

CompanyClips

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Have HIPs been a Hit?

Trial satisfaction

Results from research by IPSOS MORI into the HIP area trials reveal that 72% of sellers were satisfied with the HIP, 79% agreed that it contained everything expected, and 81% understood the documents, including their energy rating, from A-G, in the Energy Performance Certificate (EPC).

Nearly one third of buyers on examining the HIP planned to carry out recommendations in the EPC to improve the energy efficiency of their home. This would equate to nearly half a million transactions per year in today's housing market where consumers took action as a result of the EPC to cut fuel bills and carbon emissions.

The research report highlights that 58 per cent of buyers would have liked the opportunity to see the HIP earlier in the process. However, agents were either not showing the packs or providing them too late to consumers to make a difference, according to the findings. Out of the 40 per cent of buyers who saw the HIP last year in the trials, half viewed it after they made an offer on their property.

Housing Minister Caroline Flint said: "Consumers are already benefiting from the introduction of HIPs. Search



costs are falling as a result of increased transparency in the market, energy ratings can help people to reduce fuel bills, and first time buyers are receiving important information about their home for free.

"I welcome the fact that buyers are starting to act on their energy ratings, which could cut a million tonnes of carbon a year as well as helping families with their fuel costs.

"However, what is clear from the trials is that more buyers wanted to see the HIP but it was not always made available to them. That's why we have taken action to increase awareness of the consumers' right to see a HIP and to remind agents of their responsibility to provide the pack."

Another Deadline Looms...

In the commencement order for the roll-out of HIPs for the whole market last December, there were a number of points that were delayed until 1st June 2008. With this date looming, we are hoping that the Government will not perform another delaying tactic. There are in essence two key points. Firstly, the introduction of the first day marketing rules. This states that a residential property cannot be marketed in any manner until a valid EPC is available with regard to that property. This itself is a watered down version of the original HIP requirement, that the entire HIP be available prior to marketing. With the glut of DEAs now swarming the supply chain and with adverts continuing in the national press promoting this as a career choice, it seems that neither the Government nor HIP opponents will be able to fall back on this to stop this clause being enacted.

Secondly, the expansion of documentation for leasehold properties. The initial categories were reduced, with only the inclusion of the lease being a requirement. However, we are informed that many small HIP providers continue to circumnavigate this by applying the 28 day rule. Naturally,

should providers need to supply the full requirements i.e. lease, service information and insurance documents, this could delay some HIPs and give managing agents cause to levy substantial charges to provide this information.

The one other question we are constantly asked is on what date properties that were marketed prior to their specific commencement date will require a HIP. The plain answer is that the Government have failed to establish a so-called drop dead date. In our opinion, it is likely that they envisaged that any property marketed prior to needing a HIP would likely be sold before too long. However, with the credit crunch in play and the housing market facing a major growth hurdle, this view may not hold water much longer. We think it is incumbent on the Minister for Housing, Caroline Flint, to address this. Through our trade association AHIPP, we are pressing for an answer.

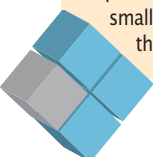
Finally, we have now passed a new deadline, albeit one that applies to opposing fields of the property spectrum. On the 6th April 2008, all newly built properties were required to have a HIP available on

the first day of marketing. As there are differing stages of construction, we have developed a HIP that reflects this.

On the same date, EPCs were required for all commercial properties over 10,000 sqm constructed, sold or let. Whilst this affects a small proportion of the market, the next deadlines are more likely to affect the majority of the market. They are:

- ◆ From 1 July 2008 those buildings with a total useful floor area greater than 2,500m² will require an Energy Performance Certificate on construction, sale or let.
- ◆ From 1 October 2008, all remaining buildings over 50m² that are not dwellings will require an Energy Performance Certificate on construction, sale or let.

We have produced a comprehensive overview of the implications of commercial EPCs, whether one is a tenant, landlord or investor. This can be emailed to you directly. Please let us know whether you would be interested in receiving this.



Local Authorities – Access to and Charging for Data

The availability of data to private search companies continues to be an important issue for the conveyancing industry.

