

**Submission to the Joint Oireachtas Committee on Justice,  
Defence and Equality  
Meeting of 1<sup>st</sup> October 2014**

Chairman and Committee Members,

I am grateful to you for your kind invitation to the Banking & Payments Federation Ireland to appear before your Committee and to make a written submission to the Committee in its examination and deliberations relating to the introduction of a national eConveyancing system in Ireland.

The Banking & Payments Federation Ireland and its members welcome the renewed focus on eConveyancing outlined in the recently published Government policy Construction 2020. The banking industry wishes to reassure your Committee of our strong support and willingness to engage with the completion of action number 73 of Construction 2020. We are particularly pleased that this project will now be led by the public sector in collaboration with key stakeholders including the legal profession and the banking sector. We acknowledge the work undertaken to date by the Law Society of Ireland.

We look forward to a proactive engagement in the review of conveyancing and the production and publication of a report on the steps required to deliver a system of eConveyancing in Ireland with a particular focus on any required legislative change, resource implications and definitive timelines for delivery.

The Banking & Payments Federation Ireland and its members are keen to become involved and will prioritise work to support the completion of action point 73 of Construction 2020.

We appreciate the engagement with the Joint Oireachtas Committee and the opportunity to make this submission.

**Background:**

Conveyancing encompasses the processes that are required to effect the transfer of title to property. Conveyancing in Ireland, in common with other common law jurisdictions has evolved over several hundred years. It is a highly paper driven process involving a range of different stakeholders such as the parties involved in the property transaction, estate agents, solicitors, lenders, the Property Registration Authority, Revenue, Local Authorities and others.

Lenders are a key stakeholder amongst others of the Conveyancing system. Lenders are typically involved in four key points of contact in conveyancing, as follows:

1. Mortgage Approval
2. Approval of contract for sale and title
3. Release of funds and closing
4. Registration of charge.

In 2002 the Law Reform Commission established a working group to examine the options to modernise conveyancing in Ireland. Since then, a number of initiatives have taken place to progress the vision for eConveyancing. In recent years this has primarily been driven by the Law Society of Ireland. The BPFI and its members have participated in that eConveyancing project for a number of years and were represented on the eConveyancing programme board and steering committee. Introduction of eConveyancing in Ireland will require all lenders to be engaged in the process and to implement the necessary systems in their own businesses to integrate fully with a national eConveyancing system. This will require investment from lenders in terms of capital and other resources. Lenders are committed to the introduction of a national eConveyancing system which has Government sponsorship and which involves all of the stakeholders, public and private in the design, implementation and operation of the system. Lenders are prepared to make the required investments within their own organisations to facilitate integration into a national eConveyancing system and are also willing to make a proportionate contribution to the cost of establishing the national system along with all of the other stakeholders.

### **Why eConveyancing?**

Conveyancing in Ireland, in keeping with other common law jurisdictions has evolved over several hundred years. For the vast majority of citizens, the purchase of a property for residential purposes represents the single most significant financial transaction that they will undertake as individuals during their lifetime. While many of the transactions conducted are relatively straightforward, the overall process is perceived as being complex, inefficient and costly, due in no small part to the quantity of documentation required, the diversity of sources from which the information must be obtained and the number of stakeholders routinely involved. The process is currently paper driven and there can be significant delays related to communications between the parties involved. For residential property lending, lenders currently rely on solicitors' undertakings to register charges. The current system is not transparent for lenders or borrowers in terms of the registration progress and this is sub-optimal from a risk management perspective. Key drivers for change can be characterised into a number of different areas:

1. Enhanced service for customers.
2. Enhanced consumer protection
3. Improvements in process efficiency
4. Security/risk reduction

5. Reduces fraud and money laundering risk
6. Facilitates payment of property related charges to the state
7. Normalises the use of e signatures
8. Modernisation of the conveyancing and property related processes
9. Alignment with Government's National Payments Plan
10. Supports Government's eAgenda and portrays Ireland as a digitally enabled country
11. Impacts positively on World Bank metrics

