

## PART II

# User Guide 2018

## 1 INTRODUCTION

**1.1** The past legacy and ongoing impact of coal mining can affect surface land and property through subsidence. Consequently, a coal mining report is essential for anyone buying or developing property in any coal mining area in England and Wales.

**1.2** The Coal Authority holds and maintains the national coal mining database. Since December 2015, the Coal Authority has licensed this data to additional third-party organisations ('Report Producers') to encourage a competitive market in coal mining reports.

**1.3** The CON 29M report provides property specific information including past, current, and future underground and surface coal mining activities, affecting any individual property or site in England and Wales.

**1.4** Before obtaining a report, it is recommended that Users familiarise themselves with this User Guide. For the purpose of this guide, Users should be taken to include solicitors, other members of the legal profession, licensed conveyancers – collectively 'conveyancers' – as well as surveyors, valuers, estate agents, lenders, insurers, surface developers, and any other individual or organisation obtaining a report for their own or their clients' use.

**1.5** The Law Society recommends that a coal mining report should be obtained by conveyancers when acting on the occasion of any dealing with land in coal mining areas ('Affected Areas'), including purchase, mortgage, further advance, or before any development takes place. A report should be obtained before the exchange of contracts or any binding obligation is entered into.

**1.6** This User Guide should be read in conjunction with the Law Society's Guidance Notes (Part I of this document) and Terms and Conditions 2018 (Part III of this document), as well as the Terms and Conditions of the individual Report Producer.

## 2 AFFECTED AREAS

**2.1** Whilst past coal mining activities are widespread and current activity does still take place, most of England and Wales are not Affected Areas. A CON 29M report is required if the property is within any area which may be affected by the previous, current, or proposed working of coal. The User should not rely solely upon their own 'local knowledge' in determining whether or not a report should be obtained.

**2.2** A CON 29M report is required in respect of property transactions in the following Affected Areas in England:

Bristol  
Cumbria  
Derbyshire  
Devon (see paragraph 2.4)

Leicestershire (excluding Rutland)  
Lincolnshire  
Merseyside  
Northumberland

Durham	Nottinghamshire
East Riding of Yorkshire	Shropshire
Gloucestershire (including Forest of Dean)	Somerset
Greater Manchester	Staffordshire
Herefordshire	Tyne & Wear
Kent	Warwickshire
Lancashire	West Midlands
Yorkshire (North, South, West)	Worcestershire

and in the following Affected Areas in in Wales:

Isle of Anglesey (Sir Ynys Môn)	Newport (Casnewydd)
Blaenau Gwent	Pembrokeshire (Sir Benfro)
Bridgend (Pen-y-Bont Ar Ogwr)	Powys
Caerphilly (Caerffili)	Rhondda Cynon Taff (Rhondda Cynon Taf)
Carmarthenshire (Sir Gaerfyrddin)	Swansea (Abertawe)
Cardiff (Caerdydd)	Torfaen (Tor-Faen)
Denbighshire (Sir Ddinbych)	Vale of Glamorgan (Bro Morgannwg)
Flintshire (Sir y Fflint)	Wrexham (Wrecsam)
Merthyr Tydfil (Merthyr Tudful)	Monmouthshire (Sir Fynwy)
Neath Port Talbot (Castell-Nedd Port Talbot)	

The procedures for finding out which places within the above counties/county boroughs require a CON 29M report are outlined at paragraph 3.1 below.

**2.3** Subject to a detailed check via a Report Producer, no CON 29M report is required to be obtained in respect of property in any of the following counties of England:

Bedfordshire	Norfolk
Berkshire	Northamptonshire
Buckinghamshire	Oxfordshire
Cambridgeshire	Rutland
Cornwall	Suffolk
Dorset	Surrey
East Sussex	West Sussex
Essex	Wiltshire
Greater London	Hampshire including Isle of Wight
Hertfordshire	

or in the following counties of Wales:

Ceredigion  
 Conwy  
 Gwynedd but excluding Isle of Anglesey (Sir Ynys Môn)

**2.4** Not all property located within a coal mining area is within the zone of likely physical influence on the surface from underground coal working and therefore may be at risk of the effects of subsidence. Whether a property is within such a zone of influence depends on the coal mine workings that have taken place. Property that is within such a zone will not necessarily sustain subsidence damage but some support from the surface where the property is situated may have been withdrawn or may be withdrawn in the future. The calculation used to determine the likely zone of influence on the surface from coal mine

workings is based on the principle of 0.7 times the depth of the working, allowing for seam inclination.

