be responsible for ensuring that they are "fit and proper persons"⁹ and that they have the necessary qualifications and insurance.

59. As explained in paragraph 10, the requirement for the seller to provide an Energy Performance Certificate will have to be introduced irrespective of whether or not there is a Home Condition

⁹ The term "fit and proper person" comes from the Section 164(5)(a) of the Housing Act 2004 and refers to the trustworthiness of individuals who work as Home Inspectors. The Certification Schemes will have to meet criteria given by the Secretary of State to prove that they are adequately assessing whether or not an individual is a "fit and proper person" to be a Home Inspector.

Report. Therefore, even under **Options A** and **C**, systems, processes and possibly organisations would need to be put in place to ensure the smooth introduction and running of the Energy Performance Certificate regime.

Voluntary Organisations and Charities

60. Housing Associations that market properties for sale on the open market would be affected by the Home Information Pack requirement, though sales to sitting tenants are unaffected by these proposals. This represents an additional expense for these organisations. The cost to such organisations will be higher under **Option B** than they would be under **Option C**, simply because the pack would include a Home Condition Report. It would, however, be unfair if those buying from such organisations could not benefit from having information about the property in the same way as other consumers.

Employees

The surveying profession

61. Under all options, obligations need to be met under the EU Directive 2002/91/EC 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”. All options allow flexibility on the way this Directive could be implemented. If we follow **Options A** or **C** then surveyors would need to adapt to accommodate the introduction of the Energy Performance Certificate.
62. The introduction of the Home Condition Report under **Option B** would mean significant changes to the surveying profession. The inclusion of a Home Condition Report in the Home Information Pack will result in increased business for surveying firms. DCLG has estimated that 5,000 to 7,400 Home Inspectors will be needed to carry out the expected number of Home Condition Reports¹⁰. It is estimated that around 4,500 chartered surveyors and other professionals do the work of carrying out surveys under the present system.
63. However in order to take advantage of the new opportunities existing surveyors will need to obtain a diploma in home inspection (see paragraphs 145 to 148). This will ensure that both new entrants and those that have worked in the industry before have the same understanding of what is required under the new system.
64. Discussions with the insurance industry suggest that the Home Inspectors' liability for negligence to buyers, sellers and lenders is, in itself, unlikely to result in any significant increase in the cost of professional indemnity insurance. The proposed quality and monitoring systems will give confidence in the standard of the Home Condition Reports and the Home Inspectors who will complete them. Further research is being undertaken into appropriate insurance arrangements for Home Inspectors.

The Public Sector

Local Authorities

65. The Government has responded to the OFT report *Property Searches – A Market Study*, published in September 2005. The report highlights a number of problems with the current search market. Two main issues identified by the study are that it is not always easy for private search companies to access the information they need to complete searches and that searches from Local authorities range from around £50 to £270 with no obvious justification for such a large price differential. The OFT report states that the Home Information Pack requirement will mean that the ability to access accurate search information quickly and cost effectively will become increasingly important. If searches cannot be obtained within 14 days properties could be marketed with Packs that omit the search information. This will mean that some potential buyers will not benefit from the full Home Information Pack from the outset as intended. Also, if the cost of providing a search is high it will increase the cost of the Pack. Therefore any

¹⁰ “Report on the Number of Home Inspectors Required from Introduction of Home Information Packs”, DCLG, April 2006.

improvement in the search industry in terms of service and value for money will aid the introduction of the Home Information Pack.

66. The Government has accepted the recommendations made in the OFT report and is currently considering how these can be implemented in time for Home Information Packs. The principal recommendation is that local authorities should make available the raw data used to compile search replies on terms that do not put private search companies at a disadvantage.
67. Local authorities will also be responsible for enforcing the legislation (see paragraphs 190 to 197).

Consumers

68. If there was no change to the housing market (**Option A**) then there would be no change to consumers' experiences of buying and selling homes and the very high levels of consumer dissatisfaction would continue. In addition sellers would have to pay separately for an Energy Performance Certificate. The work required to produce an Energy Performance Certificate is similar to that for a mortgage valuation, for which the average cost is currently around £250.

Impact on Individual Consumers

69. **Options B and C** would result in some significant changes for consumers. Most of the information included in the Pack is currently provided in the existing home buying and selling process. However under the Home Information Pack proposals the information will be made available at the start of the process, rather than once a sale has been agreed.
70. Under the proposals, marketing cannot start without a Home Information Pack being in place. The experience of firms already providing pre-sale packs on a voluntary basis demonstrates that it is possible, in most cases, to assemble a complete pack within ten working days. The Home Information Pack regulations provide that in cases where certain components of the pack cannot be obtained within a reasonable time (14 days) the property can be marketed with an incomplete pack, provided that continuing efforts are made to obtain the information which will be added to the pack as soon as it is available. This will ensure that the Home Information Pack requirements do not impose an unreasonably long delay in marketing.
71. Concern has been raised that some sellers could face difficulties in paying for a Pack before their property was sold (**Options B and C**). This is more of a concern for **Option B** as the seller will be responsible for providing a Home Condition Report (the most costly item in the pack), whereas under **Option C** the buyer would purchase any survey. However the industry has indicated that it will respond to this concern. For example, some agents may offer at least part of the service "free" in order to attract additional customers. Others may incur the costs and defer all fees and charges until the sale is completed. In fact, the most successful pre-sale packs schemes currently in operation do not charge sellers up front for the service.

Reducing the Time Taken to Buy and Sell Homes

72. Our research shows that a typical transaction takes ten weeks from offer acceptance to completion. Eight weeks of this time is spent moving from offer acceptance to exchange of contracts. **Options B and C** could shorten this period significantly, as the pack will make important information about the property available when the terms of sale are first agreed. This should reduce the likelihood that the sale will need to be renegotiated at a later point.
73. Home Information Packs should also enable the parties to exchange contracts earlier than is usual under the present system. The extent of the time saving would depend on factors such as whether the transaction is part of a chain. The problem of lack of transparency in chains of transactions is being addressed by the Land Registry's e-conveyancing initiative. We would expect the period between offer acceptance and exchange to be reduced by around half. This would bring the time taken to buy and sell a property in England and Wales in line with the average timescales of other countries.

74. Also, information about the property will usually only have to be gathered once because it will only need to be assembled by the seller when the property is put on the market and not by each individual buyer. Under the present arrangements multiple surveys and searches can be undertaken on the same property where more than one buyer is interested or else where transactions break down.

Impact in the Market and Consumer Choice

75. Research carried out by the UK's largest estate agency group, Countrywide Assured Group PLC, found that 13 per cent of their customers would delay marketing or not try to sell at all if there was a requirement to provide a Pack which they had to pay for up front. Thirteen per cent corresponds closely with the 15 per cent of Countrywide's customers who withdraw their property from the market. Countrywide suggest that many of these are not serious sellers and it would be these people who would be deterred from entering the market if they had to provide a Home Information Pack. The conclusion of the research was that the introduction of the Pack would make little difference to the number of properties that were genuinely available to buyers, and that the volume of transactions would remain broadly unchanged¹¹. This conclusion is supported by evidence from estate agents who are currently providing packs¹¹ on a voluntary basis.
76. However the industry accepts that sellers will often wish to defer paying for packs until later in the transaction and are adapting accordingly. Our discussions with estate agents and others confirm that they are devising alternative ways for sellers to pay for Packs. This is supported by the fact that a number of the voluntary pre-sale pack schemes currently in operation do not require sellers to pay for the pack until the sale has been completed.
77. The alternative way of looking at any drop in the number of properties on the market is that the homes on the market will be those with serious sellers who genuinely want to sell their properties (rather than people who are simply testing the market). This means that buyers will have a more accurate picture of the market and the properties available.
78. Others take the view that there may be an increase in properties marketed in advance of introduction followed by an initial drop in the number of properties put up for sale, but that the market would soon bounce back. Other countries that have introduced similar reforms (e.g. Denmark and New South Wales, Australia) have not experienced any long term impact on the number of completed sales.
79. Indeed, it could be argued that if a greater proportion of transactions were successful this would benefit consumers, even if there were fewer properties on the market.
80. As is sometimes the case now, sellers may wish to market their property with more than one agent. Informal feedback from meetings/conferences with estate agents suggests that multi-listings would become less common. However, other informal feedback suggests that the market is looking to adapt to accommodate multi-listings under the Home Information Pack system.

