



## Search Delay Insurance

The Property Codes Compliance Board (PCCB) has recently received enquiries from lawyers, regarding the options available to their clients where the Local Authority is unable to provide required search data within desired timescales. This note sets out the provisions of the Search Code as they relate to the use Search Insurance and we hope is useful to practitioners against the backdrop of delays in procurement of searches in many parts of England and Wales.

## Key principles of the Search Code with respect to Search Insurance

- Whenever it is available home buyers need definitive search information. Insurance as a replacement for information is not in the best interests of home buyers.
- Firms subscribing to the Search Code will only provide 'search delay insurance' where local authority delays mean search information cannot be obtained within the timeframe required by the conveyancer and their client.
- With the conveyancer's agreement the firm will provide an incomplete search with the missing information covered by search delay insurance.
- The firm will then provide the conveyancer with the missing information as soon as it becomes available.
- This ensures that the transaction can proceed quickly, the missing information is always provided later, and if any of that information proves to be adverse more timely action may be taken as this is covered by the delay insurance.
- 'No search' insurance products which provide insurance as a substitute for definitive search information, not just as cover for any delay until the search information is available, are not compliant with the Search Code

## Search Code provisions relating to Insurance

Firms which subscribe to the Search Code can provide incomplete search reports in extreme cases such as a delay in obtaining information from the local authority. However, this may only be done where the client expressly sanctions its omission from the final search report.

It is essential to clarify that any delay in obtaining information from a local authority means that it cannot be obtained within the timeframe required by the client. It is only then that search firms can offer an incomplete search, provided that, there has been some kind of dialogue between the parties to agree to proceed in this way.

To comply with Search Code auditing requirements, the client should be asked to make a declaration saying that they are aware that the search they are purchasing is incomplete and that, where applicable, they have consented to insurance being used in lieu of data that is not available within the timeframe they require.

Where an incomplete search is provided (with or without insurance cover for missing answers), the missing data **must** always be subsequently obtained and passed on to the client, even if the property purchase has been completed in the meantime.

## Other points of Principle

Whilst the Search Delay Insurance option is intended to give Search firms more flexibility in serving clients' needs in extraordinary circumstances, it in no way compromises the "primacy of information imperative" that CoPSO holds as its' principle aim.

An additional form of delay mitigation is by conveyancers ordering searches as early as possible in the process.