**2.5** Licensed mine operators are required to give property owners advance notice of any proposals for underground coal mining operations which might result in subsidence affecting the property. They are also required to give property owners advance notice of any decision not to proceed with the operations or anything which gives them reason to believe there is no longer any risk of the property being affected by subsidence and of the discontinuance of any operations which have been carried on.

**2.6** When a CON 29M report states, by whatever means, that the possibility of future coal working is unlikely, this does not and should not be deemed to affirm that no coal mining strata is present, nor that some part of any coal resources present will (subject to obtaining planning permission and a licence from the Coal Authority) not be worked at some future date.

### **3 PROCEDURES FOR FINDING OUT WHETHER A CON 29M REPORT IS REQUIRED**

**3.1** Users can establish whether a CON 29M report is required by contacting their Report Producer who will be able to provide a screening system to determine if a report is required.

### **4 RESIDENTIAL AND NON-RESIDENTIAL REPORTS**

**4.1** Two types of reports can be obtained:

#### **(1) Residential Property Report**

This is available for single unit residential property, either existing or currently being built, i.e. having already been the subject, in full or part, of a previous development site report.

By way of illustration, this includes any single unit domestic property (e.g. a house, flat or bungalow, including any associated garage or car-parking space), a single plot on a multi-plot development site, a residential farmhouse, or similar converted property. As a guideline, the Coal Authority sets this up to a maximum of 15 hectares in extent. Other Report Producers may set different boundaries.

The report answers questions 1 to 11 of the CON 29M (2018) relating to:

- past, present, and future underground coal mining;
- mine shafts and adits;
- coal mining geology;
- past, present, and future opencast coal mining;
- coal mining subsidence (damage notice/claim/method of discharge of any remedial obligations/stop notice/request for preventive works);
- mine gas emissions; and
- incidents dealt with under the Coal Authority's emergency surface hazard call out procedure.

Additional advice will be included, where appropriate, depending on the mining circumstances.

If the report is for an existing single unit residential property and the homeowner intends having a conservatory or an extension built, then the residential report would still be appropriate. If major development works are intended, then a non-residential report should be obtained.

## **(2) Non-Residential Property Report**

This is available for non-domestic properties, i.e. non-residential, commercial, and other sites.

By way of illustration, this includes multiple residential property requests (e.g. a pair of semi-detached houses, a row of terraced houses, or a block of flats), vacant land, public houses, shops, businesses, commercial property, industrial estates, rural estates, working farms and their associated outbuildings and land, pipelines, roads and similar linear structures, and *any* sized development site from a single plot.

The report answers questions 1 to 14 of the CON 29M (2018), including the Residential Property Coal enquiries 1 to 11 and the additional enquiries relating to:

- withdrawal of support;
- working facilities orders; and
- payments to owners of former copyhold land.

Additional advice will be included where appropriate, depending on the reported circumstances.

**4.2** With regard to withdrawal of support from coal working, Users should be aware that statutory provisions may override the common law principles giving surface landowners a prima facie right of support. Such statutory provisions are contained in mining legislation such as:

- Coal Industry Act 1994, section 38;
- Coal Industry Act 1975, section 2; and
- Coal Act 1938, Schedule 2, paragraphs 5 and 6.

The report will give details of any notice(s) given under the relevant legislation. The report will not give details of any rights in title or severance deeds. Whether any support has or may be withdrawn can be answered only by reference to the records presently available to the Coal Authority and, where appropriate, will be effectively answered under the past, present, and future headings of the coal section of the CON 29M report reply.

## **5 METHODS OF OBTAINING A CON 29M REPORT**

**5.1** The report can be obtained electronically either through a National Land Information Service (NLIS) Channel Provider or directly from a Report Producer licensed by the Law Society.

**5.2** Reports should be obtained as early as possible in the conveyancing process as this will ensure timely return of the CON 29M and avoid potential difficulties in meeting Users' own time schedules.