¹¹ *Seller's Packs unlikely to reduce volume of house sales*, Countrywide Assured Group plc Press Release, 23 Nov 2000.

81. Under both **Options B** and **C** the demand for searches would be expected to fall. Although it is not a statutory requirement, it is standard practice for these to be obtained by the buyer at some stage during the current process. However, it should be noted that under the current system buyers purchase the searches and this responsibility would be transferred to the seller under both options with the result that searches would not need to be repeated if a transaction falls through.
82. The draft Home Information Pack regulations make provision for searches from private search companies to be included in the pack. Searches produced by private search companies are often cheaper than the local authority equivalent and many also offer more flexible payment arrangements (including the provision of "no sale no fee" arrangements).

Trust in the Home Condition Report

83. It will be vitally important that buyers, sellers and mortgage lenders can trust the Home Condition Report (**Option B**). However, research carried out with a group of people who had recently bought a home and commissioned their own survey¹² revealed that almost two thirds of them would trust a survey commissioned by the seller. Of those who were doubtful, more than half said they would change their mind if the survey was in plain English, easier to understand and acceptable to mortgage lenders for valuation purposes. The Yorkshire Bank's Housebuyers Survey published in January 2003 revealed that fewer than two in ten house buyers said they would not trust a survey provided by the seller.

Consumers of Low Value and Low Demand Housing

84. The Government has commissioned independent research^{13 & 14} into the potential effect of **Option B** in areas affected by low demand and low value. The research found that both buyers and sellers saw advantages in having a Pack. Although the upfront cost of the Pack was a matter of concern to sellers and local professionals it was recognised that the proposals could lead to a better functioning market in these areas.
85. The Government consulted separately on the findings of the research and on various options that would remove or modify the requirement to provide a Home Information Pack in areas of low demand and low value¹⁵. The most popular option was for it to be left to the market to provide solutions to any problems that Packs may present. The most unpopular option was, in fact, to exempt low demand low value areas from the duty to provide a pack. The reason given for this view was that this would further stigmatise these properties and simply add to the problems of these areas.
86. Therefore, Home Information Packs will be required for all properties, even those in low value and low demand areas. However, this policy will be kept under review and could be revised in future regulations.
87. While the government has not consulted separately on **Option C** it seems reasonable to believe that the findings of the research can be transferred to this option. It is worth noting that because the Home Information Pack would not include a Home Condition Report this would mean lower costs for sellers. However, low demand low value areas would not be exempt from the requirement to provide an Energy Performance Certificate.

The Rural Economy and other Rural Considerations

¹² *Home Valuations and Surveys*, BBG Surveyors, Spring 2001.

¹³ *Buyers and sellers perspectives of home information packs in low demand low value areas*, Robertson and Whitehead, ODPM 2003.

¹⁴ *The potential impact of the home information pack in low demand low value housing markets*, Robertson, ODPM 2003.

¹⁵ *The home information pack in areas of low demand and low value*, ODPM 2003.

88. There is no reason to believe that a requirement for a Home Information Pack (with or without a Home Condition Report) will have any effects particular to rural areas.

The Environment

89. None of the options identified would have a significant impact on the environment. As stated in paragraph 10, whatever option is followed, the Energy Performance Certificate will need to be introduced into the home buying and selling process.

Race Equality Assessment

90. The ODPM commissioned COI Strategic Consultancy to investigate the impact of Home Information Packs (**Option B**) on ethnic and other minority groups¹⁶. They examined the effect of the Pack and Home Condition Report requirements on a number of groups - including the Black Minority Ethnic (BME) and the Gypsies and Traveller Community - by talking directly to organisations which represent these communities.
91. The study found that, in general, BME home buying/selling behaviour is consistent with the mainstream community. The Indian, Black Caribbean and Pakistani communities are well established in the property market. The Chinese community is also well established but smaller in size. There is no reason to think that Home Information Packs would have a particular impact in these groups.
92. The Bangladeshi community is less well established in the property market but again there is no reason to think that the introduction of the Home Information Packs would interfere with their ability to buy and sell property. For new communities (e.g. Somali, Iraqi and Afghan) trying to establish themselves in the UK, home buying/selling is not a priority.
93. The Home Information Pack was generally perceived as beneficial by BME communities. There were some concerns about language being a barrier to accessing the pack. However, we believe that this has been addressed by the provision in the regulations for Home Information Packs to be produced in an additional language to English (or the Welsh language in Wales). While sellers will not be required to provide Packs in any language other than English, they will be able to do so if they wish. They may decide that to do so will increase their chances of the sale being successful.
94. As home buying is uncommon in the gypsy and traveller community this was not seen as a priority issue for this group.
95. Section 156(4) of the Housing Act 2004 allows a seller to decline requests for copies of the Home Information Pack in certain instances. Section 156(4)(c) permits a seller to refuse a copy of the pack if the buyer "is not a person to whom the seller is likely to be prepared to sell the property". However, this section does not override existing laws concerning racial, sexual and other types of discrimination. This section simply reflects the current position where sellers can choose whether or not to sell their home to a particular person. An example where section 156(4)(c) may apply is where a seller wishes to sell their home to a buyer who will live in the property on a permanent basis, rather than use it as a holiday home.

Impact Assessment on Other Groups in Society

Gender

96. Home inspection (created under **Option B**) could work very well as a career with flexible working hours. In fact, there may well be considerable demand for such a service as sellers

¹⁶ ODPM *Home Information Pack Scoping*, COI Strategic Consultancy, September 2005.

may want to be present when the inspection takes place and may be at work between 9am and 5pm. There would therefore be opportunities to complete home inspections in the evenings or at weekends. This would be particularly suitable for people who want to work but have additional responsibilities, such as caring for children or elderly relatives. As carers tend to be female the career opportunities created under this option could particularly benefit women.

97. The COI study looked at the impact of Home Information Packs on the Lesbian, Gay, Bisexual and Transgender communities. Generally the Home Information Pack was seen as beneficial by these groups. There was some concern around privacy in the Transgender community. However, the Home Condition Report will not contain any personal data so we do not believe that this will be a problem in practice.

Age (old and young)

98. It seems likely that the Home Information Packs (**Option B**) will have differing impacts on old and young people. Elderly people are more likely to be leaving home ownership, e.g. moving to a care home, and are therefore more likely to pay for a Pack without the compensating benefit of receiving a pack for a home they are buying. However, vulnerable groups such as the elderly will particularly benefit from having a faster, less stressful and more certain system. Also, the cost of producing the pack will be relatively small in comparison with the value of the sale.
99. Young people will potentially gain under the arrangements set out in **Option B**, as first time buyers tend to be younger people (see paragraphs 114 to 136).
100. **Option C** would have a similar impact on the young and old as Option B. However, the cost of producing the pack would be reduced as it would not contain a Home Condition Report, although the cost of providing an Energy Performance Certificate would remain. The savings would also have to be set against the cost of additional surveys by the buyer. Also, as is the current situation, any structural problems with the property will not come to light until after an offer has been accepted. If a sale does fall through and the buyers then have to find an alternative property they may then need to get a survey for the new property so they will ultimately pay for two (or more) surveys.

Physical/Learning Disabilities

101. The COI study also looked at the impact Home Information Packs will have on disabled people. The study highlighted a requirement for a special database (of Home Condition Reports) to provide access to those with disabilities. We believe that there are three main access issues for those with disabilities:
- *Gaining copies of the pack that they can read.* The Home Information Pack legislation authorises sellers to make versions of their pack available in an alternative format e.g. Braille and large text. Under the existing system there is no requirement for any of the documentation used during the home buying and selling process to be made available in different formats. Therefore, the introduction of Home Information Packs will certainly not worsen, and could improve, the situation for certain disabled people.
 - *Accessing the register of Home Inspectors.* The details of how the register will work will be determined with Certification Schemes. We believe that existing solutions, e.g. specialist software, will be able to be used under the Home Information Pack system.
 - *Accessing the Home Condition Report archive to check that the Home Condition Report provided in the Home Information Pack has not been tampered with in any way e.g. there are no pages missing.* The details of how the Home Condition Report archive will work will be determined with Certification Schemes.

Health Impact Assessment

102. If **Option A** were followed, then the current home buying and selling process, and subsequent impact on health would remain unchanged.

