

Submission by the Council of Property Search Organisations to Select Committee for the Office of the Deputy Prime Minister on the draft Housing Bill

Introduction

1. On 7 April 2003, the Select Committee on the Office of the Deputy Prime Minister announced that it would be carrying out a pre-legislation inquiry on the draft Housing Bill, published in March 2003. The Select Committee has invited written evidence by 15 May 2003.
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 six members (Richards Gray, One Search Direct, STL, Landmark Information Services, PSA 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 provisions of the draft Bill requiring anyone marketing a home to assemble a Home Information Pack (HIP) and in the contents of that pack. They are also well placed to comment on whether the government's proposals will achieve their desired effect. The comments of the Council are restricted to this part of the Bill.

Key points

5.
 - The provision of more pre-contractual information should speed up the house purchase process.
 - Making HIPs compulsory raises major issues which need to be fully thought through.
 - The draft regulatory impact assessment overstates the benefits that HIPs will bring about; transactions fall through for many reasons other than the time taken to complete them.
 - The consumer has benefited from the activities of property search organisations; it is important that the introduction of HIPs does not stifle the benefits of competition.
 - Both the government's interest in promoting e-government and e-commerce and the wider interests of the consumer with respect to property-related information services are best served by free competition in an open market. This requires non-exclusive relationships between public sector data providers and private sector information service providers, and open access by the latter to data held by the former.

The business of property search organisations

5. Members of CoPSO predominately undertake two kinds of search associated with conveyancing that are relevant to the proposed HIP. The first are personal searches that satisfy the requirements of Form Con 29 Part I. The second are environmental searches, drawing on information from a wide range of sources that seek to identify and evaluate environmental risk associated with a property (e.g. historical contamination, land fill, radon, subsidence, flooding etc.). Both types of report offer consumer choice with respect to price, quality of service and speed of response. CoPSO believes that its members generally offer customers better value, measured against these attributes, than local authorities or central government agencies generally provide. This has led to a rapid increase in market penetration by property search organisations over the past four years such that they are now involved in over 40% of all house purchase transactions. CoPSO members' customers are, for the most part, conveyancing solicitors representing home-buyers.

The concept of HIPs

6. The Government's proposals for HIPs are designed to make it easier for people buying and selling homes. The Council naturally supports the objective. Indeed, the members of the Council exist precisely to make it easier for people to buy and sell homes. In fact the activities of the property search organisations have spurred some local authorities to improving the quality of service as every search conducted by a third party is lost revenue to them. Unfortunately, other authorities have responded by limiting the ability of third parties to access records.
7. The Council welcomes any reform that will increase the availability of pre-sale information, and it is clear that the HIP could assist this process. However, in themselves HIPs will not be sufficient to achieve the government's objectives. The main danger is that they will facilitate the process once the property is on the market but at the expense of introducing cost and delay before the property can be marketed. It is essential that local authorities provide an efficient service in meeting search requests or allow access to the information that they hold otherwise the government proposals will fail.
8. Making HIPs compulsory will mark a huge increase in government regulation of the private housing market and the implications need to be fully thought through. The housing market has already changed significantly to the benefit of house buyers and sellers over the last few years. There is now a thriving private rental market which reduces the problem of long chains; housebuilders offering part exchange facilities have the same effect. Technology is speeding up much of the process, in particular communication between the various parties. The Government is putting great weight on the National Land Information Service (NLIS) as a means of delivering faster local authority searches. However, it is significant that the rapid growth of the activities of property search organisations has coincided with the introduction of NLIS. This indicates that the slowness of local authorities to respond to search requests is a problem – but that it being dealt with through the market mechanism by property search organisations.
9. It is far from clear that the ODPM has conducted an effective cost benefit analysis on the introduction of HIPs. The cost benefit analysis in the draft Bill is incomplete and the summary table is difficult to reconcile with the analysis. It may be the case that the government has an over-optimistic view of the extent to which HIPs will reduce the number of aborted sales; sales are aborted for many reasons other than the process being inefficient. This is a point on which the Committee may wish to question the ODPM.

The importance of access to information

10. Local authorities are monopoly suppliers of some information necessary for the house purchase process, and various government agencies (in particular the Environment Agency) are monopoly suppliers of other information. The introduction of HIPs and public policy generally should ensure that this monopoly power is regulated and that wherever possible a framework should be developed that will allow organisations to access and supply this information. The ideal is for home buyers and sellers and their agents to have access to competing suppliers of the same basic information and for a duty to be put on the monopoly suppliers to make their information freely available.
11. Although not in the draft Bill there are some worrying signs in the related consultation paper on the content of HIPs. This discusses the merits of including a report compiled by the Environment Agency, rather than a report covering environmental information that the housebuyer needs to know. This would be a backward step that would reinforce a monopoly rather than encourage competition. CoPSO will be commenting on this in detail in its response to the consultation paper.

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

Chairman: Mark Boleat
Tel: 07770 441377
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