

Submission by the Council of Property Search Organisations to the Office of the Deputy Prime Minister on the consultation draft of guidance of personal charges

Introduction

1. In March 2003 the Office of the Deputy Prime Minister published a consultation draft “personal searches of the local land charges register and other public records held by local authorities”. The ODPM has invited comments by 30 June.
2. This paper is the submission of the Council of Property Search Organisations (CoPSO). CoPSO is a newly established trade association set up to represent the interests of the growing number of private sector organisations that provide property information reports. Currently, the Association has seven members (Richards Gray, One Search Direct, STL, Landmark Information Services, PSA, PSG and Sitescope). The Council is currently in the process of expanding its membership by inviting all relevant organisations to join. CoPSO also seeks to safeguard the interests of professional users. It requires its members to have professional indemnity insurance and will introduce a mandatory code of practice.
3. Property search organisations assist the house purchase process by providing the results of necessary searches of information held by local authorities and other public agencies more efficiently than the authorities and agencies can themselves provide. The companies are retained mainly by conveyancers acting on behalf of purchasers. Property search organisations are now involved in over 40% of all house purchase transactions.
4. It follows that property search organisations have a major interest in the draft guidance.

Key points

5.
 - The concept of guidance for local authorities and private searchers is warmly welcomed.
 - Personal searches should not increase the demands on the resources of local authorities; they merely represent a different channel through which this demand arrives.
 - CoPSO will make the adherence to the Guidance part of its code of practice; local authorities should similarly commit themselves to comply with it.
 - The guidance is merely a palliative. It is necessary to address the real issues, that is the unwillingness of many local authorities to make the necessary resources available to ensure that their data is accessible and the contents of the Con 29 form which bear little relation to the information that house buyers need to know.

The concept of guidance

6. Given the present unsatisfactory relationship between some local authorities and some private search organisations, and the resource constraint on local authorities, guidance is a sensible way forward. However, the guidance inevitably is vague and leaves much to interpretation. Where local authorities and search organisations are efficient and reasonable the guidance should help formalise and improve a satisfactory position; where these conditions do not apply then it is hoped that the guidance may make some contribution to an improvement in the position but it would be unwise to expect a major change in the short term.
7. In the medium term local authorities must address the resource problem, described in the next section.

Personal searches and pressure on local authority resources.

8. As the consultation draft describes, an increasing proportion of local authority searches are conducted by private organisations. Paragraph 2.3 of the consultation paper suggests that this has resulted in frequent period of heavy demands for access to public records and that this has presented real problems for some local authorities. The problem is accepted but the causes of it merit some attention. The number of searches requested depends on transactions in the property market. Whether searchers are requested directly from a local authority or commissioned from a private organisation makes no difference to the number. There should only be a resource problem if private searchers made additional demands or cause a bunching of work. It is accepted that private searchers do cause some additional work and may contribute to bunching. Private searchers can address this problem by ensuring that their staff are fully trained and conduct their business efficiently. For their part local authorities should aim to meet demand rather than respond to increased demand by limiting supply.

The good practice guidance

9. The draft guidance for local authorities and for personal searchers seems reasonable. CoPSO has some comments on points of detail. In the good practice guidance for local authorities –
 - The list of bullet points on “Advice and information” should include “Arrangements for access to the Local Land Charges Register”.
 - In the “Appointments” section add to the first bullet point: “individuals, the local authority itself and the NLIS channels should not be treated more favourably than search companies”.
 - In the “Appointments” section add to the bullet point: “Appointments should be confirmed by phone, fax or e-mail”.
10. In the good practice guidance for personal searchers the word “reasonable” should be inserted before “time” in the final bullet point under the “appointments” heading. The guidance for local authorities and that for personal searchers hang together in this respect. If personal searchers are treated fairly compared with others seeking search information then they accept that they may be subject to some restrictions. However, they cannot accept a position in which local

authorities can impose restrictions on them while giving priority to individual searchers or to their own searches.