103. It is anticipated that Home Condition Reports (**Option B**) should lead to an improvement in the housing stock, as repairs and maintenance work will be brought to the seller's and buyer's attention. One of the benefits of this is that accidents that occur due to faulty trade work, poor maintenance or simply work completed to out of date safety standards could be reduced. For example, Home Inspectors would report if internal glass doors were not fitted with the correct safety glass. This is something which has been included in the Home Condition Report following a case where a child died after running into a glass door.
104. The Energy Performance Certificate, due to be included in the Home Condition Report (Option B), will bring to people's attention the cost benefits of making their homes more energy efficient. The Energy Performance Certificate will also advise consumers on how the energy efficiency of their property can be improved. This is likely to benefit elderly people on lower incomes in particular as it will provide advice on cost effective ways to reduce their energy bills making it easier for them to maintain their homes at a comfortable temperature.
105. Research suggests that buying and selling is one of the most stressful life events people can go through. Both **Options B and C** would improve the transparency of the home buying and selling process and therefore reduce delays and transactions failures. This should make the whole process less stressful. However, because we believe that information on the condition of a property is key to the success of a transaction we believe that consumers would receive greater benefits if we followed Option B.

BREAKDOWN OF COSTS AND BENEFITS FOR OPTION A

Benefits

Economic

Consumers

106. If we follow this option then the current home buying and selling process will continue unchanged, meaning that consumers would not have to adapt to a new system.

Housing Industry

107. Estate agents, lenders, surveyors, solicitors and private search companies would be able to continue operating their current business processes. There would be no need for additional investment or staff training.

Environmental

108. There are no environmental benefits of this option. Article 7 of the EU Directive 2002/91/EC will have to be implemented irrespective of whether or not the Home Information Pack is introduced. Thus the benefits of the Energy Performance Certificate (EPC) will occur whatever option is chosen.

Social

109. There is no evidence to suggest that there would be any particular social impact if this option were followed.

Costs

Economic

110. If we follow this option then the current home buying and selling process will continue unchanged. The cost of following this option is that none of the problems with the current home buying and selling process will be addressed, at least in the short term. According to our analysis, Option A would be the most expensive process for consumers costing an estimated £1.90 billion in 2009 when the EPC will have to be implemented (see Annex C).

111. Under this option the survey would be commissioned and paid for by the buyer (as is the case now) and the EPC would have to be provided by the seller. The work required to produce an EPC is similar to that for a mortgage valuation, for which the average cost is currently around £250. (see Annex B). This means that the additional cost to the consumer of providing the Energy Performance Certificate could be £400 million a year¹⁷.

Environmental

112. There is no evidence to suggest that there would be any adverse environmental impact if this option was followed.

Social

113. There is no evidence to suggest that there would be any adverse social impact if this option was followed.

¹⁷ This figure is based on the estimated average cost for a standalone Energy Performance Certificate (£250), multiplied by the number of properties marketed pa (1.6 million).

BREAKDOWN OF COSTS AND BENEFITS FOR OPTION B

Benefits

Economic

Consumers

114. The Home Information Pack will mean that key information about a property is made available before an offer is accepted. Therefore everyone involved in the process will be made aware of any problems with the property before they make an offer, which should reduce the likelihood of transactions failing or needing to be renegotiated. Research indicates that 28 per cent of transactions fail between offer acceptance and completion. This costs consumers over £350 million per annum (see paragraph 16). The 28 per cent failure rate is made up of:

Reason for failure	Percentage of Failed Transactions	Percentage of Total Transactions Affected
Failure due to unfavourable property survey (at whatever level)	13%	3.64%
Failure due to unfavourable valuation survey	30%	8.40%
Gazumped/second offer	14%	3.92%
Decided to sell to someone else	14%	3.92%
Unacceptable delays	11%	3.08%
Other	18%	5.04%

More recently evidence from YouGov (March 2006) on first time buyers suggests that sales fail for the following reasons:

Reason for failure	Percentage of Failed Transaction	Percentage of Total Transactions Affected
Failure due unfavourable property survey (what ever level)	23%	6.44%
Failure due to unfavourable valuation survey	8%	2.24%
Decided to sell to someone else	23%	6.44%
Unacceptable delays/chain broke down/seller took the property off the market	27%	7.56%
Other	19%	5.32%

115. We estimate that the introduction of Home Information Packs could reduce the current failure rate to 16 per cent¹⁸. This is probably a conservative estimate as

¹⁸ This is based on a reduction in transaction failures which occur as a direct result of surveys, which the Home Condition Report will address. However, it should be noted that Home Information Packs will also provide other information which should reduce the number of transactions which fail or are delayed for other reasons.

evidence from one estate agent who already provides a pre-sale pack is that they reduce transaction failure to just over 3 per cent¹⁹.

116. Of the £350 million estimated to be spent by consumers each year on failed transactions we estimate that approximately £150 million is attributed to the findings of the buyer's own survey or the mortgage lender's valuation inspection. Put another way, 30 per cent of the transactions which fail between offer acceptance and completion do so after the lenders valuation has revealed problems with the condition of the property and a further 13 per cent as a result of the finding of a survey commissioned by the buyer².
117. Condition related problems also cause delays in transactions which ultimately succeed. 12 per cent of all sellers report such problems between the lender's valuation inspection and exchange of contracts². Therefore, providing information about the condition of the property at the very start of the process should substantially reduce this particular cause of delays and failures.
118. Sixty per cent of transactions form part of a chain and the average chain consists of four transactions. Therefore for every transaction that fails or is delayed three other transactions are normally affected. Reducing the number of delays and failures in the system will benefit more consumers than simply those directly involved in any single transaction.
119. We also expect offsetting savings from a reduction in the number of lenders' valuation inspections (see paragraphs 50 and 51).
120. Home Condition Reports will be used in conjunction with both AVMs and desktop valuations. Evidence from Rightmove (which is expected to be a major pack provider) is that the cost to a lender of producing a valuation with an AVM is £10 to £12 and that a desktop valuation should cost the consumer around £50 (see Annex B).
121. It should also be noted that while the Home Condition Report will not include a valuation some Home Inspectors are investing in an additional qualification developed by the CML to enable them to value properties. This will mean that they will be able to provide a valuation report to the mortgage lender at a reduced cost without the need for additional valuation inspection.
122. Including the Energy Performance Certificate in the Home Condition Report will mean that the EPC is cheaper to produce. As stated earlier, the work required to produce a free standing Energy Performance Certificate is similar to that for a mortgage valuation for which the average cost is currently around £250 (see Annex B). The work required to produce a Home Condition Report (including an Energy Performance Certificate, but without a valuation) will be similar to existing mid-level surveys that include a valuation but not an Energy Performance Certificate (such as the Home Buyers Survey and Valuation). We

¹⁹ Figure quoted in evidence given to ODPM: Housing, Planning, Local Government and the Regions Committee by Maria Coleman (estate agent and voluntary Pack provider) on 17 June 2003.

estimate that, on average, a Home Buyers Survey and Valuation currently costs £400 for the average property (priced between £150,000 and £200,000). On this basis we have assumed for the purposes of this analysis that an HCR would also cost around £400 (see Annex C). However, this does not take account of innovation and competitive pressures in the new market place that will be created following the introduction of Home Information Packs which could reduce this price.

123. Including an Energy Performance Certificate in the Home Condition Report for all sales will mean that in some cases an energy efficiency assessment will be provided more than once every ten years (the EU directive requires that the energy certificate should be no more than ten years old at the time of the sale), as properties are sold on average every seven years.
124. Overall, we estimate that including the Energy Performance Certificate in the Home Condition Report will bring a cost saving, relative to the baseline where the Energy Performance Certificate would be produced through a standalone survey. In present value terms, delivering the Energy Performance Certificate through the Home Condition Report could be 15 to 20 per cent cheaper²⁰. This saving will partly offset some of the cost of Option B.
125. The production of a Home Condition Report will result in more realistic pricing of properties, with prices reflecting the problems and the cost of any necessary repairs revealed by the report. The Home Condition Report will also reduce the likelihood of unexpected repair bills (as the Home Condition Report will highlight any work that needs to be undertaken in the short to medium term). According to research carried out by a major firm of estate agents, 18 per cent of buyers who relied on their mortgage lender's valuation faced unexpected repair bills within the first four months of moving into their new home. In 48 per cent of cases the repair bills amounted to £500 or more and in 17 per cent of cases the bill was over £1,000. The survey also revealed that one fifth of buyers used their surveys to renegotiate the purchase price and almost half of these saved £1,000 or more²¹. Research by YouGov (March 2006) found that over a third of first time buyers who did not have a survey faced unexpected repairs when they moved in, with the average bill costing £1,400. Potentially these costs could be avoided by the inclusion of the Home Condition Report in the Home Information Pack.
126. First time buyers will especially benefit from the Home Information Pack because they will be provided with information about a property, which they would have to commission and pay for themselves under the present system. It could be argued that sellers will simply add the cost of producing the pack onto the cost of the house. However, the Home Information Pack will mean that first time buyers (or any buyers for that matter) are not disadvantaged if the seller

²⁰ This calculation considers the costs over a 30 year period and uses estimates of numbers of repeat sales within a ten year time frame. Survey costs are assumed to increase in line with inflation and the future flow of costs are discounted by 3.5 per cent.