Full access to data is vital for the proper implementation of Home Information Packs and a competitive and efficient market in searches. It must be remembered that the private (or 'personal') local search market was established over 20 years ago in direct response to the slow and expensive search services provided by local authorities. Conveyancers were exasperated at the severe delays experienced at certain local authorities and the regular price increases, which were left unchallenged due to the lack of competition. York Place has been a key player in the changes and our clients have become accustomed to a fast, efficient service with customer service as a fundamental principle of our business.

In January the Government published new guidelines on access to local authority data setting out fair procedures for authorities and private search companies to follow. Local authorities must ensure that all search firms receive fair and equal treatment and local authority departments holding search related data will have to operate common opening hours. The most significant change is that access to inspect the information should be provided the following working day. In exceptional circumstances where there is high demand or staff sickness, councils must provide the data within three days. We are pleased that many councils are acting to follow the guidelines but unfortunately there are many that are not complying at this time.

In return, the guidelines require personal search agents to make appointments and keep to them, pay fees and be able to undertake the inspection of the data without assistance from local authority staff. To ensure consumers know where to direct any queries, the search report must make it clear that it has been compiled by a personal search firm in accordance with the Search Code. York Place subscribes to this Code which is monitored by the independent Property Codes Compliance Board to ensure the highest standards of reporting and consumer protection.

The Government has also published a consultation paper on charging for data which looks at how local authorities should

set charges for their own searches when providing access to private search companies. It also considers the future of the prescribed £11 fee for a personal search of the Local Land Charges Register. KPMG assisted the Government in preparing the proposals, in what is the second attempt by Government to get this right. An earlier paper (not by KPMG) was subsequently withdrawn following concerns about impartiality.

While the principle running through all the charging proposals is one of cost recovery, it is clear that any charging framework must be legal, fair and promote greater efficiency. The real danger with allowing cost recovery is that it will simply pass the cost of inefficient local authorities to the private sector. The question of Value Added Tax needs urgent consideration too as many councils are marketing their services with a commercial approach. If Government is really committed to securing a level playing field for search services it cannot ignore VAT.

The closing date for responses was 18 April and we are looking forward to the Government's proposals. In the meantime, insurance cover for unavailable data will remain with us at least until December 2008 (see below).

Need to know about **Home Information Packs**, but not sure where to turn? **Look no further...**

Simply let us know that you're interested in the provision of HIPs, local searches and key property information, and we will pass your details on to our HIP team. Alternatively call 0845 116 2244.

Extension of Insurance Cover for Searches

The Government has conceded that the majority of councils are still not providing sufficient access to private search companies so the use of insurance cover has been extended to 31 December 2008. The York Place YPSIS product covers all unanswered questions and incorrect data and is fully compliant with the HIP regulations.

Companies Act

A milestone was reached on 1 October 2007 when

With a few changes to come in October 2008 and then the final batch in October 2009, the piecemeal implementation of the Companies Act 2006 has led to a lot of uncertainty and confusion.

Industry groups such as the Chambers of Commerce and the Federation of Small Business are concerned that many of their members are still unaware of the changes and how they need to prepare over the next eighteen months. The larger companies may well be prepared – or as prepared as they can be – but many small and medium sized companies may remain in the dark.

As registration agent and Company Secretary for many hundreds of companies, York Place is here to help. As part of our support we can advise if your memorandum and articles are up to date. Contact our corporate compliance department for further details.

Other Forthcoming Changes

In addition to the Act itself, there is secondary legislation that is being implemented under the Companies Act 2006.

One such rule that provides clarification relates to The Companies (Company and Business Names) (Miscellaneous Provisions) Regulations 2007 coming into effect on 1 October 2008. This details the characters that may be used in a company name (including letters, numbers and symbols).

It also sets out when a company may exclude the word 'limited' from its name and provides a limit of 160 characters.

Child Directors

Any person under 16 on 1 October 2008 will automatically cease to be a director.

Corporate Directors

Every company must have a 'natural person' on the board from 1 October 2008 so sole corporate directors will no longer be allowed BUT if, on 8 November 2006, the company only had corporate directors then the company will not have to appoint a natural person until 1 October 2010.

Act 2006 – Parts Are In Force NOW

Some key clauses of the Companies Act 2006 came into force and 6 April 2008 has brought in some more significant changes.

