



# Digital Property Information Protocol

Digital Property Information and Digital Solutions

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## Digital Property Information Protocol

The Protocol is intended to be updated as new digital technology becomes available and will be reviewed regularly.

The intention of the Digital Property Information Protocol is to commend to stakeholders and consumers the adoption of Digital Property Information and digital solutions to improve the home moving process and home ownership for all.

### Who is the Protocol aimed at?

The Protocol is intended to help all stakeholders in the transaction understand what role they can play in providing transparency and certainty to the process more quickly to reduce timescales and transaction fall throughs.

For estate agents and house builders it sets out how you can satisfy your legal obligations to provide the relevant material information, whilst finding the right buyer at the right price. For the seller's conveyancer, how you can act in the best interest of your client and reduce risk by collating all the information about the property upfront, and devise a strategy to deal with any issues.

This Protocol is for the sale, purchase, ownership and occupation of a home. The processes described are aimed to deliver efficiency but should not be considered a home-moving 'checklist' as each transaction and client is different.

For the mortgage intermediary, the material information will enable you to identify which lenders will lend, and enable the valuer to value on fact rather than assumption, and for the buyer's conveyancer enabling them to identify the core information and undertake due diligence on issues which might impact the buyer's intended use and enjoyment and what it will mean to them.

## General aim

The aim of this Protocol is to exploit the benefits of digital services, the provision of digital property data, and the National Trading Standards (NTS) Estate and Letting Agent Team guidance on material information, and the early collection of the data which will need to be reviewed to identify the information, which if stored digitally can then be interacted with during the lifecycle of the property. →

The Protocol enables the provision of digital, trustable, and interoperable property data to be collected and shared by all relevant parties and systems involved in the property transaction.

During home moving, utilising chain-view technology, the stakeholders can keep their clients up-to-date on the progress of the entire chain and identify where a transaction fails and, therefore, the party impacted will have to vacate, or the chain will have to wait until a replacement transaction is agreed.

Improving the adoption of data and technology tools raises standards across the industry and leads to better outcomes for customers and industry professionals.

Regulated entities, such as conveyancers, must act in the best interest of their clients, whether a home-mover or a lender or both, and this will take precedence.

## Why adopt the Digital Property Information Protocol?

Act in the best interest of the consumer, reduce timescales, reduce fall throughs and dis-instructions, and win and retain more business, whilst reducing the risk of liability accrued during the process.

## Application of this Protocol

Even where one party or stakeholder does not agree to adopt the Protocol, that does not prevent the use of this Protocol by the other stakeholders or party.

The Protocol is intended to sit alongside the Law Society Conveyancing Protocol. →

## Know your Customer

Recognise this extends further than identifying your client and evidencing their identity, anti money laundering and establishing whether they are on a sanctions list; it also includes identifying any vulnerabilities which need to be taken into account in the provision of the service to them and, in the case of a buyer, their intended use and enjoyment of the property so conveyancers can ensure their advice includes issues which might impact plans and highlight what issues with the title might mean.

## Preventing Fraud

Reduce the risk of identity fraud by identifying the client utilising digital identity which complies with the Digital Identity and Attributes Trust Framework. →

Improve the customer journey by utilising digital identity suppliers which enable their identity verification certificate to be shared with other stakeholders in the process.

An open-banking tool can be used to identify the client's source of funds and source of wealth.

## Property Pack: Material Information on Marketing

<sup>1</sup> Anyone marketing a property must not omit or hide the Material Information which they are aware of, or should be aware of.

<sup>1</sup> Consumer Protection from Unfair Trading Regulations 2008

To identify the Material Information the relevant data will need to be collected and reviewed, enabling the seller to deal with any issues identified. As this will prevent missing or conflicting information being provided it reduces additional enquiries and post-valuation queries, and therefore avoid delay.

## Information and prescribed documents to be collated




The following contains the information which would be relevant to any person thinking of buying the property. However, their decision to transact will be based on their own financing and personal requirements, and their conveyancer will review on that basis as part of the legal process and their surveyor as part of the surveying process.

Where available, property transaction data should be accessed digitally from its primary source, or from an accredited data provider. Where data is provided, stakeholders should represent the data and confirm the provenance of the data in compliance with the Property Data Trust Framework (PDTF). →

Property pack data which has been accessed digitally from its primary source and represented in accordance with the PDTF schema should be accepted by other transaction parties in its digital state and not be duplicated, deliberately modified, or re-levied by any party.

Where required, property pack data can be outputted in analogue formats however these should be non-chargeable and not create additional friction or cost for the customer.