²¹ "Home Valuations & Surveys" A report from BBG Surveyors, October 1999.

decides to pull out of the sale. Under the existing system if the seller decides to pull out, the buyer will often have paid for a survey which is then obsolete.

The Surveying Industry

127. The introduction of the Home Condition Report will result in an increase in business for the surveying profession. It is estimated that currently only 30 per cent of home buyers commission a Home Buyers Survey and Valuation, 45 per cent simply rely on the mortgage valuation inspection, so the fact that the Home Condition Report will be a mandatory part of the Home Information Pack will generate extra business for this industry. Although existing surveyors will need to gain the Diploma in Home Inspection we believe that the extra business they will gain under these proposals will far outweigh the short term cost of this training.

Estate Agents

128. Discussions with industry at the time the Housing Bill went through Parliament suggest that each failed transaction costs an estate agency business between £350 and £500. Based on the findings of *Key research into easier home buying and selling*, 467,000 sales per annum fall through between offer acceptance and completion. Thus we estimate that the total cost to estate agents of failed transaction is in the region of £140 to £234 million. These wasted costs are currently reflected in the fees charged to successful sellers. If the number of failed transactions was lowered then the cost of abortive sales would be subsequently reduced. Also, estate agents would spend less time on transactions which ultimately do not result in a sale. In a competitive market this would provide an opportunity for estate agents to pass these savings on to sellers.

New Business Opportunities

129. The introduction of Certification Schemes will create new opportunities for businesses and professional bodies. However it is not possible to predict what profit these schemes will make, as this will depend on market conditions, the schemes' marketing strategies and the number of Home Inspectors they are able to attract as members. The setting up of the Certification Schemes will also create employment opportunities.

130. Informal consultation with business suggests that if either **Option B** or **C** were introduced then a new business of Home Information Pack providers would be created. Pack providers could supply packs directly to the public or create alliances through estate agents. A number of these businesses are already being established, or are in the early stages of operation. There are already many pack providers currently testing products on a voluntary basis. We expect this activity to increase as 1 June 2007 approaches.

131. Home Inspectors will have to be insured. This will create a new area of business for insurance companies and should offset any loss of business caused by the expected decline in the number of home buyer and valuation surveys undertaken. Discussions with leading insurers suggest that they will be willing to provide cover to Home Inspectors. DCLG will publish the minimum insurance standards in June 2006. However, because we do not know what the market conditions will be it is not possible to predict how valuable this business will be.

Costs and Benefits to Industry to be Finalised

132. With the encouragement of DCLG, Home Information Packs are already being trialled voluntarily by some suppliers as part of a Dry Run. Already nearly 5,000 packs have been produced (mostly without any form of survey). From October this year we expect packs to be produced including full home condition reports. By January we expect lenders increasingly to use the packs as a basis for assessing the type of mortgage valuation required. Participants in the Dry Run are providing regular statistical returns to DCLG and these will help us to progressively refine the estimates of costs and benefits. The RIA will be updated as new information becomes available.

Environmental

133. Under this option a new Energy Performance Certificate will be included in the Home Condition Report. The fact that a new Energy Performance Certificate will be completed each time a property is marketed for sale will mean that consumers will receive:

- the most up to date information on the energy efficiency of the property they want to buy; and
- up to date advice on the most cost effective way of improving the energy efficiency of their home.

134. Energy efficiency is linked to the cost effectiveness of running a home so the more energy efficient a property is, the less it costs to run. It seems likely that the improvements home owners choose to make will be the ones that most significantly reduce the cost of running the property, and thus those that most significantly benefit the environment.

135. The Home Condition Report is expected to lead to an overall improvement in the housing stock. There is a considerable backlog of repair work that needs to be carried out in the private sector. The Home Condition Report may well encourage both buyers and sellers to carry out necessary repairs. Sellers may well address problems highlighted in the Home Condition Report to make their property more appealing to prospective buyers. Buyers will be able to plan for any necessary repair work that has been reported in the Home Condition Report which, without a survey, may have been overlooked.

Social

136. There is no reason to think that this proposal would have any particular social benefit or disbenefit.

Costs

Economic

Consumers

137. Most of the components of Home Information Packs are provided and paid for in the current home buying market. Based on industry charges in the current market we estimate the average cost of assembling the Home Information Pack would be in the region of £660 excluding VAT.

Item	Cost
Home Condition Report	£400
Local Searches	£150
Legal fees for checking the pack	£100
Office Copy Entries	£10
TOTAL	£660

138. However, the cost of the Pack will not be fixed, instead it will be determined by market forces. The price charged will also depend on the location, size and condition of the property.

139. The introduction of Home Information Packs will radically change the way the home buying and selling market operates. Innovation and competition within this new market should exert a downward pressure on prices.

140. Most of the costs involved in assembling a Home Information Pack are not additional costs. Most of the documents to be included in the pack provide information that is already required as part of the current home buying and selling process. The only new item is the Home Condition Report. This will only be an additional cost in the following scenarios:

- where a survey would not have been purchased under the existing system²² (under the current system 23 per cent of successful transactions take place without any kind of survey);
- the lender requires a separate valuation inspection (see paragraph 50); and
- an additional survey where the buyer wants or needs a more detailed survey or does not trust the Home Condition Report.

There will, however, be exceptions from the duty to have a Home Condition Report. Exceptions include new properties that have warranties (which meet the requirements set out in the regulations) and any general exceptions from the Home Information Pack requirements (such as mixed use sales, e.g. a shop with a flat above it being sold together).

141. Where a Home Condition Report is not required, sellers will still have to pay for the Energy Performance Certificate.
142. **Option B** will result in a redistribution of costs between buyers and sellers. This will make the system fairer and ensure that information about a property only needs to be obtained once. Annex C compares the cost of the current home buying and selling system (Option A) with the estimated cost with the Home Information Pack containing a Home Condition Report (Option B).
143. The Home Information Pack will not have a prescribed shelf life. Sellers will be able to re-use the pack if the property is taken off the market once a sale is agreed but is then remarketed because the sale falls through (provided the property is returned to the market within 28 days). Nevertheless, some properties will be put on the market but will not be sold. In those cases the cost of assembling the Pack would be wasted (although the home owner will have an authoritative report on the condition of their home). However, we would expect the market to be flexible enough to meet the problems that might arise. For example, current pre-sale pack schemes offer to defer fees until the sale has completed. Insurance against the possibility of the sales falling through and the cost of the pack being wasted is also available.
144. Under the Housing Act 2004 sellers have (with certain limited exceptions) to provide copies of the packs to potential buyers on request. The cost of making and posting paper copies can be recovered.

The Surveying Profession

145. There is not a flat fee for training as a Home Inspector. The cost will vary depending on an individual's prior experience and existing knowledge:
- **Qualified chartered surveyor or those with some relevant experience:** Based on quotes from all assessment centres offering Home Inspector training for chartered surveyors, we estimate that the cost of courses range from, £1,600 to over £2,500, although most courses cost around £1,600 to £1,800²³. However, the cost of training as a Home Inspector can be offset against the cost of Continuing Professional Development (CPD) (£450) which is already undertaken by surveyors.

²² According to *Key research on easier home buying and selling*, only a minority (approximately 30 per cent) of buyers currently obtain an independent mid level survey such as a HSV. Less than 2 per cent obtain the more detailed building survey. Most buyers rely on their lender's valuation inspection, for information on property condition (45 per cent).

²³ Based on prices given by Assessment Centres that have been approved by the Awarding Body for the Built Environment, November 2005.

