

REGULATING THE PROFESSION

A TALE OF WELL INTENTIONED INTERVENTION

How not to interfere in the solicitor client relationship
(Feb 06)



It is almost amusing when government decides to intervene in an everyday legal function with the best of intentions and create a shambles in the process. This is precisely what is occurring in England at present over residential conveyancing.

The English process (not the Scottish one) is based on the NZ-developed Torrens registered title system but has accumulated some unpleasant elements along the way, especially for the purchaser. The sale and purchase process in both countries leaves a lot to be desired; the Brits with their 'gazumping' and potential for delay, the NZers with their excessive agency commissions and potentially dangerous habit of not making adequate enquires before contract. The faults are not of lawyers' making.

The British government, wearing its *'let's protect the little guy'* hat, decided there would be benefits for all concerned if the vendor had to compile a pre-sales memorandum containing among other things:

- title information
- a report on the property's condition
- precise details on those fixtures included in the sale
- details of planning permissions and applications lodged, etc

The objective was to reduce the number of offers that fall through thereby saving costs and time.

None of this is rocket science and complements the existing regime where vendors using an agent have to supply very precise details to purchasers (covered by The Estate Agents Misdescriptions Act, 1991). The new process was to be called a House Information Pack or HIP for short.

HIPs were to be introduced from about mid 2007. However, a number of problems have come to light not least the report on the property's condition, which will be of little use in older properties (50+ Years) where lenders will still insist on a full structural survey, and the fact that the price of HIP preparation is estimated to be £700.00 or around NZ\$1820/AU\$1670.

At the end of the day a well intentioned move looks likely to increase the cost of sale and add another bureaucratic barrier into a process that has been described as the most stressful process in adult life, after divorce.