### Key Considerations:

In principle, the BPFI and its members are supportive of eConveyancing and recognise the strategic, economic and societal benefits that it will deliver. However, for eConveyancing to be successful there are a number of issues which we believe any consideration of eConveyancing should include. These are as follows:

1. **Government Sponsorship** – Active involvement of the Government, both from a regulatory (ensuring that there is a legal basis in place to support electronic documents) and ownership of the project from a national perspective, are critical to the project's success. There are further dependencies on a large number of public sector organisations to support the delivery of a national eConveyancing system. These include Local Authorities, Property Registration Authority of Ireland, Revenue, the Court Service and others. Previous attempts to progress the eConveyancing agenda in Ireland have not succeeded and we believe that the new proposal in Construction 2020, with Government leading its introduction, is a significant improvement and critical to the introduction of a national eConveyancing system.
2. **Mandated Use By All Parties** – The Banking & payments Federation Ireland is of the view that once a national eConveyancing system is in place, there needs to be a transitioning from the antiquated paper based system to the new national eConveyancing system. It is not tenable to expect lenders to support dual processes (a manual paper based system and a new electronic eConveyancing system). A fully functioning national eConveyancing system will speed up the process, reduce administrative burden, reduce cost and deliver better service to the public. Running a dual system is not feasible hence there must be a time bound mandatory transition to use of the national eConveyancing system.
3. **Good Marketable Title** – All of the necessary documentation required for good marketable title will need to be accessible on line or be available in an electronic format. This will require investment and process changes in stakeholder organisations.
4. **Certification of Title** – Lenders are concerned about any proposals to remove Certificates of Title and any revision in the definitions of what constitutes good marketable title must be carefully addressed. It is important that all parties to the transaction are protected and that there are no unintended risks or consequences for

any party arising from the introduction of the national eConveyancing system. A well designed inclusive system can mitigate risk for all parties.

5. **Funding:** There are cost implications for all parties both public and private sector in preparing their own organisations for integration into a new national eConveyancing system. Banking & Payments Federation Ireland members are prepared to make the required investment subject to reaching agreement on a structure and a timeframe for rolling out a fully functioning national eConveyancing system. They are agreeable to making a proportionate contribution along with all other stakeholders towards the cost of implementing a national eConveyancing system subject to involvement of all stakeholders in preparing and agreeing the allocation of costs.
6. **eConveyancing ICT System** – Lenders believe that the ICT systems underpinning the eConveyancing should be procured by way of public procurement led and owned by Government. We believe this provides a greater guarantee of the integrity and regulation of the system, i.e. the process, the system itself, the funds involved and the legal framework. All of the parties to the system, public and private sector, should be involved from the outset to ensure a joined up approach to the design, development and integration of the system.

## Conclusion

The Banking & Payments Federation Ireland and its members are supportive of eConveyancing and recognise the strategic, societal and economic benefits it can deliver. The Report of the Law Reform Commission (2006) does recognise that eConveyancing is “an important policy matter for Government” and that experience shows that eConveyancing is successful “where there is clear Government commitment and involvement”. That Report recommends that the project should be progressed by the various stakeholders, but importantly this reference to stakeholders includes both public and private sectors. We are pleased that Construction 2020 is proposing a system of eConveyancing which harnesses modern technology to assist in the timely transfer of property ownership, thereby providing a modern, efficient, cost effective and secure system to support transactions in the property market.

We believe that the Law Society of Ireland have led some very good initial work on this project and look forward now to Government working with the broadest range of stakeholders building on this work and designing an eConveyancing system which delivers all of the strategic benefits and meets the needs of the various stakeholders.

Bank CEOs and I have met with the Law Society President and Director General and agreed a Memorandum of Understanding between both organisations. We have agreed structures to progress issues of mutual interest including eConveyancing.