1. Which parts of the new Act are already in force?

In detail the following sections have been implemented:

Exercise of members' rights (145-153)	1 October 2007
A company's directors (154-259)	1 October 2007
Sections 155 to 159: 1 October 2008 Sections 162 to 167: 1 October 2009 Sections 175 to 177: 1 October 2008 Sections 180(1), (2)(in part), & (4)(b), and 181(2) & (3): 1 October 2008 Sections 182 to 187: 1 October 2008 Sections 240 to 247: 1 October 2009	
Derivative claims and proceedings by members (260-269)	1 October 2007
Company secretaries (270-280)	6 April 2008
Section 270(3)(b)(ii): 1 October 2009 Sections 275 to 279: 1 October 2009	
Resolutions and meetings (281-361)	1 October 2007
Sections 308 & 309: 20 January 2007 Section 333: 20 January 2007 Sections 327(2)(c) & 330(6)(c) are not being commenced for the time being	
Control of political donations and expenditure (362-379)	1 October 2007
Provisions relating to independent election candidates: 1 October 2008 Part 14 comes into force in Northern Ireland on 1 November 2007, except for provisions relating to independent election candidates.	
Accounts and reports (380-474)	6 April 2008
Section 417: 1 October 2007 Section 463: 20 January 2007 for reports and statements first sent to members and others after that date	
Audit (475-539)	6 April 2008
Sections 485 to 488: 1 October 2007	
Debentures (738-754)	6 April 2008
Private and public companies (755-767)	6 April 2008
Certification and transfer of securities (768-790)	6 April 2008
Information about interests in a company's shares (791-828)	20 January 2007
Sections 811(4), 812, 814: 6 April 2008	
Distributions (829-853)	6 April 2008
Arrangements and reconstructions (895-901)	6 April 2008
Mergers and divisions of public companies (902-941)	6 April 2008
Takeovers etc (942-992)	6 April 2007
Fraudulent trading (993)	1 October 2007
Protection of members against unfair prejudice (994-999)	1 October 2007
Company investigations: amendments (1035-1039)	1 October 2007
Companies: minor amendments (1175-1181)	6 April 2007
Section 1175 (only for Part 1 of Schedule 9): 1 April 2008 Sections 1180: 1 October 2009 Section 1181: 1 October 2009	
Statutory auditors (1209-1264)	6 April 2008

2. Which sections will affect my company??

All sections in force could have an impact on your company but these are some important areas that will affect the majority of small private companies:

1. Notice periods – the notice period for extraordinary general meetings is now fixed at 14 days and for annual general meetings, 21 days
2. Written resolutions – these can now be passed by members holding the required number of shares to reach the required majority rather than by signature of all members
3. Annual general meetings. A private company need no longer hold an AGM
4. Accounting reference periods. For accounting periods starting on or after 6 April 2008 the filing period has been reduced by one month so it is now 9 months for private and six for public companies
5. A private company does not need a secretary from 6 April 2008 onwards
6. Rules for execution of documents have changed

3. Why do I need to review my Articles of Association?

You will only need to review your articles if you wish to take advantage of the new Act. Here are some typical scenarios:

- ◆ You want to dispense with holding an AGM: you need to check whether your articles do not specifically say that you must hold an AGM in which case you must not matter what the Act says. Exception to the rule: if you had already passed an elective resolution under the 1985 Act to dispense with AGMs this will still apply even if your articles say you must hold one!
- ◆ You are a not for profit company and you want to make sure that you hold an AGM each year: your articles may well stipulate that you must hold an AGM but on the other hand they may not so you must check and update if necessary.
- ◆ You want to dispense with having a company secretary. Do your articles say that a secretary must be appointed or do they refer to certain acts needing to be done by the secretary? If so they may need attention. One particular point to look at is the company seal. If the company has a sole director then, under standard provisions, it can't be affixed without a secretary or a second director. It is possible to affix a seal with a single signature if the articles permit it.

4. Do I need a company secretary any more?

This is a question that needs to be asked on a case by case basis.

It is important to separate the office of secretary from the functions that the secretary usually carries out. There are a whole range of activities that someone will still have to do and without a secretary the burden will either fall on the directors or their professional advisors.