It should also be noted that, because the diploma in home inspection is vocational, existing skills and experience will be taken into consideration. For example existing chartered surveyors can qualify as Home Inspectors through the “experienced practitioner” and chartered surveyors who are employed can use the standards specified by their employer as evidence needed to gain their diploma through “quality assured” route. Both schemes will reduce the time taken to qualify as a Home Inspector and therefore the cost.

- **Candidates with no relevant experience:** Based on quotes from all assessment centres offering this training we estimate that the cost of training for this particular group varies from around £6,700 to £8,000 - this including both standard length courses and fast track programmes. There are also courses in home inspection that are subsidised by the Learning and Skills Council (ie those available from Further Education Courses) which cost less than the average market rate - in some cases less than £700.

In future, school leavers can reasonably be expected to enter into this field. The cost of training to these individuals would be no different than the arrangements made for other qualifications at a similar level. All trainee Home Inspectors who undertake an ABBE course will have to pay the ABBE registration fee of £350. This is included in the cost of some courses but not all.

146. Home Inspectors will be required to maintain their skills and qualifications. The estimated cost of this ongoing training for the profession as a whole is estimated to be between £2.25 million and £3.33 million pa²⁴. However, this must be offset against the current cost of ongoing training for surveyors and the cost to consumers if Home Inspectors do not have up to date knowledge and/or skills.
147. There are loans available (such as a Career Development Loan from the DfES) to help trainee Home Inspectors cover the initial cost of training. Also, once a person has qualified as a Home Inspector we expect that they will be able to recoup the cost of the training through the additional business they will gain producing Home Condition Reports.
148. Those who wish to work as Home Inspectors will also be required to become a member of a Certification Scheme. It is not possible to predict the fee for joining a Certification Scheme with any certainty, as it will be set by schemes that have not yet been established. Direct comparisons and therefore estimates are difficult to make; the RICS membership fee for a chartered surveyor is over £350. However it should be noted that RICS is not just a Certification Scheme but offers many other benefits, such as representation. To become a certified CORGI fitter the registration is also over £350. However, this is not directly comparable to Home Inspectors since it covers a different area of work from that of a Home Inspector.
149. Buyers, sellers and mortgage lenders must be able to rely with confidence on the Home Condition Report and Home Inspectors’ integrity and independence must be unquestionable. The Certification Scheme will be required to ensure that their members are “fit and proper persons” (section 164 (5)(a) of the

²⁴ Estimate based on current cost of CPD for surveyors (£450) and a range of 5,000 to 7,400 Home Inspectors.

Housing Act 2004). This includes conducting a Criminal Records Bureau (CRB) check before accepting the Home Inspector as a member. The check involves a form to be completed by the Home Inspector - including personal details such as name, address, details of referee) and the Certification Scheme (including details on the identity checks that have already been carried out on the potential Home Inspector by the scheme itself. Because this is subsumed within the wider application process the administrative burden to the Home Inspector and the Certification Scheme will be negligible.

150. There will be initial set up costs for Certification Schemes. We anticipate that Certification Schemes will become Registered Bodies with the CRB, which attracts a fee of £300. It is not possible to predict the total cost to the Certification Schemes' registration process, as these bodies are not yet in existence and it is not possible to know how many schemes will be approved by the Secretary of State.
151. A single standard CRB check is £31. The table below assumes that they will be covered by the individual Home Inspectors, either directly, or passed on by the Certification Scheme through membership fees. The range is due to the fact that the total number of Home Inspectors will be affected by factors such as working methods and productivity of Home Inspectors.
152. The CRB check is a one off-cost, so there will be no continuing costs for Certification Schemes for members after the first year. However new entrants to the profession, after the first year, will require CRB checks. The rate of replacement of Home Inspectors over the following years will be influenced by the rate at which Home Inspectors leave the profession (dependent on various factors e.g. career moves and retirement) and what the future demand is - which will depend on factors such as the state of the housing market. The replacement rate has been estimated at 10 per cent (500 to 740 people) annually.

Costs of proposal (Year 1)	
Cost to individual Certification Scheme of registering with CRB	£300
Cost CRB checks (£31 x 5,000 to 7,400)	£155,000 to £229,400
Costs of proposal (Year 2 onwards)	
Cost after year 1 (£31 x 500 to 740)	£15,500 to £22,940

153. Home Inspectors will also be required to have Professional Indemnity Insurance (PII), in the same way that Chartered Surveyors do now. However, the PII may be volume based - dependent on the number of Home Condition Reports that the Home Inspector completes - rather than a standard fee. It is not possible to predict the cost of the PII. Discussions with industry suggest that the insurance for a chartered surveyor conducting Home Condition Reports will be no higher than it would if he/she was undertaking any other kind of residential surveys. In fact it could be less expensive as the Home Inspector will not be carrying out a valuation which is one of the main costs to the insurance. The insurance premiums for new entrants may be somewhat higher as it is currently for new chartered surveyors. It is also worth noting that there will be economies of sale, so that insurance for Home Inspectors employed by a large company will be less than that for a self-employed Home Inspector.

Burden for Estate Agents

154. The Act makes clear that where properties are marketed through an estate agent the agent is responsible for ensuring that a Pack is assembled and that the documents contained in the pack are authentic and complete.
155. We estimate that the one-off cost to estate agents of training their staff in the new home buying and selling process will be around £5,000 per office. As there are approximately 11,000 estate agency businesses in England and Wales, the total cost of training to the estate agency industry could be somewhere in the region of £55 million. It should be noted that this is a one off cost for setting up the new system, and therefore will not have to be paid every year. However, some Home Information Pack providers are offering this training to estate agents free of charge, in the hope of gaining business from these agents once the packs are introduced on a mandatory basis.
156. The recurring costs for estate agents and others marketing properties for sale are those incurred as a result of staff time on assembling packs, staff training and compliance measures. There may be an increase in PII to cover the risks of the professionals incurring penalties as a result of mistakes in the assembly of the Home Information Pack. At the present time, it is not possible to estimate what this increase would be.
157. Under Home Information Pack legislation all estate agents who market homes with Packs will have to belong to an approved independent redress scheme. DTI are currently drawing up criteria for the approval of one or more redress schemes. Presently, 40 per cent of estate agents belong to the Estate Agents Ombudsman Scheme (although there are other schemes that estate agents can join). From summer 2006 all estate agents who are members of the National Association of Estate Agents will be required by the terms of their membership to belong to the Ombudsman Scheme. This will increase membership to around 70 per cent. Thus there will be an additional cost for those who do not currently belong to any redress scheme when Home Information Packs become mandatory in June 2007, or a potential additional cost for those who do not belong to a scheme which is approved. The DTI is currently consulting with industry on the impact of this proposal and the probable costs. The results of this consultation will be available later this year when the DTI produces a separate regulatory impact analysis.

The Mortgage Industry

158. Lenders will be able to use the Home Condition Report with desktop valuations or with AVMs. Lenders have reported that they will have to make significant changes to their systems if they are to make use of AVMs, however, some of this investment is already underway irrespective of the Home Condition Report.

Certification Schemes

159. The setting up costs for multiple Certification Schemes cannot yet be assessed in detail. Indeed there may be some saving in the 'set up' costs because existing bodies will already have some of the required functionality in place, and Certification Schemes can operate for a profit so these costs can be recovered through fees.
160. See paragraphs 150 to 152 for costs of CRB checks.

Environmental

161. There is no evidence to suggest that there would be any adverse environmental impact if any of these proposals were followed, particularly as sellers are likely to provide electronic copies of the pack in many cases.

Social

162. There is no evidence to suggest that there would be any adverse social impact if this option were followed.

BREAKDOWN OF COSTS AND BENEFITS FOR OPTION C

163. Many of the costs and benefits associated with the Home Information Pack are related to the Home Condition Report. Therefore there are fewer costs and benefits associated with this option.

Benefits

Economic

164. According to our analysis Option C is less expensive for the consumer than Option A (see Annex C). This is because with a Pack most of the information only needs to be obtained once, even if a sale falls through. Our analysis suggests that under this option consumers would spend a total of £1.90 billion on buying and selling property in 2009 (Annex C). This is more expensive than Option B, but less expensive than Option A (Annex C).