Again, I thank your Committee for the invitation to make a submission and if any additional information is required from the banking sector, I would be delighted to provide this.

I wish to conclude by reiterating to your Committee the support of the Banking & Payments Federation Ireland and its members to the introduction of an eConveyancing system involving Government, public sector agencies and all other stakeholders.

**Noel Brett.  
Chief Executive.  
29th September 2014.**

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**Submission to the Joint Oireachtas Committee on  
Justice, Defence and Equality  
Meeting of 25<sup>th</sup> June 2014**

Chairman and Committee Members,

I am grateful to you for your kind invitation to the Irish Banking Federation to make a written submission to the Committee in its examination and deliberations relating to the introduction of a national eConveyancing system in Ireland.

The Irish Banking Federation and its members welcome the renewed focus on eConveyancing outlined in the recently published Government policy Construction 2020. The banking industry wishes to reassure your committee of our strong support and willingness to engage with the completion of action number 73 of Construction 2020. We are particularly pleased that this project will now be led by the public sector in collaboration with key stakeholders including the legal profession and the banking sector. We acknowledge the work undertaken to date by the Law Society of Ireland.

We look forward to a proactive engagement in the review of conveyancing and the production and publication of a report on the steps required to deliver a system of eConveyancing in Ireland with a particular focus on the resource implications and the timelines for delivery.

The IBF and its members are keen to become involved and will prioritise work to support the completion of action point 73 of Construction 2020.

We appreciate the engagement with the Joint Oireachtas Committee and the opportunity to make this submission.

**Background:**

Conveyancing encompasses the processes that are required to secure the transfer of title to property between a purchaser and a vendor. Conveyancing in Ireland, in common with other common law jurisdictions has evolved over several hundred years. It is a highly paper driven process involving a range of different stakeholders

such as the parties involved in the property transaction, estate agents, solicitors, lenders, the Property Registration Authority, Revenue, Local Authorities and others.

Lenders are a key stakeholder amongst others of the Conveyancing system. Lenders are typically involved in three key points of contact in conveyancing, as follows:

1. Contract for sale
2. Mortgage approval and funds release
3. Closing

In 2002 the Law Reform Commission established a working group to examine the options to modernise conveyancing in Ireland. Since then, a number of initiatives have taken place to progress the vision for eConveyancing. In recent years this has primarily been driven by the Law Society of Ireland. The Irish Banking Federation and its members have participated in that eConveyancing project for a number of years and were represented on the eConveyancing programme board and steering committee. Introduction of eConveyancing in Ireland will require all lenders to be engaged in the process and to implement the necessary systems in their own businesses to integrate fully with a national eConveyancing system. This will require investment from lenders in terms of capital and other resources. Lenders are committed to the introduction of a national eConveyancing system which has government sponsorship and which involves all of the stakeholders, public and private in the design, implementation and operation of the system. Lenders are prepared to make the required investments within their own organisations to facilitate integration into a national eConveyancing system and are also willing to make a proportionate contribution to the cost of establishing the national system along with all of the other stakeholders.

### **Why eConveyancing?**

Conveyancing in Ireland, in keeping with other common law jurisdictions has evolved over several hundred years. For the vast majority of citizens, the purchase of a property for residential purposes represents the single most significant financial transaction that they will undertake as individuals during their lifetime. While many of the transactions conducted are relatively straightforward, the overall process is perceived as being complex, inefficient and costly, due in no small part to the quantity of documentation required, the diversity of sources from which the information must be obtained and the number of stakeholders routinely involved.



