

Coal comfort

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A new organisation has been licensed to provide a CON29M report on the risks to property from mining activity for the first time, writes Tom Backhouse

The CON29M is a mining report required by law when dealing with property transactions in coalmining areas, including purchase and mortgage lending, or before any development takes place. It was introduced in 2000 and, until now, such reports have been completed solely by a government agency, the [Coal Authority](#).

However, the Coal Authority's desire to open up competition in the market and improve responsiveness to customer demand led to the Law Society in July to license Terrafirma as the first commercial organisation to provide a new, [official CON29M report](#). This will ensure that the 29% of properties in coalfields across the UK can be expertly risk-assessed for potential liabilities posed by past, present and planned mining activity.

In compiling reports, the Coal Authority had previously only queried data and not analysed gaps between data sets. Terrafirma proposed to the Law Society that it was the only company that could offer this service, and as such has become the sole alternative provider of CON29M reports.

Previously, both the lender and the conveyancer had relied on property surveyors for an assessment of the potential impact of nearby mines on property valuation and use. The Terrafirma CON29M (2018) report offers significant benefits for surveyors by including a professional opinion and an expert risk assessment, with robust terms and conditions allowing the transfer of risk from the client to Terrafirma when reporting on coalmining activity.

The new Terrafirma report allows for expert-interpreted answers to all 11 CON29M questions, or 14 for commercial properties. These can draw on all of the Coal Authority-licensed data, and will also meet the requirements of the [Law Society's CON29M](#) (2018) guidance.

For parties to a normal property transaction, the Terrafirma CON29M can transfer the liability for reporting on coalmining activity, with expert opinion now provided on previously unanswered questions such as whether the property is susceptible to coalmining-related subsidence, or whether past and present mining activity will have an impact on the value of the property.

Coal and all other forms of mining continue to pose a risk to existing property and future development. Every week, a claim is made somewhere in the UK to rectify the physical damage that has been caused by mining activity. In fact, around ?40m has been paid out in the past decade in relation to properties in coalmining areas alone.

Rationale for revision

The risks for those involved in property transactions in coalmining areas are considerable, and the need to ensure expert advice was included in reporting is what prompted these changes. Through discussions with Terrafirma, the Law Society recognised the problem, as well as the improved services that can be offered by commercial organisations, and revised the CON29M coalmining guidance accordingly.

The new guidance emphasises the potential risk from shallow coalmining as well as mining for chalk, metals and brine. It also enables Terrafirma to develop and provide official CON29M reports, while stating that it should not be the solicitor's or surveyor's role to report on the potential impact on property value, instead relying on the expert opinion and transfer of risk to Terrafirma.

What's changed?

The previous CON29M form raised questions that often required further interpretation and additional reports at extra cost to the client in terms of money and time, particularly when they concerned properties situated near to or above a mine entry.

Given that Terrafirma has access to all existing coalmining data, the revised CON29M automatically includes this and interprets it at no additional cost, resulting in a dramatic reduction in the number of delayed transactions.

Furthermore, improved data processing, risk screening and assessment have given lenders a better understanding of the hazards the property faces from coalmining, and of how a transaction can be progressed. The Terrafirma CON29M report is also backed by comprehensive terms and conditions, with all liability for the outcomes of the report passing to the company ? protecting the client, lender and solicitor.

Professional interpretation

For a specialist area of expertise such as coalmining, relying on data and regional knowledge alone is not enough. Data needs to be professionally interpreted so that those involved in property transactions are given the best advice.

The Law Society's decision to amend the CON29M guidance and license Terrafirma to provide a new report represents a significant change in the way professionals can identify, assess, manage and resolve the risks that coalmining poses.

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Further information

- Related competencies include: [Ground engineering and subsidence](#) , [Minerals management](#) and [Risk management](#)
- This feature is taken from the [RICS Land Journal](#) (October/November 2018)
- Related categories include: [Environmental](#)