## **6 ORDERING REPORTS**

**6.1** The CON 29M report will be prepared in answer to the questions within the Guidance Notes (Part I of this document) and in accordance with the User Guide 2018 (this

document), the Terms and Conditions (Part III of this document) and the Terms and Conditions of your Report Producer.

**6.2** It is inappropriate to request a residential property report for non-residential property or sites.

## **7 FEES**

**7.1** For the current scale of charges for both residential and non-residential CON 29M reports, you should contact your Report Producer. The fees charged in respect of reports may change and you should confirm this with your Report Producer.

**7.2** If a CON 29M report is mistakenly obtained, for example, in respect of property outside the Affected Areas, please contact your Report Producer to see what cancellation options are available under their Terms and Conditions.

## **8 PLANS**

**8.1** When obtaining a report, Users should ensure that the full boundary of the property is provided and not just the property building footprint or other lesser area. When submitting requests for development site plots, the accompanying plan should show the plot boundary in relation to established surface features. Report Producers cannot be held liable for any incorrect boundaries provided by a User when ordering the report.

**8.2** Where boundaries of the property in respect of which the report has been prepared are included, it is necessary for Users to ensure that such boundaries correspond with those of the property. If the boundary of the property shown on any report does not so correspond, any discrepancy should be resolved by the User with their Report Producer as soon as possible.

## **9 SHAFTS AND ADITS (MINE ENTRIES)**

**9.1** Shafts are vertical or near vertical entrances sunk from the surface to access underground mine workings. Adits are walkable entrances driven from the surface to access underground mine workings. Adits may be horizontal or slope upwards or downwards. Shafts and adits may be collectively referred to as 'mine entries'.

**9.2** The reply as to shafts and adits (within 20 metres of the boundary of the property) will be prepared from the records in the possession of, and licensed by, the Coal Authority. These records may not be complete. The reporting distance of 20 metres is recommended and agreed with the Law Society, Royal Institution of Chartered Surveyors, Council of Mortgage Lenders, and the Association of British Insurers. Given the indeterminate accuracy of many of the source records, the Coal Authority is unable to license data on any possible difference between the actual and plotted position of the mine entry or its likely size or depth. Distances are measured from the estimated centre of the shaft or centre point of an adit entrance.

**9.3** References to a coal mine shaft within 20 metres of a property or its boundary does not necessarily mean that the property has or will have any instability problems. The number of cases where shafts affect the structure of a property are very low.

**9.4** Users are reminded that with effect from 31 October 1994 British Coal's interests in unworked coal and coal mines became vested in the Coal Authority. In most cases, but not

all, any shaft or adit will be owned by the Coal Authority and not the adjacent surface landowner. 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 disused coal mine shafts or adits.

## **10 COAL MINING SUBSIDENCE DAMAGE CLAIMS**

**10.1** In answer to question 9, the report will provide information about any claim for coal mining subsidence damage made since 31 October 1994. Where the Coal Authority confirm that they have not received a damage notice or claim for a property since 31 October 1994 this should not be taken as necessarily inferring that a claim either has or has not been made prior to this date.

## **11 TIME VALIDITY**

**11.1** There is no time protection afforded by replies to CON 29M reports. Whether a User can rely on a past report (of his/her own or another) depends upon all the circumstances of the case including how recently it was made, the content of the report, the nature of the property, and the User's intentions in relation to it. Licensed operators' plans for mining may change as may the other relevant information available to, and licensed by, the Coal Authority. If there is any doubt as to whether the previous replies remain valid, it is suggested that a new report should be obtained. Without prejudice to the generality of the foregoing, any mining report must not be relied upon in any event in excess of 90 days from its date of issue and must thereafter be verified as still being up to date by obtaining an additional report.

## **12 CON 29M REPORT INSURANCE**

**12.1** Insurance cover may be provided by Report Producers to owners of property to mitigate against any loss of value attributable to any material change of any of the information in a subsequent CON 29M report from that contained in the report to which any insurance attaches. It is suggested that the CON 29M report and any insurance certificate should be kept with the title deeds.

**12.2** The insurance does not cover physical damage to property caused by coal mining subsidence for which other more powerful remedies already exist, in particular, but not limited to, the Coal Mining Subsidence Act 1991. This insurance, if provided by the Report Producer, is not a substitute for any normal homeowner building and contents insurance cover.

**12.3** The insurance certificate provided with the report should outline the terms and conditions of the insurance.