The process is currently paper driven and there can be significant delays related to communications between the parties involved. For residential property lending, Lenders currently rely on solicitors' undertakings to register charges. The current system is not transparent for lenders or borrowers in terms of the registration progress and this is sub-optimal from a risk management perspective. Key drivers for change can be characterised into a number of different areas:

1. Enhanced service for customers.
2. Enhanced consumer protection
3. Improvements in process efficiency
4. Security/risk reduction
5. Reduces fraud and money laundering risk
6. Facilitates payment of property related charges to the state
7. Normalises the use of e signatures
8. Modernisation of the conveyancing and property related processes
9. Alignment with Government's National Payments Plan
10. Supports Government's eAgenda and portrays Ireland as a digitally enabled country
11. Impacts positively on World Bank metrics

### **Key Considerations:**

In principle, the IBF and its members are supportive of eConveyancing and recognise the strategic, economic and societal benefits that it will deliver. However, for eConveyancing to be successful there are a number of issues which we believe any consideration of eConveyancing should include. These are as follows:

- 1. Government Sponsorship** – Active involvement of the Government, both from a regulatory (ensuring that there is a legal basis in place to support electronic documents) and ownership of the project from a national perspective, are critical to the project's success. There are further dependencies on a large number of public sector organisations to support the delivery of a national eConveyancing system. These include Local Authorities, Property Registration Authority of Ireland, Revenue, the Court Service and others. Previous attempts to progress the eConveyancing agenda in Ireland have not succeeded and we believe that the new proposals in Construction 2020, with Government leading its introduction, is a significant



improvement and critical to the introduction of a national eConveyancing system.

- 2. Mandated Use By All Parties** – The IBF is of the view that once a national eConveyancing system is in place, there needs to be a transitioning from the antiquated paper based system to the new national eConveyancing system. It is not tenable to expect lenders to support dual processes (a manual paper based system and a new electronic eConveyancing system). A fully functioning national eConveyancing system will speed up the process, reduce administrative burden, reduce cost and deliver better service to the public. Running a dual system is not feasible hence there must be a time bound mandatory transition to use of the national eConveyancing system.
- 3. Good Marketable Title** – All of the necessary documentation required for good marketable title will need to be accessible on line or be available in an electronic format. This will require investment and process changes in stakeholder organisations.
- 4. Certification of Title** – Lenders are concerned about any proposals to remove Certificates of Title or to revise definitions of what constitutes good marketable title. It is important that all parties to the transaction are protected and that there are no unintended risks or consequences for any party arising from the introduction of the national eConveyancing system. A well designed system can mitigate risk for all parties.
- 5. Funding:** There are cost implications for all parties both public and private sector in preparing their own organisations for integration into a new national eConveyancing system. IBF members are prepared to make the required investment in systems and process changes within their own organisations to facilitate integration into a national eConveyancing system. They are agreeable to making a proportionate contribution along with all other stakeholders towards the cost of implementing a national eConveyancing system subject to involvement of all stakeholders in preparing and agreeing the allocation of costs.
- 6. eConveyancing ICT System** – Lenders believe that the ICT systems underpinning the eConveyancing should be procured by way of public procurement led and owned by Government. We believe this provides a greater guarantee of the integrity and regulation of the system, i.e. the process, the system itself, the funds involved and the legal framework. All of the parties to the system, public and private sector, should be involved from

the outset to ensure a joined up approach to the design, development and integration of the system.

## **Conclusion**

The Irish Banking Federation and its members are supportive of eConveyancing and recognise the strategic, societal and economic benefits it can deliver. The Report of the Law Reform Commission (2006) does recognise that eConveyancing is “an important policy matter for Government” and that experience shows that eConveyancing is successful “where there is clear Government commitment and involvement”. That Report recommends that the project should be progressed by the various stakeholders, but importantly this reference to stakeholders includes both public and private sectors. We are pleased that Construction 2020 is proposing a system of eConveyancing which harnesses modern technology to assist in the timely transfer of property ownership, thereby providing a modern, efficient, cost effective and secure system to support transactions in the property market. We believe that the Law Society of Ireland have led some very good initial work on this project and look forward now to Government working with the broadest range of stakeholders building on this work and designing an eConveyancing system which delivers all of the strategic benefits and meets the needs of the various stakeholders.