## Information and prescribed documents to be collated

- 1 Energy Performance Certificate less than 10 years old. 
- 2 Completed information sets which contain:
  - a. Material facts disclosure identifying facts affecting the average buyer's transactional decision (Propertymark Property Information Questionnaire (PIQ) or equivalent); and 
  - b. The remainder of the conveyancing information required from the seller (Law Society TA6 or equivalent). 
- 3 Evidence of Title
  - a. Registered land: Title Information Document including plans and documents referred to, but not set out, in the title, for example, Lease or documents containing rights, restrictions or covenants available from HM Land Registry.
  - b. Unregistered land: Index Map Search, epitome of Title and the relevant documents referred to in the epitome documents, for example, Lease or documents containing rights, restrictions or covenants.
- 4 Applicable shared amenity information from managing agents or those controlling contributions on freehold sites

If costs are unreasonably high or delays are likely to obtain this information from the seller.

  - Number of years remaining on the lease (if leasehold).
  - Current Ground Rent (if leasehold).

- Details of ground rent increases.
- Amount of current annual service charge/estate rent charge/maintenance contribution.
- Details of large expenditure that have been received.
- **Additional fees that are payable on sale or letting of the property.**
- **The position on Building Safety.**

- 5 **Local Authority Search**

The buyer's conveyancer will need to consider the type of local search provided by the seller and that it is within the timescale required by their lender.

  - **Searches obtained from the Local Authority**

If the search is produced by the Local Authority, then the protections for the buyer and their lender will be the same as if they had ordered the search themselves as they will be relying on the same data which is public data and carries an indemnity if it is incorrect.
  - **Searches produced by a personal search provider**

If the search is produced by a personal search provider, then the buyer's conveyancer will need to check:

    - That the mortgage instructions allow them to accept personal searches; and
    - That the search provider confirms that the local search:
      - provides protection for the buyer, conveyancer and mortgage lender relying on it;

- accurately reports the most up-to-date available information and risks associated with the property from the sources consulted;
- provides complete search results based on a search of all legitimate, commercially and readily-available sources (i.e. a physical examination of public records; a response from an official entitled to provide the information; our own current records; or commercially available data);
- makes clear to customers in advance: what sources of information are commercially and readily available; what additional sources of information may be obtained, identifying any additional cost or time delay involved; where required information is unobtainable;
- states clearly in the search report what sources of information have been searched; and
- ensures all data and information is handled with integrity, in accordance with data protection legislation and protecting copyright and intellectual property rights.


- 6 **Drainage and Water Search**
- 7 **Environmental Information**
  - Contaminated land.
  - Flooding within the last 5 years and coastal erosion.
  - Radon gas or other health effects.
  - Mining.
  - Man-made and natural ground stability.
- 8 **Locality-dependent searches**

Searches which apply because of the location of the property, for example, mining, waterways, brine pumping, fracking, Williamson's tunnels. etc.
- 9 **A Certificate confirming that the Seller has been digitally identified and their relationship to the property verified.**



# Acting for the Seller

## Recommendation 1

Upon receipt of instructions from the seller, the estate agent should identify them to the HM Land Registry Safe Harbour Standard  using Department for Science, Innovation and Technology (DSIT) Digital Identity and Attributes Trust Framework enabled (D-ID) digital identity which allows for a certificate confirming the verification of the seller's ID to be shared with all stakeholders in the process.

Complete all other anti-money laundering checks. Recommend to the seller that they should immediately instruct a conveyancer and check if they have a digital Property Logbook.

Ensure the seller completes their Digital Property Pack or alternative Property Information dataset to capture and/or update property information sharing the responses with the seller's lawyer.

## Recommendation 2

Upon instruction the seller's conveyancer should ask the seller for the certificate of verification of their digital ID (if available) or complete digital ID verification and Anti Money Laundering checks (AML) to ensure that the seller is the person entitled to sell the property.

Download title information document and plan and document referred to therein, including superior titles where relevant. Order relevant searches. Establish whether the client has access to a smart phone to be able to sign digitally and be identified digitally.

If the property is not already on the market, help summarise the material information required for the estate agent to comply with Consumer Protection Regulations (CPRs).

If the property is already on the market ask the seller, or their estate agent, to provide the material information which they have identified and the prescribed documents from which the data has been taken:

- Where they have already collated some or all of the information identified above, obtain copies of it; or
- Where information has not yet been collated or is missing, collate all the information identified above.

## Recommendation 3

The seller's conveyancer should review the data and, if applicable, arrange for the seller to complete any applicable Leasehold or Commonhold Information Form and submit the Leasehold Property Enquiries Form (LPE1) to the Lease Administrator or Freehold Management Enquiries (FME1) to the property manager. If the LPE1/FME1 supplier fees are unreasonable, these can be sent when a buyer is found, as long as the seller provides the material information for the marketing of the property.

