**BUYING AND SELLING PROPERTY INFORMATION**

Welcome to the Buying and Selling Property Information (BASPI).

The information in the BASPI is been provided by the seller and contains the information required to complete the Law Society TA6 as well as the information required under the Consumer Protection from Unfair Trading Regulations.

The BASPI was created by the [Home Buying and Selling Group](https://ct-url-protection.portal.checkpoint.com/v1/load/gJyXfRUTXe4Wf9U4MWj8d_SAFUdi86Z0V5F0c-vx5oFiC6WUni7ddqCi0fHOHJ79hOdCq1fHgxp1ukpr0C8j5VHYR6jvULv0zsvv8rY37V49kKQBoNC6f121EZU1OtwwbwF--QFa2I96GlC107EfRqrzuvIeQX1I4ziKtQAIGNhag6LklvmSrEOAKdoc2zhZSLRw_vcxIfnTk-A58SeMaRijqqPszdH8) (HBSG), Upfront Information Sub Group. The HSBG has over 150 participants from across the home moving industry and was set up to provide an industry working group to assist the Ministry of Housing and Local Government to consider and deliver the outcomes of the government’s call for evidence into [improving the home buying and selling process](https://ct-url-protection.portal.checkpoint.com/v1/load/Ttrh7ZAc3kFykmBc_xpTTgDYqboY8EOjzNmdWBcgsfahFtCClUWOlZMv2NcVeVFjTBmbvQA1eMBS1zJ3pP4KO____vITlT2SZOjn02-tHEoV452nz3PjkkVvLmdFA0lRZbx8QxMwJZx1YoSPlf1BnL53mXtB0i57HsCxtHnNTtJtrSDrntEuL_P-cQpyCihgYxkVAt-EXbFgs_48hvxKu78JS6rLa897Bxs-EeniDODjl_s2SAIQX57IEdTyVK0vZVOZCKlxGTOzW8FLglfnQ4VbM4i5VyXLLpiwYIOz6vtw4oG9yP9ip7T0qg).

The content of the BASPI is updated annually by the Conveyancing Task Force, made up of the trade and representative bodies in the legal sector, including The Law Society, Society of Licensed Conveyancers and Chartered Institute of Legal Executives, with the assistance of the HBSG members including RICS, National Trading Standards Estate & Lettings Agency Team, the Property Ombudsman and estate agent trade and representative bodies.

**The BASPI Content**

The contents of the BASPI is a mixture of the material facts disclosure required to advertise property under the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and the information required from the seller at part of the due diligence for the conveyancing process, including the information in the Law Society TA6 and, where appropriate, the information that would be required should an additional enquiry be required for example whether an External Wall System check has been undertaken on a property with cladding.

**Recommendations for the use of the BASPI**

The BASPI contents are intended to avoid the duplication of the seller having to complete the material facts disclosure form and conveyancing due diligence form.

The notes on the BAPSI make it clear that the information provided is based on the seller’s own knowledge and that their knowledge is likely to be no more than that of a lay person.

The buyer’s property lawyer will undertake due diligence with the relevant authority to check the information as they would normally eg review search results.

It is important that the information is updated at the point of sale and the property lawyer acting for the seller and the buyer should ask the seller to confirm that the information is accurate and up to date.

**Insurance and liability**

The BASPI sub-group referred the content to one of the largest professional indemnity insurers who advised that the collation of the information had the potential to avoid claims because:-

1. The buyer has access to the material facts prior to offer and would therefore be less likely to purchase an unsuitable property and, if a claim was made, it would be possible to identify what information had been provided to them prior to offer
2. The removal of the “don’t know” answer option from the seller would provide a genuine outline of the seller’s knowledge and, so long as this was truthful, then avoid seller liability as caveat emptor places the burden on the buyer to undertake due diligence
3. The provision of the material facts to the property lawyers would ensure that the property lawyer was aware of the basis on which the offer had been made. They are therefore able to identify whether there was any conflicting information revealed by their due diligence which might affect the buyer’s intended use and enjoyment and willingness and ability to buy the property at that price.

The liability of the seller, the property lawyer, mortgage valuer and estate agent does not change through the use of the BASPI.

Caveat emptor means that the BASPI content provided by the seller is subject to the due diligence being undertaken by buyer’s property lawyer (and lender’s property lawyer if different). The Misrepresentation Act 1967 outlines the obligations on the seller to tell the truth and CPRs the obligation on the person marketing the property to provide a potential buyer with the material facts that would impact their transactional decision.