Again, I thank your Committee for the invitation to make a submission and if any additional information is required from the banking sector, I would be delighted to provide this.

I wish to conclude by reiterating to your Committee the support of the IBF and its members to the introduction of an eConveyancing system involving Government, public sector agencies and all other stakeholders.

**Noel Brett**  
**Chief Executive**  
**18<sup>th</sup> June 2014**

**Teranet**  
**Presentation to Joint Committee on Justice, Defence and Equality**  
**Wednesday 25<sup>th</sup> June 2014**  
**Opening Statement**

Good Afternoon and thank you for the opportunity to meet with you this afternoon.

My name is Dennis Barnhart. I am the Chief Strategy and Integration Officer for **Teranet**, an international leader and pioneer in electronic registration systems, eConveyancing and eCommerce. I have lead the Ireland eConveyancing project on behalf of the company since the fall of 2011.

I'd like to start by providing some background on who we are:

- **Teranet** is based in Ontario Canada with 20 years of experience in modernizing and managing land registration systems and eConveyancing solutions.
- **Teranet** developed, owns and operates Ontario's Electronic Land Registration System (ELRS) and facilitates the delivery of electronic conveyancing and land registration services on behalf of the Province
  - **Teranet** built the world's first electronic land registration system with full digital submission, collaboration and validation capabilities.
  - Now into its second large scale reengineering it remains one of the world's most sophisticated, efficient and modern systems.
  - With more than 475 knowledge workers, it facilitates the delivery of electronic land, writs and personal property registration services and eConveyancing solutions
- **Teranet** offers robust features and access options to consumers and customers in the real estate, legal and financial industries as well as governments and utility companies, in addition to collection and disbursement of appropriate fees to the government. **Teranet** products include the capability to provide electronic mortgage instruction and the electronic transfer of mortgage funds in a secure real time environment.
- **Teranet** has successfully leveraged its partnership with the government, lenders and legal community to deliver end-to-end e-conveyancing solutions across Canada, while maintaining and enabling statutory obligations and adhering to existing Government policies & business rules. **Teranet's** Conveyancer solution is the dominant legal workflow solution in Canada.
- Demonstrating the province's confidence in **Teranet**, in 2010 the Government of Ontario, Canada's largest province, extended its exclusive relationship with Teranet by 50 years.
- In 2012, the Province of Manitoba signed terms for an exclusive 30-year license to operate the end-to-end property registry agency and modernize the land registration system and processes.

**Teranet** is a wholly owned investment of the Ontario Municipal Employee Retirement System (OMERS) through Borealis Infrastructure, OMERS's infrastructure investment arm.

- OMERS is one of Canada's leading pension funds with more than \$55 billion in assets.
- Borealis has proven experience and a sound reputation as an effective partner with a patient, long term, low risk investment model.

The combination of **Teranet's** intellectual capital and operational expertise with Borealis' financial capital and infrastructure investment/financing expertise creates a unique value proposition for Ireland as Teranet seeks to expand internationally.

**Teranet**, through a long term partnership with the Law Society of Ireland and in co-operation with Revenue, the PRAI, and lenders, seeks to significantly improve the efficiency, transparency, speed, predictability and cost of the property transfer system in Ireland through the automation of the routine aspects of the conveyancing process and the use of an electronic eConveyancing hub by all solicitors and lenders. There will be a direct link to the PRAI, to secure virtually real time registration, and also to the Ministry of Revenue, to facilitate payment of transfer taxes and property taxes. On transaction close, the system will ensure that all requirements of the conveyance have been satisfied, and all relevant parties' obligations have been met. Funds will flow electronically, on the day of close, to ensure all disbursements have been completed and confirmed.

**Teranet** proposes to fund the design, build, and to own and operate the eConveyancing system and will generate revenue through value-added transaction fees collected by solicitors, on behalf of their clients. Interfacing with the hub will bring significant benefits for all stakeholders, including increased efficiencies, reduced costs, reduced risk and improved reporting capacity on conveyancing transactions.

