



The Family Home Protection Act, 1976, Family Law Act, 1981, The Judicial Separation and Family Law Reform Act, 1989, Family Law Act, 1995 and Family Law (Divorce) Act, 1996.

The practice of providing and accepting solicitors' certificates in relation to the above mentioned Acts on dispositions by individuals (otherwise than in exceptional circumstances) is a matter of concern to the Committee.

Solicitors should always seek or provide (as the case may be) the best evidence that is reasonably available in relation to the above mentioned Acts on any disposition. The best evidence in the case of a disposition by a married individual would be a statutory declaration from the vendor and the vendor's spouse. In some cases it may be reasonable to accept a declaration from the vendor alone. The practice of giving certificates simply because it is more convenient should be discouraged.

Vendors' solicitors should only offer certificates where the best evidence is not available. In giving certificates vendors' solicitors should be able to stand over the reason for the non-availability of the best evidence and also have a personal knowledge which allows them to give a certificate. While it may appear relatively straightforward to certify that a disposition is not affected by the Family Home Protection Act 1976 it is difficult, if not impossible, to certify with absolute certainty that any disposition is not reviewable or that proceedings have not been commenced or threatened by the vendor's spouse. Accordingly, vendors' solicitors may find themselves in personal difficulties if the certificate in question turns out to be incorrect.

Purchasers' solicitors should always ask for the best evidence that is reasonably available. They should only accept a certificate where the best evidence is not reasonably available and where there is good reason for its non-availability.

SOLICITORS' CERTIFICATES -v- FAMILY LAW DECLARATIONS