It is tempting to see the potential cost savings (the secretary's salary) but an analysis needs to be carried out to ensure that the absence of a company secretary does indeed lead to reduced costs.



A Peep Through The Keyhole...

Bigger and Bigger...

The last twelve month period has been one of growth, focus and performance as over recent months York Place continues to expand.

Supported by parent company Stanley Davis Group Limited, the London-based firm who acquired York Place in 2005, there has been significant investment in people and technology. As Jon Round, Divisional MD of York Place, reflects: "One area of focus has been the world of property and HIPs. With this in mind we have more than doubled our capacity so we can now deal with the large volume throughputs that are now a requirement in the fast-moving property arena".

In 2007, the Leeds property department moved into additional premises allowing all property teams to be accessible and immediately able to deal with client requests. The enhanced IT systems also mean that clients can view all search requests and the status of those reports. "However IT does not replace the people-element of the business. We are proud of the development steps that have been made this year and already working hard in 2008 to deliver speed and quality," states Jon.

Register FREE to use our in-house interactive ordering system. Go to www.yorkplace.co.uk and click on Property.

Yorkshire Forward Enterprise Shows 2008

York Place are once again assisting with this year's series of Yorkshire Forward Enterprise Shows.

The shows are designed to provide the opportunity, for those people thinking about setting up in business, to learn about and meet many of the business support organisations that exist and operate throughout the region.

A secondary aim of the Shows is to target young and existing businesses so their owner/managers can seek out advice that will help them to run, develop and grow their businesses over the coming years. Yorkshire Forward and Business Link are working in close partnership to deliver these Enterprise Shows.

A York Place team will be in attendance at all the shows and be on hand for any advice you need on incorporating, trademarks or company secretarial support.

Thank Goodness it's Friday...

And in Nottingham, York Place is expanding the monthly client forum known affectionately as 'York Place Friday' or YPF.

Taking on a larger feel, the first event is planned before the Summer.

The concept of the very successful format remains the same; drinks, a light lunch and excellent networking opportunities are on offer at a lively & informal gathering where you can catch up with key guests and make new contacts. It will be co-hosted with private bank Kleinwort Benson.

Want to attend? Contact marketing@yorkplace.com.

'Anyone for Tennis?'



The interest in the Annual York Place Tennis Tournament held in Nottingham has spread to Leeds. Now in its 2nd year, the Leeds-based York Place & PKF Tournament has been so successful that a York Place & PKF (Leeds) League has been created.

If you are interested in being part of the Leeds Tennis League, please contact marketing@yorkplace.com.

All abilities welcome.

'The Lunch'



Want to enjoy a glass of wine and a light lunch whilst networking with other professionals?

Every quarter, York Place hosts 'The Lunch' a client event hosted in Leeds which attracts over 150 lawyers, accountants, financiers, bankers and directors. The last event was co-hosted with newcomers to Leeds, Kleinwort Benson Private Bank, one of the UK's leading wealth managers.

To receive more information on the next event, please let us have your email address. Please email thelunch@yorkplace.com with your details; you will receive information in due course.

An Update on Trade Mark Legislation

From the 1 October 2007 the UK Intellectual Property Office (UK-IPO) has implemented a new system in relation to how it processes Trade Mark applications where there are similar existing Trade Marks on the register.

It had been their practice to reject any application where they judged that there would be a likelihood of confusion with an existing mark pending a subsequent appeal by the applicant. This meant that many applications were being stopped before reaching the vital publication phase of the registration process. At publication marks are published in the Trade Marks Journal and owners of existing marks are given a 3 month period in which to object before the new mark can be registered. If a successful objection is made the application process will fail and there is no refund of the registration fee.

The new system, which has been the procedure throughout the rest of Europe for some time, means that after a Trade Mark has been examined at the UK-IPO an applicant will be supplied with a list of similar marks and asked whether they wish to proceed or abandon their application. If the applicant decides to proceed the mark is published in the Trade Marks Journal and owners of existing similar marks will simply be notified of the similarity and given the same three month week period in which to object.

As objections through the European system have been seen to be a rare occurrence it should now be easier to register a Trade Mark.

If you are considering trade mark protection, please speak to our in-house expert, James Ausobsky, who can guide you on the process of how to take advantage of this service offered by York Place.

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