**Benefits of using the BASPI**

1. Improved customer journey:-
	1. The seller completes one set of information at the point of listing avoiding the 58 duplicated questions in the material facts disclosure and TA6.
	2. The buyer receives all of the material facts disclosure prior to making an offer and is able to identify whether the property meets the lending policy of their chosen lender.
2. Speed
3. The use of the BASPI means that all of the seller information is collated at the point of listing, reducing the time in collating the information later in the process once an offer is accepted
4. The information in the BASPI can be passed to the mortgage broker to select the lender for which the property meets the lending policy and reducing the delay in alternative mortgage applications having to be made.
5. The RICS have reviewed the BASPI and identified what information would create a helpful valuer summary to ensure that the valuer had sufficient information to avoid having to make assumptions for the valuation eg assumptions as tenure, term of lease remaining, availability of local authority consents to the alterations and extensions. By collecting the information when ringing for access to the property the valuer can ensure that the information is correct in the valuation and therefore reduce the need for any post valution queries having to be referred by the property lawyer to the lender.
6. Reduced fall throughs
	1. By ensuring that the information is collated at listing the property lawyer can identify any issues with the property that could be resolved prior to offer and which otherwise might result in fall through eg lease extension
	2. The provision of the material facts to the buyer avoids them pulling out because something is revealed later in the transaction which means that they cannot use the property at their intended or mortgage it with the mortgage lender which they have applied to.
	3. The improved timescales generated by the BASPI through reduced post valuation queries, issues solved prior to sale and the information being available at the point of sale reduces the time taken to exchange.

**POTENTIAL BUYER AND BUYER ACCESS**

Under the Consumer Protection from Unfair trading Regulations 2008 (CPRs) anyone marketing property must, when they advertise or market the property, disclose to a consumer any material facts which would impact the average consumer’s transactional decision. This could be via the technology provider, a copy of or link to Part A or indicating on there that they can request an email of the data.

If at the point of listing the completed BASPI is outstanding consumers should be made aware that the material facts disclosure is outstanding.

**LAWFUL BASES FOR PROCESSING SHARING INFORMATION**

Under UK GDPR it is lawful for anyone marketing property to share the material facts in Part A of the BASPI with a consumer as it is a legal obligation upon anyone marketing property to disclose material facts under the CPRs.

Once an offer is agreed, the full BASPI (Part A and Part B) can be provided to the buyer and relevant stakeholders under UK GDPR because the buyer, property lawyers, mortgage broker, lender and valuer have a legitimate interest unless there is a good reason to protect the individual’s personal data which overrides those legitimate interests. If in any doubt, the seller’s consent should be obtained to share the information, for example in business terms.

**CQS, SRA, CLC and CILEx Regulation**

The information collated in the BASPI includes the information needed to complete the TA6.

The Law Society are setting up an equivalency assessment to which the BASPI will go through to be identified on the Law Society website as an equivalent form as set out in the [CQS protocol](https://ct-url-protection.portal.checkpoint.com/v1/load/ZwCwXQZUVP9GwUJYSwMwseEG8HchBHicX4-3GZK_ioO7Z6uIBrYRBPLclell20IBjyuODRXUR_yAlbC3dwV499q5vMn8ZvkULE9vHK1U0g-5HlSsVrM7PU-WRncV709wI1PVWM8-HYpxBqJ9hWMKyPE4HkmmJeIRZNvuOBu-COH-0uffJ2YJvFfaeiR_8Z45z_vvXpP3wWG-1FMsZfRKbX6PtT8G7dxHKsXDq8g8WhbgdA-a8jrLm1ZJG5tMpPeyF381K-XO).

CQS is an optional compliance scheme and solicitors can undertake conveyancing in accordance with the SRA Code of Conduct without CQS or if a conveyancer is CLC or CILEx Regulation regulated and therefore a specialist property lawyer outside of the CQS which only applies to solicitors.

The best interests of the client take precedence over the CQS Protocol requirements and 3.1 on the SRA Code of Conduct requires that the property lawyer acts on the instructions of the client. As outlined above the use of the BASPI is in the best interests of the client.

**Solicitors Regulation Authority**

Solicitors and SRA-regulated firms are free to determine the most appropriate methods for delivering conveyancing services though their business model. The decision as to whether or not to use BASPI versus another approach, to deliver conveyancing transactions for their clients, is down to individual solicitors and law firms to determine.

However, irrespective of which approach is used, conveyancing solicitors and businesses that are regulated by the SRA must make sure that they continue to fulfil their regulatory duties, including the SRA’s Principles and the detail of both the Code of Conduct for Solicitors, and the Code of Conduct for Firms.

in both cases they set out regulatory duties applying to the delivery of any legal services. Principle seven requires you to act in the best interests of each client, and section three of the Code of Conduct for Solicitors sets out your duties around service and competence. You might assess the BASPI in terms of how far it supports you to fulfil those duties alongside other requirements set down in the Code, in the same way that you might evaluate other schemes, or routes towards delivering legal services.

If you would like to talk through this, or more generally the ways in which you deliver conveyancing services, you can contact our Professional Ethics team - professional.ethics@sra.org.uk, or call **0370 606 2577.**