165. However, Option C will not mitigate one of the major causes of delays and failures in the home buying and selling process. Research² shows that 43 per cent of failed transactions (12 per cent of all transactions) are due to condition related problems being discovered in either the buyer's survey or the lender's valuation inspection. In addition to this, between a quarter and a fifth of buyers who commissioned a survey or had a lender's valuation inspection found problems that led to renegotiations and consequent delays. These problems are compounded because of chains. Sixty to 80 per cent of transactions involve chains. Industry estimates suggest the average chain involves five properties (or four transactions). Therefore problems with one property could affect a number of transactions. Thus information about the condition of the property is not only key to a successful transaction, but also to the success of chains of transactions.

Environmental

166. EU Directive 2002/91/EC will require that when homes are marketed for sale, sellers will have to provide to the buyer an Energy Performance Certificate that is less than ten years old. Buyers will benefit from this because they will be informed about the energy efficiency of the property they are buying.

Social

167. There is no reason to think that there would be any particular social benefit or disbenefit if these proposals were followed.

Costs

Economic

Consumers

168. Option C would cost the consumer more than Option B (where a Home Condition Report would be required). As:

- Option B being more likely to reduce the number of failed transactions. This is because the Home Condition Report would tend to reduce the likelihood of a transaction falling through as all the key information will be provided at the outset. This would not be the case under Option C.

- We have assumed that the conveyancing fee would reduce under Option B but not Option C. This is because many of the queries that are dealt with by conveyancers relate to the survey. This should be reduced under Option B (due to the Home Condition Report) but would not change under Option C.
- Under Option B we have assumed a 50 per cent reduction in the number of physical mortgage valuation inspections (although in practise we expect this to be higher over time). This would not occur under Option C as there would be no Home Condition Report.
- Under Option C sellers would have to obtain a separate Energy Performance Certificate (which we have estimated could cost £250 - see Annex B).

169. The administrative burden to industry would be less under this option than Option B. This is because this option does not include a Home Condition Report, which accounts for most of the administrative and regulatory burden. Surveyors and mortgage lenders would therefore be able to continue to operate as now. The administrative burden to estate agents would be the same under this option as Option B.

Environmental

170. There is no evidence to suggest that there would be any adverse environmental impact if any of these proposals were followed.

Social

171. There is no evidence to suggest that there would be any adverse social impact if this option were followed.

SMALL FIRMS' IMPACT TEST (SFIT)

172. The Small Business Service (SBS) in the DTI has been consulted and is content that the potential impact of the proposals on small businesses has been fully considered. Research has been undertaken with a number of estate agents, conveyancers and surveyors to test the potential impact on small businesses of the proposed reforms.
173. Small businesses are divided in their views on the likely impact of the Government's proposed reforms. Those businesses that were against the reforms were also the most concerned about the negative effects that the Home Information Pack will have on their business. Those that supported the reforms tended to see it as an opportunity to increase their business in the sector.
174. One of the most common concerns for estate agents was the belief that the introduction of the Home Information Pack will reduce the number of sellers coming to market which will, in turn, lead to a fall in revenue within the industry. However an alternative view is that only non-serious sellers will be deterred from putting their property on the market and that overall the number of completed transactions will be unaffected or may even increase (because of the reduction in failed transactions).
175. Estate agents are thought likely to be in the best position to control access to sellers. The need for conveyancers and surveyors to form links with estate agents was considered important for all parties.
176. The Home Information Pack, together with the increasing use of electronic conveyancing, could be a threat to small high street conveyancers who are unable or unwilling to adapt. However, we are already seeing local alliances (of estate agents, solicitors and surveyors training as Home Inspectors) forming to offer Packs. The new process also presents many opportunities for conveyancers to increase their business.
177. It is likely that if surveyors gain the home inspection diploma then, regardless of size of firm, they will see a substantial increase in their business. The anticipated extra volume of work should mean that the emphasis would be on maximising business rather than protecting market share. This will be particularly so if there is a shortage of qualified Home Inspectors.
178. There has been concern that if the market moves towards a "no sale, no fee" approach for Packs then smaller business would not be able to compete with larger firms. However, experience shows that the companies which are currently using packs successfully are all small businesses. They believe that they can compete by placing the emphasis on quality of service and greater flexibility, and by developing links with other sectors to share the risks and costs of providing a competitive service. Thus, as under the current system, smaller businesses have to compete with a product or service that differentiates them from others in the market e.g. by concentrating on service quality, flexibility and local knowledge rather than price.

179. Smaller businesses may have difficulty raising the funds needed to train staff and change their systems in preparation for the Home Information Pack. The alternative view is that smaller businesses will be in a better position to adapt, as their infrastructure will be less complex or widespread e.g. it is much easier to adapt an IT system for one small office than for a number of offices spread across the country. The business world is already supplying solutions to help smaller businesses adapt to the Home Information Pack system, for example Pack provider services particularly geared to small independent agencies.

COMPETITION ASSESSMENT

180. A competition filter was undertaken as part of the competition assessment. The filter looked at the impact of the proposed regulations on estate agents and other property professionals involved in the home buying and selling process (e.g. house builders, surveyors, solicitors, licensed conveyancers and mortgage lenders). The competition filter identified that the introduction of the Home Information Pack and Home Condition Report will have some impact on competition within the housing industry. However, the proposals should not limit the ability of businesses to compete; in fact it creates new opportunities for businesses and will encourage competition. The filter did not identify a need to undertake a full detailed assessment. The possible impacts of the proposed regulations are discussed in turn.

Market Share

181. Although there are some large players within the estate agency industry there is not a single agency with more than 10 per cent of the market share². Nor does any surveying business exceed 10 per cent of the market share.
182. Currently there is one mortgage lender with over 20 per cent of the market share. This is HBOS (Halifax and the Bank of Scotland) which has 21.6 per cent. Next in line is Abbey National which has just over 10 per cent of the market share (10.4 per cent)²⁵.
183. It is not expected that the proposals will have a greater impact on the smaller firms (see paragraphs 172 to 179). Nor do we expect that large businesses will be able to create monopolies by operating in multiple parts of the industry. The finance industry is highly regulated to prevent such monopolies occurring and both the estate agency and surveying industries have low entry costs and therefore a high proportion of small independent firms. The impact of the Home Information Pack is more likely to be determined by the way an individual business responds e.g. joining with other firms and/or using Packs services provided by other organisations.

Cost of Regulation

184. It is not expected that the cost of the proposals will impact on competition. All businesses will have to abide by the new regulations. Although small business will not have economies of scale when producing the packs, they will be able to compete in other ways (see paragraphs 172 to 179).

Market Structure

185. It seems likely that the proposals will increase the linkages across the various areas within the industry (e.g. estate agents working more closely with surveyors and conveyancers). Sellers and their agents will be keen to market the property as soon as possible so there will be pressure to assemble the packs efficiently and quickly. This can be facilitated by greater coordination and cooperation between those who provide documents for the pack.
186. Although competition for consumers is unlikely to change dramatically in the first instance (e.g. most sellers will still approach estate agents just when deciding to sell their property), the Home Information Pack may open up alternative ways to gain business. For example, conveyancers offering Pack provision services could offer a potential alternative to estate agents as a first point of contact for sellers. Another example would be mortgage lenders offering Packs with their mortgage services. In such cases the seller would not require their selling agent to assemble the pack. In this way the traditional roles of each of the key industries in the market could potentially change.
187. Implementation of the proposals will lead to an overall increase in the number of home surveys that are commissioned. It is not possible to predict accurately how this growth in the market will be distributed. However, it seems unlikely that existing surveying businesses, should they train as Home Inspectors, would be adversely affected.

²⁵ Figures from *The data Ltd*, July 2005.

Restrictions to Firms Choices

188. The proposals will specify when a Home Information Pack must be produced and also the minimum standards of the product. The price of Pack components will be determined by the market and we would expect that the increased competition would drive prices down.
189. The regulations will not limit the information that can be provided alongside the Pack. Although the Home Information Pack will consist of a standard set of documents, other information can, as now, be provided as part of a wider service, for example, local area based information about schools, hospitals and other facilities.