The seller's conveyancer should check through all of the information collated and advise the seller what general issues there are with the information, which might be material to the average buyer, or any issues which would cause concern to the average conveyancer or their client (whether buyer or lender) during the home-moving process, and will impact the seller's ability to sell for full value on the open market. This will be based on the rule of law and the average lending policy of the major lenders.

The seller's conveyancer should advise the seller whether, in their opinion, there is anything which the seller can do to solve these issues.

The lawyer is free, and encouraged, to take instructions to proactively remedy any issues at an early stage and obtain missing information or explain any conflicting information.

While advice should be given to the seller on resolutions to general issues, the eventual buyer's decision to transact will be based on their own financing and personal requirements in terms of the intended use and enjoyment of the property, which their conveyancer will review and advise on as part of the legal process under caveat emptor (let the buyer beware).

### Costs

When providing material information or advice on items which are revealed by the prescribed documents, which will result in additional work, the estimate of the additional costs involved should be made to the client to meet the conveyancer's regulatory requirements for transparency of costs, expenses and referral fees.

# Acting for the Seller

## Recommendation 4

Seller's conveyancer should resolve issues as agreed with the seller; while there is no obligation on the seller to resolve the issues, the average buyer's transactional decision will be impacted by them and may affect the amount which they are willing to pay for the property.

## Recommendation 5

Seller's conveyancer should, provide a summary to the agent marketing the property indicating any material information which might impact the average buyer's transactional decision, and which must be linked to the advertisement of the property in accordance with National Trading Standards Estate and Letting Agency Team (NTSELAT) Guidance on Material Information.

## Recommendation 6

The Estate Agent or seller's conveyancer should forward to a potential buyer's conveyancer a link to a copy of prescribed documents, electronically upon receipt of a written request.

## Recommendation 7

The Estate Agent on sale agreed, should forward a link to the Property Pack with the memorandum of sale to all parties.

## Recommendation 8

The seller's conveyancer should, on sale agreed, ask the seller to complete (or update) the Fixtures, Fittings and Contents information as soon as possible and confirm that the Digital Property Pack or alternative Property Information dataset is accurate and up to date, and issue a contract pack on receipt of the buyer's conveyancer's details including a draft TR1, preferably created through the HMLR digital registration service

## Recommendation 9

The seller's conveyancer should respond to any additional enquiries, specific to the property or the buyer's intended use and enjoyment or their lender's instructions, at the earliest opportunity.

## Recommendation 10

Conveyancers should utilise digital signature and qualified electronic signature technology, when available, to get the contract signed and TR1 executed by the client at the earliest opportunity.

## Recommendation 11

Conveyancers and estate agents should keep the client, and other stakeholders in the chain, updated on the actions taken, the next action to be taken and when it will take place.




# Acting for the Buyer

## Recommendation 1

Prior to arranging viewings any potential buyer should provide their identity digitally, complete AML source of funds and source of wealth requirements and be financially qualified to ensure they have funds to be able to buy the property which they wish to view. Where they require a mortgage this should include a decision in principle.

Mortgage intermediaries and lenders can review Material Information on the property portals to identify property which appears to meet their lending policy enabling them to be marked up accordingly.

## Recommendation 2

Conveyancer receive instructions from the buyer, identify them to the HMLR Safe Harbour Standard  and complete all other anti-money laundering checks to identify and establish their source of funds. Establish whether the client has access to a smart phone to be able to sign digitally and be identified digitally.

Ask them for:

- The material information on which they have based their offer;
- Their intended use and enjoyment of the property, for example, letting, altering, running a business, etc.

### Costs

When providing material information or advice on items which are revealed by the prescribed documents which will result in additional work, the estimate of the additional costs involved should be made to the client to meet the conveyancer's regulatory requirements for transparency of costs, expenses, and referral fees.

## Recommendation 3

To enable the client to make an advised transactional decision, the buyer's conveyancer should review the material information summary with the advertisement of the property, asking for full copies of any of the prescribed documents required to identify to the buyer what the material information means to their planned use and enjoyment.

## Recommendation 4

Upon receipt of the memorandum for sale from the selling agent, the buyer's conveyancer should ask the estate agent to provide any material information relating to the property under CPRs. Identify the seller's lawyers and request the contact pack including the prescribed documents from them, as soon as possible, highlighting the client's position with regard to any related or linked transactions, and requesting the draft TR1 is preferably created through the HM Land Registry digital registration service to enable digital execution using qualified electronic signatures.

