

PART I

Law Society's Guidance Notes 2018

1 INTRODUCTION

1.1 A coal mining (CON 29M) report should be obtained when dealing with land in coal mining areas ('Affected Areas'), including purchase, mortgage, further advance, or before any development takes place.

1.2 A CON 29M can be obtained directly from the Coal Authority or other Report Producer licensed by the Law Society, or by using the National Land Information Service (NLIS). The report should be obtained before the exchange of contracts or before any other legally binding obligation is entered into.

1.3 NLIS (www.nlis.org.uk) is a single point of access to various sources of property information, including local authorities, Her Majesty's Land Registry (HMLR), water companies, and other organisations that provide official sources of data.

1.4 It is recommended that a plan of the property is included when ordering a report. Plans should be marked with the full extent of the boundary of the property, for which the report is required, and not just the property building footprint or any other such lesser area. You should keep a copy of the plan for reference.

1.5 The Cheshire Brine Pumping (Compensation for Subsidence) Act 1952 set up a single Compensation District covering the areas of Cheshire where there was the potential for subsidence resulting from the pumping of brine. The Cheshire Brine Subsidence Compensation Board was formed in order to discharge the duties set out in the 1952 Act. Since 23 October 2006, the Cheshire Brine search had been incorporated into CON 29M reports, providing combined coal and brine information. The brine search is mandatory for all property transactions within the single Compensation District. The Cheshire Brine Subsidence Compensation Board has now taken the provision of the brine information back in-house and reports will be available from their suppliers, Groundsure, at www.groundsure.com/cheshire-salt-search.

1.6 References to the CON 29M report also apply to reports which contain the CON 29M report elements, but also include additional information in a report, such as environmental information or information on natural causes of subsidence. The CON 29M element of the report cannot be disassembled, modified or paraphrased in any such report in any way.

1.7 These Guidance Notes should be read in conjunction with the User Guide (Part II of this document), the Terms and Conditions (Part III of this document) and, importantly, the Terms and Conditions of your report provider.

2 PRELIMINARY ENQUIRIES

2.1 If the property is in an Affected Area (which can be ascertained through your report provider or NLIS), you should obtain a report and raise preliminary enquiries of the seller. The enquiry should ask whether, during the ownership of the seller or to the

seller's knowledge from his predecessors in title, the property has sustained subsidence damage related to coal mining and, if so, how any claim was resolved (by repair or payment in respect of the cost of remedial, merged or redevelopment works or otherwise).

2.2 If the report discloses a current 'Stop Notice' concerning the deferment of remedial works or repairs affecting the property, or the withholding of consent to a request for preventive works affecting the property, it is recommended that you should ask preliminary enquiries of the seller, or their conveyancer as to the present position.

3 REPRODUCTION OF LAW SOCIETY DOCUMENTS

3.1 Copyright in the CON 29M and enquiries belong to the Law Society. Any use of the forms must be completed under licence from one of the approved third-party licensee organisations, details of which can be obtained from the Law Society.

4 MINING SURVEYS AND SITE INVESTIGATION

4.1 Disclosure of a disused mine shaft or adit in a report, the existence of recorded shallow coal workings or possible unrecorded coal workings reported as believed to be at or close to the surface (such that future ground movement may still subsequently occur) and/or any other coal mining related hazard identified within the report, should be brought to the attention of the client. If further information or advice is required in addition to that available from report providers, it should be explained to clients that there are experienced mining surveyors and structural engineers able to advise as to what further enquiries, surveys, or investigation should be made.

4.2 If a lender is involved in the transaction, conveyancers should establish the advice of (as appropriate) UK Finance (previously the Council of Mortgage Lenders (CML), the Building Societies Association, and the requirements of lenders with regard to the surveyors or engineers selected and make arrangements to provide a copy of the report to the selected surveyors and/or engineers.

4.3 In most cases, but not all, the Coal Authority and not the adjacent surface landowner will own any coal shaft or adit. Clients should be advised accordingly and reminded that in these cases the permission of the Coal Authority must be sought before carrying out any works to locate, treat, or in any other way interfere with former coal workings including disused coal mine shafts or adits.

5 DEALING WITH LENDERS

5.1 If domestic property which is the subject of a CON 29M report is to be charged as security for a loan, please consult the requirements of the UK Finance Mortgage Lenders' Handbook on Searches and Enquiries for the particular lender. Whether or not a report is required by the lender depends on the result of the report and the lender's instructions. Conveyancers should not comment substantively on the replies within the report but should recommend that they be referred to the lender's valuer for review and information.

5.2 Provided that a copy of the CON 29M report has been provided, you are not obliged to make any other reference to the replies in any report on title to a lender save to refer to the existence of the CON 29M report.

5.3 With regard to non-domestic property, a similar procedure should be adopted. You should, however, refer to the replies to the additional enquiries included in the mining reports for non-residential, commercial, or development sites as these deal with legal matters (namely the withdrawal of support, the existence of working facilities orders, and payments to owners of former copyhold land).

5.4 When also acting for the lender it is suggested that you should, in all cases, check whether the instructions from that lender require you to deal with the replies to the CON 29M report in any other manner. If so, it is suggested that you explain to the lender the basis on which conveyancers are advised to proceed, by using the guidance in this document. It is important that conveyancers should not attempt to perform the function of the client's valuer or surveyor with regard to the replies to the CON 29M report, and that lenders are aware of the scope of duties of the conveyancer.

6 IMPLEMENTATION OF GUIDANCE NOTES 2018

6.1 All CON 29M reports requested will be prepared in accordance with the Law Society's Guidance Notes 2018 (this document), the User Guide 2018 (Part II of this document), the Terms and Conditions 2018 (Part III of this document), and the report provider's own Terms and Conditions.