ENFORCEMENT, SANCTIONS AND MONITORING

Enforcement

190. The Home Information Pack duties will be enforced by local authority trading standards officers, who have similar responsibilities now under the Estate Agents Act 1979 and Property Misdescriptions Act 1991. The Local Authority Co-ordination of Regulatory Services (LACORS) estimates that the cost of enforcing the Home Information Pack will be £2.43 million per annum²⁶. DCLG will be expected to meet these additional costs. The cost of any additional workload for the courts and tribunals is estimated at £100,000 a year by DCA.
191. The enforcement arrangements will be risk based and proportionate, and comply with the recommendations of the Hampton review:
- The emphasis is on enforcement authorities providing information and advice to achieve compliance. Ultimately, where TSOs decide that such action is warranted by a breach of duty they will have the option of serving a civil penalty of £200. Where such cases involve an estate agent, the matter must also be referred to the Office of Fair Trading (OFT). OFT has existing powers to issue a banning order on agents engaging in undesirable practices.
 - This new role is complementary to TSOs' existing duties under the Estate Agents Act 1979 and the Property Misdescriptions Act 1991. Consequently the additional costs to local authorities are relatively small - assessed by the Local Authority Co-ordination of Regulatory Services (LACORS) at £2.43 million a year. DCLG has included this in the local government settlement.
 - The approach is risk based and flexible. Essentially, TSOs will act where they have reason to believe that the Home Information Pack duties have not been complied with (e.g. evidence provided by a potential buyer or other third party). In such cases TSOs will have the right to require estate agents and others marketing homes to provide a copy of the Pack within seven days. There are no powers of entry to premises for the purpose of inspecting documents, and no requirements for agents to fill in forms or returns regarding their compliance with Home Information Pack duties.

Sanctions

192. Those who do not comply with the requirement to produce a Pack when marketing a property will be liable for civil sanctions (a penalty of £200) and will need to have a Pack before marketing can recommence. Thus they will be liable for the penalty charge as well as the cost of producing a pack.
193. A penalty charge can be issued each time a property is marketed without a valid Pack. Thus if a seller or agent has been penalised once for marketing their home without a Pack and then tries to market the property again without a Pack they could receive another £200 penalty.
194. Trading Standard Officers will also be required to notify the OFT of any serious breaches by estate agents. This could trigger action under the Estate Agency Act 1979 which could ultimately result in them being banned from practising as an estate agent.
195. In addition, a person who breaches the Home Information Pack duties is liable to be sued by the buyer or any potential buyer for the cost of obtaining documents that should have been included in the Pack.

Monitoring and Review

196. We are undertaking a study of the housing market, starting in June 2006, which will provide a benchmark against which the impact of Home Information Packs can be measured.

²⁶ LACORS, December 2005.

197. The effect of the Home Information Pack regulations will be monitored and will be reviewed in 2010 through a further study to determine whether:

- the expected improvements in the marketing and sale of residential property - in terms of speed, quality and transparency of the process and reduction in failure rate, are being delivered;
- to monitor the overall benefits of the Home Condition Report; and
- to assess the impact on business and the housing market.

IMPLEMENTATION AND DELIVERY PLAN

Preparation for Implementation – Identifying and Mitigating Risks

The Laying of the Regulations

198. There will be three sets of SIs to prescribe the operation of Home Information Packs. The timetable for this work is as follows:

- **June 2006:** SI prescribing: the content of the Pack; exceptions; enforcement; and the terms of approval for the Home Inspector Certification Schemes. At the same time the forms will be published for testing (as part of the Dry Run). Feedback from this will then be used to inform the content of the SI prescribing the forms that will be laid later in the year.
- **October 2006:** SI prescribing details of the Home Condition Report register.
- **December 2006:** SI prescribing forms to be used to provide information required for Home Information Packs.

The “Dry Run”

199. Whilst the Housing Act 2004 was passing through the Parliamentary process, it was agreed that a six-month “Dry Run” of activities would be considered to enable practitioners to test their new systems and processes in advance of commencement of the statutory scheme. However, it is desirable that programmes are tested steadily between now and the “go-live” date.

200. To achieve this a Dry Run programme has been developed. Taken together, this will:

- assess for stakeholders, Ministers, and the Programme’s governance structure the readiness for implementation in the live housing market;
- baseline the current market so that the impact of the Programme can more easily be assessed;
- enable early testing of the likely achievement of the benefits anticipated in the Business Case, and allow expectations to be refined if appropriate; and
- enable the Programme to track key success factors, for example the supply of Home Inspectors and the time taken to assemble the components of the Pack.

201. The approach will identify the operational risks associated with achieving the stated benefits of the programme, and work with stakeholders to identify assurance activities to mitigate those operational risks. Results will be monitored and reported through a monthly confidence assessment report to the Programme Board, the Central Stakeholder Group and other interested parties as defined by the Programme.

202. The Dry Run aims to provide the industry and the public with the opportunity to experience and operate the full Home Information Packs scheme in advance of its introduction throughout England and Wales on a mandatory basis.

203. The national voluntary Dry Run will operate in a series of phases. The DCLG will put in place clear assessment, monitoring and research on the progress and outcomes at every stage of the dry run.

Phase 1 – Voluntary Partial Home Information Packs

This phase relates to Pack providers operating in a voluntary environment across England and Wales; offering packs that include some but not all of the Pack components that are prescribed in Regulations. This phase has already begun.

This phase will test the process to ensure that components of the Pack (excluding the Home Condition Report) can be acquired in a timely manner and will also enable Pack providers and

buyers and sellers using Packs to provide feedback to DCLG regarding their experiences, enabling issues to be identified and improvements to be made that can be reviewed during later phases of the Dry Run.

Phase 2 – Voluntary Full Home Information Packs

This phase will commence once the first Certification Scheme is approved and will enable the testing of Home Information Packs, including Home Condition Reports. This phase will operate across England and Wales and provide the following extensions to the previous phase:

- Home Inspector registration activities;
- Home Condition Report completion by Home Inspectors;
- use of Home Condition Reports by buyers and sellers;
- operation of the Certification Scheme complaints scheme;
- use of the technical standards to acquire Home Condition Reports; and
- pack providers offering the complete Pack in line with Regulations

Building on the first phase, this phase will test the ability of Pack providers to compile a complete Pack, including the Home Condition Report, and will test buyer and seller comprehension of the Home Condition Report.

This phase will also test the Certification Scheme processes, in terms of registering Home Inspectors and facilitating lodgement of the Home Condition Report. The ability of Home Inspectors to complete the Home Condition Report will also be tested in this phase of the Dry Run and information regarding working patterns will further inform projections on the total number of Home Inspectors required.

Phase 3 – Voluntary Tertiary Activity

Whilst Phase 2 continues, the third phase of the Dry Run will enable Lenders and other third parties to test their ability to acquire Home Condition Reports from the Entity-level Registers and assess their use in lending decisions.

Early Adopters

204. In order to monitor the experiences and activities during the Dry Run, the programme is developing a network of organisations that are providing voluntary Home Information Pack-related services in advance of 1 June 2007. These organisations are called "Early Adopters" and provide regular monthly information to the department on their activities and also meet regularly with the programme to discuss issues etc.

Supply of Home Inspectors

205. As part of the process, DCLG is monitoring the supply of Home Inspectors through a number of channels:

- monthly information returns from Assessment Centres providing details of the numbers of candidates in training; and
- monthly meetings with the Awarding Body for the Built Environment (ABBE) to understand the number of Home Inspectors taking the exam and achieving the Diploma.

This data is analysed to understand the numbers of Home Inspectors in training, qualified etc., but also to understand the geographic spread of Home Inspectors across England and Wales.

Implementation Date

206. The implementation date was decided before DCLG had fully introduced the common commencement date (CCD) policy. Ministers decided not to introduce mandatory Home Information Packs on either of the prescribed dates because, having listened to views from across the industry, 1 June 2007 represented the best balance between the various interests.

Post Implementation Review

207. Once the pack is introduced on a mandatory basis there will be a programme of monitoring. This will involve working with various industry groups (including estate agents, mortgage lenders and conveyancers) to monitor the residual risks identified at the completion of the dry run. The programme will monitor these risks and implement pre-defined mitigation and contingency actions as required. It is likely that this period will cover the three to six months after 1 June 2007.

208. In 2009, the Department also plans to undertake research into the impact of Home Information Packs on the home buying and selling process, to review progress against the baseline research being done in 2006 (as discussed in paragraph 32). This research will be used to determine the extent to which the benefits are being realised. The programme has provision to undertake additional research to monitor benefits realisation after 2009.

209. The 2009 study will show whether Home Information Packs have resulted in:

- a reduction in transaction failures;
- a reduction in transaction times;
- a reduction in cost and additional surveys or valuations needed by consumers;
- a reduction in the costs and improvement in effectiveness for first time buyers; and
- increased customer satisfaction with the buying and selling process.