Applying the guidance

11. In itself the guidance will be of no use unless it is complied with. For its part CoPSO will make compliance with the guidance mandatory through its code of practice. Any local authority will therefore know that a CoPSO member will act in accordance with guidance. It would be helpful if the LGA could similarly make the guidance mandatory for its members.

Access to information

12. There is a general point underlying many of the comments made in this submission, relating to access to publicly held information. The Government's report *e.gov – Electronic Services for the 21st Century* established a key strand in the strategy for e-government should be to create a mixed economy for the delivery of services through the use of intermediaries from the private and voluntary sectors. The Office of the e-Envoy intends to focus intermediary involvement in nine service areas including land and property.
13. The responsibility of local authorities is primarily to maintain up-to-date records; they alone can do that and many are expert at doing it. But commercial channels are often better delivery mechanisms. The public is best served by a number of competing information providers.

The contents of the Con 29 form

14. The Con 29 form seems to be a combined effort by local authorities and solicitors, aimed at increasing the workload on each other, and bears little relationship to the needs of home buyers. Indeed, by providing unintelligible or irrelevant information and by increasing the scope for substantial delays to be inserted into the house buying process, the form as drafted is damaging to consumers.
15. It is helpful to go back to first principles and look at the factors which people take into account when deciding to purchase a property. The most important factors are the property itself, that is its physical characteristics, its immediate location, its condition and its price. It is significant in this respect that most people do not bother to make proper enquiries about the condition of the property and it also seems that there is comparatively little attempt to properly evaluate prices. This perhaps puts everything else in perspective.
16. There is then a second series of factors, all to do with the local environment. These include the physical appearance of the environment, the neighbours (in particular, the possibility of neighbours from hell), the availability of local schools, the availability of public transport and the possibility of major new developments close to the property. Some of these points, for example the environment and access to schools and transport, are properly emphasised by estate agents.

17. There is a third series of factors that people want simple assurance on, for example that they will have clear title to the property, there are no restrictive covenants which could adversely affect them, there are no notices served in respect of the property which could adversely affect them and that there are no major adverse environmental factors.
18. When judged against these factors, the Con 29 form seems not wholly relevant. It deals only with the third set of factors and seeks to provide very precise information about the circumstances at any one point of time. However, those circumstances can change immediately after exchange of contracts, so the relevance of having precise detailed information is perhaps overstated, particularly when that information may not be very important.
19. There is then a further factor, that if the information is deemed to be important to the public then it should be accessible to the public. Only a minority of the information required in Con 29 Part 1 has to be made available for inspection. This applies, for example, to planning permissions but not to building regulation approvals.
20. There are some obvious areas that could be taken out of Con 29 Part 1 entirely. The whole of Section 3(6) relating to traffic schemes pales into insignificance compared with the factors that people take into account when purchasing a house. Are people really bothered about cycle tracks, pedestrian crossings and vehicle width or height restriction? The information on nearby road schemes also seems to be excessive.
21. The information included in Con 29 Part 2 is even more esoteric. Entries in the Register of Applications, Directions and Decisions relating to the Consent for the Display of Advertisements, whether there is a pipeline within 100ft of the property or whether the area is an enterprise zone, urban development area, inner urban development area or simplified planning zone are less important to most home buyers than the colour of the toilet.
22. It is proposed as a matter of urgency that ODPM commissions a consumer based study of the information that home buyers need and then initiates a substantial reduction in the contents of Form Con 29 Part 1 and Part 2, with a view to reducing significantly the information required and also requiring that information to be made available on public registers.

Council of Property Search Organisations
29 Harley Street
London
W1G 9QR

Tel: 020 7927 6836
Fax: 020 7637 0419
E-mail: info@copso.org.uk
Website: www.copso.org.uk

30 June 2003

Chairman: Mark Boleat
Tel: 07770 441377