**Teranet** has already invested over €300,000 over the past 36 months to complete a preliminary assessment and due diligence study, working in formal partnership with the Law Society of Ireland and with the support and involvement of the Irish Banking Federation (IBF), the PRAI and Bearing Point Ireland to assess the feasibility of an electronic Conveyancing system for the Republic of Ireland. Through an extensive stakeholder consultation process, we collectively have confirmed that eConveyancing is an achievable goal with significant benefits for all stakeholders (including supporting the government's e-business initiatives) and is a sustainable business model. Solicitor and lender consultation has reinforced:

- An acceptance of the need for change;
- A recognition of the productivity and efficiency gains, risk reduction, improved transparency and predictability; and
- A better conveyancing experience for citizens and stakeholders.

**Teranet** has also engaged local legal counsel to understand the competition, data protection, intellectual property, privacy and consumer protection legislation and regulations and we are very confident that the structure of our model and agreements would satisfy and/or exceed all government and stakeholder interests.

Under the envisioned model, **Teranet Ireland** is committed to:

- **Expend approximately €500k** to establish a corporate entity in Ireland to manage the development, roll-out and operations of the eConveyancing system
- **Invest €6m** to design and build a world-class bespoke end-to-end eConveyancing system with our strategic IT partner BearingPoint Ireland. We will leverage our experience, intellectual property, capabilities and systems that we have developed in Canada. However, the service will be built in Ireland and serve the specific needs of the Irish eConveyancing community
- **Create 10-12 full time positions in Ireland**, and utilize **an Irish IT firm** to host and support the eConveyancing system in Ireland
- Make a direct contribution to the Irish economy of **approximately €50m in operational expenditures** over the life of the long-term contract.

We look forward to working in close co-operation with all stakeholders and state agencies to design, build and implement an eConveyancing solution which has robust governance and oversight arrangements in place to protect the interests of all parties, including consumers.

We are confident that the combination of our reputation and success in working with government agencies, solicitors, lenders, and other partners will enable us to collaboratively facilitate the reformation of the eConveyancing processes in Ireland for the benefits of citizens today and in the future.

I am happy to answer any questions that you may have.

**Joint Committee on Justice, Defence and Equality**

**Wednesday 25<sup>th</sup> June 2012**

**Opening Statement by Frank Treacy, Interim Chief Executive, Property Registration Authority**

**1. The Property Registration Authority**

As Interim Chief Executive of the Property Registration Authority (PRA), I am pleased to be given the opportunity this afternoon to appear before the Joint Committee to discuss the eConveyancing agenda.

The Property Registration Authority (PRA) is a statutory body whose members, appointed by the Minister for Justice and Equality, includes representatives of the main users and consumers of property registration services in the State.

The Authority's primary statutory function is to manage and control the Registry of Deeds and the Land Registry. It is also a function of the Authority to complete the Irish land register, which will lead to a single system of title registration supportive of government policies on eRegistration, eConveyancing and the emerging Irish Spatial Data Infrastructure (ISDI).

The key contribution of the PRA to the Irish economy is the provision of a register of title to land which guarantees security for those dealing with property. The system of registration offered by the PRA provides a comprehensive record which is clear, easily accessible, minimises risk of fraud and responds to customer needs.

By international comparison, Ireland has a very extensive and well developed system of land registration with c.94% of the total land mass of the State and c.90% of the legal titles in Ireland now registered in the Land Registry. Furthermore, an extensive programme is underway to advance the registration of the remaining titles. Since 1st June 2011, compulsory registration, triggered by a conveyance on sale or lease, applies to all 26 counties.

The PRA provides the authoritative, centralised database of property ownership and related interests in the State. In recent years we have seen a significant increase in the size of our database, with in excess of 2 million individual legal titles now constituting the Land Register.