210. An advisory group will be set up to provide feedback to DCLG on any ongoing issues and to help deliver continuous improvements.

SUMMARY AND RECOMMENDATION

211. The recommended option is to have a Home Information Pack that includes a Home Condition Report - **Option B**. The analysis shows that, while Option B would have the biggest impact on the market, it is potentially of greatest benefit to both consumers and industry alike.
212. The inclusion of a Home Condition Report in the Pack (Option B) will bring the following benefits:
- the reduction in duplication and waste;
 - the main cause of failed and delayed transactions will be addressed; Currently 43 per cent of all failed transactions are the result of an unfavourable property survey or valuation;
 - it is the most cost effective way, for the consumer, of implementing the European Directive 2002/91/EC providing energy efficiency information;
 - buyers and sellers will be able to negotiate a realistic asking price before an offer is accepted;
 - the number of unexpected repairs that need to be carried out by the buyer will be reduced; and
 - Home Condition Reports are expected to reduce the number of physical valuation inspections (where a mortgage is required).
213. The costs of including a Home Condition Report are:
- The requirement for (additional) specialised Home Inspector training to ensure that buyers, sellers and lenders will trust the report. This cost should be recovered by the extra business that will result from the mandatory requirement to have a survey (currently 23 per cent of buyers have no kind of survey at all).
 - Setting up the Certification Scheme. This should be recouped by the profits made from this work.
 - Greater regulatory burden on the housing industry. This needs to be offset against a simpler and more transparent system with fewer transaction failures.
214. Under **Option A** none of the problems with the current home buying and selling process would be addressed. There would also be the additional cost of the Energy Performance Certificate. The work required to produce this is similar to that for a mortgage valuation, for which the average cost is around £250.
215. Under **Option C**, the cost of a failed transaction would be reduced. This is because most of the information obtained during the buying and selling process would be included in the pack, and therefore would not need to be obtained again if the first (or subsequent) sale fell through. However, the main cause of failed transactions would not be addressed. Like Option A, the implementation of the EU directive requirement for energy performance certificates also drives up the cost of this option.

ANNEX A

GOVERNMENT BODIES CONSULTED ON PROPOSALS

Companies House
Crown Estate
Defence Housing Executive
Department for Constitutional Affairs
Department for the Environment, Food and Rural Affairs
Department of Trade and Industry
Department of Work and Pensions
District Surveyors Association
Environment Agency
Financial Services Authority
Government Offices for the Regions
HM Customs and Excise
HM Land Registry
HM Treasury
Improvement and Development Agency
Inland Revenue
Local Authorities in England and Wales
Local Authority Co-ordinators of Regulatory Services
Local Government Valuers Association
Local Government Association
Local Land Charges Institute
Ministry of Defence
National Assembly for Wales
Office of Fair Trading
Office of the E-envoy
Ordnance Survey
Pathfinder Project Teams
Small Business Service
The Treasury Solicitor
Valuation Office Agency
Welsh Local Government Association

ANNEX B

EVIDENCE FOR COSTS

Item	Cost	Evidence
Surveys		
Home Buyers Survey & Valuation (HSV)	£400	Based on quotes from approximately 20 top lenders, for a property valued between £150,000 and £200,000.
Building Survey	£500	Quotes for this type of survey range from £250 to £1,000. Discussion with industry suggests that detailed surveys still usually cost £500.
Mortgage Valuation Inspection	£250	Based on quotes from almost 20 top lenders, for a property valued between £150,000 and £200,000.
Home Condition Report	£400	<p>We estimate on the basis of costs in the current market that the Home Condition Report could cost approximately the same as a HSV. This is because, like the HSV, the Home Condition Report is a mid-level survey based on a visual inspection.</p> <p>Unlike the HSV, Home Condition Report will not include a valuation, although it will include an energy performance certificate. Therefore, we believe that they will be comparable in price.</p> <p>The data set that will be needed to produce the Energy Performance Certificate is similar to the Home Condition Report so it will not add a significant amount of time onto the rest of the inspection.</p> <p>Also, an important component of the cost of a mortgage valuation is made up of the cost of the professional indemnity insurance for the valuation, which will not be required for the Home Condition Report.</p>
Energy Performance Certificate	£250	The predicted average price of a standalone Energy Performance Certificate is based on the current average price of a lenders' valuation inspection. The requirements are very similar – both involve a visit to the property, and the duration of the inspection is much the same for both.
Mortgage Valuations using Home Condition Report:		
Using Automated Valuation Model (AVM)	£10	Cost to lender based on discussions with Rightmove. According to Rightmove the cost to the lender of using an AVM is £10 to £12.
Using Desktop Valuation Model	£50	Cost to consumer of a desk top valuation according to Rightmove (March 2006)
Searches		
Buyer – Local searches	£150	<p>This is based on <i>Property Searches – A Market Study</i>, OFT, September 2005.</p> <p>CON 29 Search – if obtained from a Local Authority, medium cost is £125 or £95 (excluding VAT) for a Private Search Company equivalent.</p> <p>Average price for a Drainage & Water Search - £36 (excluding VAT).</p> <p>Local Land Charges Register search – average price £5 (excluding VAT). It should be noted that these searches are also available from private search companies.</p>
Seller – Local searches (for inclusion in the Pack)	£150	See Buyer – Local searches
Searches revalidation (after 6 months)	£40	Property Search Group (September 2006) said that the cost of refreshing a search could be £35 - this may be advisable for a search that is more than 6 months old.
Legal Fees		
Buyer – conveyancing	£320	Based on quotes from 20 online conveyancers.

fees under existing system		
Seller – conveyancing fees under existing system	£310	Based on quotes from 20 online conveyancers.
Seller – legal fees for checking Pack	£100	A leading estate agent (expected to be a major pack provider) has estimated that they will charge 10 per cent of the cost of the Pack as the legal fee for checking the contents. Based on our current estimate this would be £60 to £70. However, until we have more information on this cost, we suggest our central estimate is based on a more conservative figure of £100.
Buyer – Conveyancing fees	£258	Based on existing conveyancing costs. It seems likely that conveyancing fees will reduce because information about the property will be obtained when the pack is assembled and therefore will not need to be gathered by the buyer or the sellers' conveyancer. However, in the absence of evidence for this our central estimate assumes that conveyancing fees will remain unchanged when HIPs are introduced.
Seller – conveyancing fees under Home Information Packs	£148	Assumption in our central case is that sellers' legal costs, including the costs of checking the pack, remain unchanged.
Office Copy Entries	£10	Land Registry Standard Charge

*all figures have been rounded to the nearest £10 and exclude VAT

ANNEX C

COST PER SUCCESSFUL TRANSACTION OF OPTIONS A, B AND C

This annex compares the cost, per successful transaction, of Option A to C. This analysis is based on costs in the current market and takes no account of the potential for competition to drive down costs. For the purpose of our central estimate we have assumed that:

- the Home Condition Report costs £400;
- the standalone Energy Performance Certificate costs £250;
- the conveyancing fees would remain the same under all three options;
- under Option B there would be a £100 charge for a legal check of the pack;
- under **Options A and C** the transaction failure will remain at 28 per cent; and
- under **Option B** the transaction failure will fall to 16 per cent and that an additional mortgage valuation inspection will be required for 38 per cent of all transactions (or 50 per cent of cases where a mortgage is required)

Alternative scenario

We believe that the above assumptions are conservative. To give some indication of how the benefits vary with the assumptions made, we have also costed the preferred option (Option B) on the basis that:

- conveyancing fees would fall by 20%; and
- transaction failures fall to half the current rate i.e. from 28% to 14%.

All other assumption are unchanged.

Item	Existing System (Option A)	Home Information Pack (including the HCR) (Option B)	Home Information Pack (including the HCR) (Option B) – alternative scenario	Home Information Pack (excluding the Home Condition Report) (Option C)
Surveys and Mortgage Valuation Inspections	£598	£590	£584	£598
Searches	£208	£156	£156	£156
Legal Fees	£876	£734	£574	£876
Office Copy Entries	£14	£12	£12	£14
TOTAL COST PER SUCCESSFUL TRANSACTION	£1,696	£1,492	£1,326	£1,642
TOTAL COST TO CONSUMERS	£2.03 billion	£1.79 billion	£1.59 billion	£1.90 billion

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by the responsible Minister:

Yvette Cooper

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Minister for Planning and Housing

Date: 9th June 2006

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