

Extract from a letter written by the Chair of the Law Society's Conveyancing and Land Law Committee (*Gazette, 1 May 2008*)

The Law Society is very carefully considering revisions to its current guidance to the profession on this important issue which goes to the heart of a solicitor's responsibility to his or her client. It is crucial that solicitors are able to give clear and independent advice to clients on the basis of reliable accurate information provided from properly authenticated data. The Law Society has much wider obligations to the public than the purely commercial ones of [personal search provider].

In fact the Law Society has been open minded but has had to take careful note of what appears to be happening in the market place especially since the introduction of the HIPS Regulations, before it can consider issuing any form of guidance.

The problem is that where a personal search is being provided in a HIP, which in reality should be in just about every case now, a seller's solicitor, and indeed a buyer's solicitor, has to make a judgement as to whether such a search is sufficiently compliant so as to, firstly, satisfy the Regulations, and secondly whether it provides the necessary reliable information upon which a buyer [and indeed any mortgagee of the buyer] may be advised to proceed safely. If he is not so satisfied then advice to the client to buy another search, whether official, or personal, may well be appropriate which undeniably adds a cost to the whole transaction not envisaged by the Government in its introduction of the HIP.

Mr **** properly states 'property search companies are not all the same'. Therein lies the problem, in that some are likely to be better than others. Hence the necessity for solicitors to err on the side of caution.

Yours sincerely

Chair of the Conveyancing and Land Law Committee