## Recommendation 5

The mortgage adviser should ensure that the material information is shared with the lender as part of the mortgage application process.

The mortgage valuer and buyer's surveyor should ensure that the material information is available at the point that they are instructed to enable them to highlight immediately if the property does not meet the lender's lending policy and to avoid any assumptions when advising on the property's structure or value, as appropriate.

# Acting for the Buyer

## Recommendation 6

At the earliest opportunity upon receipt of the contract pack, the buyer's conveyancer should raise any additional enquiries specific to the property or the buyer's specific instructions or intended use and enjoyment, or their lender's instructions. Avoid enquiries which are already answered in the material information or Property Pack but undertake any additional due diligence required in respect of the buyer's planned use under caveat emptor, and the lender's lending policy.

## Recommendation 7

The buyer's conveyancer should provide the client with a report on the title at the earliest opportunity, outlining anything revealed and what it would mean to their intended use and enjoyment of the property as notified by the conveyancing firm to them, undertaking a virtual meeting with the buyer to answer any questions they may have.

## Recommendation 8

The buyer's conveyancer should utilise digital signatures and qualified electronic signature technology, when available, to get the contract signed and TR1 executed by the client.

## Recommendation 9

The buyer's conveyancer should provide the client with a draft financial statement as soon as possible to ensure they are aware of the likely amount which will be required to complete, before exchange of contracts, and highlight to them there may be daily limits on how much their bank will allow them to transfer electronically so they will need to establish how long they will need to transfer sufficient funds in time for exchange and completion.

## Recommendation 10

The buyer's conveyancer should request that the client and their lender transmit funds to arrive with the conveyancer, at the latest, the working day before completion. Prepare for completion the working day before the completion date.

## Recommendation 11

The buyer's conveyancer should ensure that all the information relating to the property is stored in a digital property logbook and recorded under the Unique Property Reference Number as the only Property Logbook registered against that property on the Property Logbook Register. Details of the registration should be provided to the mortgage lender and the buyer to ensure that they can interact with the Property Logbook during the ownership or charging of the property.



# Glossary

(AML) Anti Money Laundering

Anti-Money Laundering (AML) refers to the collection of laws, law enforcement, processes, and regulations that prevent illegally obtained money from entering the financial system.

(BASPI) Buying and Selling Property Information dataset

The Buying and Selling Property Information (BASPI) is a dataset designed to be the 'one source of truth' when it comes to upfront information about a property – it is completed at the point of marketing a property, can be pre-populated by Authority data, and it is planned that the data be made accessible to all stakeholders cutting down on the need for duplication of tasks and information collation within the process.

(CPRs) Consumer Protection Regulations

The Consumer Protection from Unfair Trading Regulations 2008 (known as the CPRs) control unfair practices used by traders when dealing with consumers, and create criminal offences for traders that breach them.

(DSIT) Department for Science, Innovation and Technology

The Department for Science, Innovation and Technology (DSIT) brings together the relevant parts of the former Department for Business, Energy and Industrial Strategy and the former Department for Digital, Culture, Media and Sport.

(FME1) Freehold Management Enquires

The FME1 form is used to find out information, such as the amount of estate rent charges or service charge equivalent, when acting for a buyer of a freehold that shares services with other houses.

(HMLR) His Majesty's Land Registry

The HMLR register the ownership of land and property in England and Wales. HM Land Registry is a non-ministerial department.

(LPE1) Leasehold Property Form

The LPE1 form is for collecting information held by landlords and managing agents – for example, about ground rent, insurance and service charges.

(NTS) National Trading Standards Estate and Letting Agent Team

The National Trading Standards Estate and Letting Agency Team protects consumers and businesses by enforcing the Estate Agents Act (1979) and the Tenant Fees Act 2019.

(PDTF) Property Data Trust Framework

The Property Data Trust Framework has been developed by a collaborative working group with the objective of creating the framework, data, and technology standards we need to make property information available upfront enabling customer transparency, user confidence, informed decision making and to reduce the current time, uncertainty, risks and stress experienced by customers and industry participants.

(PIQ) Propertymark Property Information Questionnaire

The Property Information Questionnaire (PIQ) is a document completed by the seller of property in the United Kingdom containing details of utilities and services to the property, access arrangements, council tax bands, changes to the property parking arrangements, damage to the property and leasehold information.

(TR1) Registered Title Whole Transfer Form

Use form TR1 to transfer the whole of the property in one or more registered titles. You may also use it to transfer unregistered property which is to be registered for the first time.

# Digital Property Information Protocol

## Digital Property Information and Digital Solutions

These materials are not intended to be relied upon as specific legal advice.

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