



The Conveyancing Committee was recently asked to reconsider its recommendation on the question of what documents should be included in the documents schedule in contracts for sale. The Committee was requested to reconsider its recommendation on the basis that many practitioners do not appear to be adhering to the practice as originally recommended and are instead listing all documents of title in the documents schedule thereby putting a purchaser's solicitor on notice of such documents at the pre-contract stage.

The Committee considered the fact that such a practice would oblige a purchaser's solicitor to carry out a full and detailed investigation of title (including the raising of Requisitions on Title pre-contract) before advising the purchaser to complete the contract. The Committee expressed grave doubts about whether full investigations of title could be completed pre-contract in these cases in the timeframe usually available.

The Committee unanimously decided that it would be extremely dangerous to change its previous recommendation as to do so would have the effect of exposing purchasers' solicitors to claims for negligence. The Committee urged that purchasers' solicitors resist conditions in contracts which seek to attempt to restrict the raising of proper Requisitions on Title or which put them on notice of documents at pre-contract stage which would oblige them to carry out a full investigation of title pre-contract. The Committee likewise urged solicitors acting for vendors not to insert such conditions into draft contracts as, in the view of the Committee, such conditions are highly undesirable and unfair to purchasers and their solicitors.

The original Practice Note is re-published below for the information of the profession with the addition of a new sub-paragraph d).

"CONTENTS OF DOCUMENTS SCHEDULE IN CONDITIONS OF SALE

The intention of the Law Society Conveyancing Committee in preparing the standard Conditions of Sale for general use was that the vendor would disclose at contract stage sufficient and adequate particulars of the vendor's title to enable a purchaser's solicitor to consider properly the adequacy of such title before completion of contracts in accordance with long standing conveyancing practice.

The Conveyancing Committee has become quite concerned at the developing practice of vendors' solicitors furnishing to purchasers' solicitors copies of all documents relating to the vendor's title coupled with a special restrictive condition worded in the following or similar terms viz:

CONTENTS OF DOCUMENTS SCHEDULE IN CONDITIONS OF SALE - A REMINDER



**CONTENTS OF
DOCUMENTS
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(Contd.)

The title shall consist of the documents listed in the documents schedule and shall be accepted by the purchaser as full and adequate evidence of the vendor's title to the subject property".

It is the view of the committee that such a practice is highly undesirable and unfair to purchasers and their solicitors as a clear attempt to restrict the raising of proper requisitions on title. Furthermore, the committee considers that the practice is also unfair to purchasers and their solicitors as by putting them on notice of such documents at the pre contract stage it obliges the purchaser's solicitor to carry out a full and detailed investigation of title before advising his clients to complete the contract. This is particularly the case where property is being sold by auction.

Even if the condition merely says "The title shall consist of the documents listed in the documents schedule" a purchaser's solicitor is by virtue of General Condition 6 put on notice of certain covenants etc.

The Conveyancing Committee disapproves of the foregoing practice and recommends that in accordance with established Conveyancing practice the documents listed in the documents schedule should be limited to:-

- a) The root of title being shown.
- b) Any document to which title is stated to pass under the special conditions.
- c) Any document which is specifically referred to in a special condition.
- d) Planning documentation.

The Conveyancing Committee disapproves, save in very exceptional circumstances, of a practice which would unreasonably restrict solicitors for purchasers in carrying out proper and detailed investigations of title on behalf of their clients.

Published in Law Society Gazette, March 1995 and re-published at page 12.16 of the Law Society's Conveyancing Handbook, 2nd Edition.

Re-published in Law Society Gazette, May 2000 with the addition of "d) Planning documentation"