



ARE YOU COVERED?

CON29M: The most concise report yet

Around one third of properties in the UK are on the Coal Field. Coal Mining features can cause subsidence damage to a property and can also have a significant impact on its value and potential saleability.

New mine entries are being discovered each year, and in line with the Law Society guidance, it is expected that conveyancing solicitors obtain a CON29M search when advising on land or property transactions in Coal Mining areas to fully understand the risks and ensure that their clients are advised accordingly. In addition to this, where a mortgage is to be obtained the lender may require the solicitor in some cases to provide the results, so a CON29M search is always advised. We spoke to FCI Chairman, Geoff Offen, to get a better understanding of the subject.

Q. Tell us a bit about your background, Geoff. I understand you have extensive experience in coal mining and coal mining risk interpretation?

A. I worked for 27 years in coal mining, firstly at the National Coal Board, which became British Coal, the last four years of which were at The Coal Authority. My first 12 years were spent underground surveying, before moving to Area Headquarters to work with computerising mining information and developing the coal mining reporting system. This was a prototype geographical information system (GIS) but by the mid-eighties we were producing around 30,000 mining reports a year using data captured digitally from thousands of regional mining plans.

In the early eighties the coal industry started changing. Collieries were closing and Area Headquarters were shutting down. With privatisation looming there was much concern about how to provide mining reports because the responsibility for all the past mining activities shown on some 100,000 historical plans wouldn't be passed to the new private operators. The service would have to be provided by the residual licensing body, The Coal Authority.

In the late eighties the government looked at what we were doing with computerised mining reports and I was asked to develop the system nationally. I set up a central digitising team and began translating data from all the historical abandoned mine plans onto a computerised database.

The project took around four years. It's one of the most significant things that I've ever done. It involved co-ordinating everything, writing the specification for the system and the methodology for capturing the information. I ran the system for five years before leaving in 1998 to apply the same technology to environmental searches. The innovations we made with the coal mining report system set the standard for many of the computerised searches used in conveyancing transactions today.

Q. What risks can historic coal mining bring to a property?

A. The legacy of coal mining is a significant risk to property. That, coupled with a lack of uniform conveyancing enquiries and the inconsistent regional styles of answering those enquiries, was one of the core reasons we developed the standard CON29M search form with the Law Society all those years ago. Even though the mining industry has declined, the legacy risks from hundreds of years of coal mining are ongoing. There are many unstable voids in the ground. Such a large portion of the country was in the coalfields - 15% of which are the historic shallow coal seams which pose the greatest risk of causing subsidence. So many voids have been built over without proper investigation or ground stabilisation works. Although collapses are rare, when they do happen, they're catastrophic.

There are two main risks of collapse. The first being that timber was often used to cap old mine entries, then covered over with colliery spoil and left. Over time these types of cover weaken, eventually collapsing. The second risk is that large areas of developed land are underlain by shallow mine workings which in time can start collapsing. Understandably, you might want to know about these sorts of things if you're buying a house near to them!

Q. Why is now the right time for FCI to release a new suite of CON29M Coal Mining reports to the industry?

A. As I mentioned, in 1998 I moved on from coal mining to creating environmental search reports. But coal mining was

my life for years and having been the original architect of the first coal mining reports it has always remained of interest. Having reviewed the technology we're using with the latest types of environmental and planning searches at FCI, it felt like the right time to turn our attention to coal mining to see if we could also add something new. Consequently, what we came out with is a robust, state-of-the-art product, which can make a difference to the client and make a conveyancer's life easier. We're extremely proud of it.

Q. What's different about FCI's new suite of CON29M coal mining reports?

A. Accurately establishing the effects of mining on the surface is difficult. Calculating the projection of a 'zone of influence' of potential subsidence from deep workings to an uneven surface environment is a mathematical challenge. We spent a lot of time over the past year designing software to do that with accuracy, at scale.

We also wanted to design the report with the user in mind, as most conveyancers (and homebuyers!), quite understandably aren't coal mining experts. We produced a report that everyone could easily understand. Not only does it uniquely explain the context of the risk, but it also gives practical advice on achievable next steps where needed.

Another difference we've incorporated is a "Mine Entry Interpretive Report". If a report flags a mineshaft near the property, you could go to the Coal Authority and pay for a more detailed assessment. However, we built this further analysis into our report as standard, because we don't think homebuyers should pay for or wait for that second step. They just want to have all the facts up-front. It also means less work for the solicitor, less delay ordering additional searches and less client queries.

We didn't only want to leave it at having the most accurate report for the customers, we wanted to find any gaps that might cause delays or uncertainties. In that sense we think we've developed the most complete package on the market and gone the extra mile.

For example, although it's been deprecated from The Law Society enquiries, feedback we received from conveyancers was that they wanted to know about Cheshire brine subsidence caused by solution mining, having been accustomed to seeing it considered previously. Although brine subsidence isn't so much of an issue these days (because it's mostly been stabilised), we have built an integrated insurance into our products which provides some useful cover if a homebuyer's property had previously suffered brine subsidence which had already been compensated but not repaired, and the Cheshire Brine Compensation Board were no longer liable to assist.

Another key gap we identified relates to a little-known characteristic of the Coal Authority database which is used in all CON29M reports. When we digitised the mining plans all those years ago, many of those plans also captured minerals other than coal; fireclay in particular.

The relevance of this is that with coal mining, there's a unique statutory protection for homeowners if substance damage occurs, under the Coal Mining Substance Act 1991. If coal was mined near or under your house and it causes damage, there is a statutory duty on the relevant party (usually the Coal Authority) to repair or compensate. However this doesn't always apply to non-coal mining damage, even when the relevant feature is recorded by the Coal Authority and flagged in a CON29M.

We noticed that non-coal workings, although identified as such in the digitised dataset, are reported in some CON29M



searches as being coal mine workings. The inference is that damage from these workings is covered by statutory protection, when the unfortunate reality is that this isn't necessarily the case. In our new product we've made these distinctions clear. In addition, rather than leave the homebuyer without cover, we've devised a unique "Non-Coal Minerals Insurance", and included this free of charge where needed. This provides the homeowner with some recourse if they're unlucky enough to suffer, or have suffered, subsidence from these mine workings contained in the Coal Authority data, but where damage proves not to be covered under the 1991 Act. The policy offers comfort with cover for any related loss of value and the cost of repairing some types of damage.

Q. The Coal Search insurance provided alongside the FCI CON29M and Premium Plus CON29M includes cover for historical mining features identified in future searches. Tell us more about this and why it's important?

A. Newly discovered records of old mine entries are being added to the Coal Authority database every year. In 2018, 227 mineshafts were added which wouldn't have been disclosed in searches produced prior. The upshot is, you could have bought a house in January 2018 with a clear search result, but when you came to sell in 2020 it may transpire that a previously undiscovered mine shaft has been added to the data and now features in your buyer's report.

There are currently 175,000 recorded mine entries but there are more likely to be 350,000 in reality. The majority of old shafts were left covered over and unfilled or badly filled. Safety standards for treating a mine shaft were established in the mid 1940's, but since the majority of shafts were sunk prior to that it follows that most of them are potentially dangerous.

We noticed that not all Coal Search insurance will cover the *new* records of *old* workings. Those that do, restrict the identification of the previously unknown mine entry to search reports created by the same original report producer. But as we all know, we can't control the other party in a transaction and dictate who they purchase searches from. So the Coal Search Insurance we built into our product, as standard, will protect the client, even if it's the case that a new mine entry is discovered in another suppliers' report - that's another reason why FCI makes for a more complete package.



Geoff Offen
is Chairman at FCI