## **2. eRegistration and the Electronic Land Register**

The PRA has offered online access to the Land Register since 1999 and has successfully implemented a number of major technology projects since then including the complete digitisation of the public documents which form the Land Register, both folios and mapping. The positive and significant impact of these projects on both the PRA and its customers has been validated by the achievement of winning a number of awards including both the ‘Central Government’ and ‘Overall’ eGovernment Awards.

These developments have allowed us to continually grow and improve our online service offering to our customers, the most recent of these being electronic Registration services. Other initiatives which also paved the way to allow the delivery on eRegistration services include the abolition of Land Certificates, the extension of Compulsory Registration to all 26 counties, the standardisation of forms required for registration and the introduction new legislation, principally the Land & Conveyancing Law Reform Act 2009.

The terms eConveyancing and eRegistration are often confused and used interchangeably. Electronic Conveyancing (eConveyancing) relates to the improvement of all aspects of the conveyancing lifecycle through the use of technology. It envisages paperless transactions through most or all stages of the conveyancing process, from pre-sale to post-completion, including contracts, planning, property surveys and the dispersal of funds among all involved parties. It would include the creation of documents required for registration together with the attachment of electronic signatures and subsequent electronic lodgement in the PRA. The element of eConveyancing involving direct participation by the Authority is known as eRegistration. Electronic Registration (eRegistration), while being a fundamental part of an eConveyancing system only concerns the registration process. The appendix, containing an illustration of the PRA’s ‘eRegistration Portal’, sets out the role of the PRA and its eRegistration strategy in the overall eConveyancing context



**eRegistration**

From the delivery of the Law Reform Commission Report on eConveyancing in 2006 the PRA was conscious of the key role it would have to play and set about developing those electronic services that would have to be provided to interact with and support the wider eConveyancing process.. To this end, the PRA has always adopted an open and collaborative approach in its development of the services. The main stakeholders have always had representation on the eRegistration Project Board and the scope and specifications for each phase are agreed by all parties. The PRA keeps abreast of international developments, including the exchange of best practice and knowledge with the Land Registry of England and Wales, Registries of Scotland (ROS) and Land and Property Services, Northern Ireland. The PRA is also actively engaged with international land administration bodies, including European Land Registries Association (ELRA), European Union of Land Information Systems (EULIS) and UN Working Party on Land Administration (WPLA).

**eDischarges** was the first eRegistration Service offered by the PRA. The existing process was redesigned to allow lenders to securely apply for the cancellation of a charge (mortgage) on an electronic basis without the need to lodge any paper documents. All development was undertaken by PRA staff and the system was launched in 2009. Within a short time all of the major lenders in the State were actively using eDischarges and the majority of applications to cancel mortgages were being lodged electronically. A number of Local Authorities also use the system to cancel their housing loans. Almost 60% of all discharges are now processed through the eDischarges system.

**eCharging Orders** were developed as a collaborative process between the PRA, the Department of Health and Children (DoHC) and the HSE. This facilitated the legislation which underpins the Nursing Home Support Scheme (‘Fair Deal Scheme’) to provide for the lodgement of electronic Charging Orders by the HSE. The development of the system was again undertaken by PRA staff and built on the existing eDischarges platform. Since the scheme came into effect in 2010, more than 99% of Nursing Home Support Scheme Charging Orders have been lodged electronically.

### **3. eRegistration in the overall eConveyancing environment: the role of the PRA**

The success of eDischarges and eCharging Orders has given the PRA the momentum to proceed to develop further eRegistration services. In keeping with the collaborative approach adopted throughout this project, which includes all stakeholders having representation on the Project Board, the PRA undertook a substantial exercise in stakeholder engagement. The development work on these new services, which will improve on the existing registration process in terms of efficiency, effectiveness and transparency, commenced in the second half of 2012.

**Phase 2 of eRegistration** began with a number of workshops with members of the legal profession and the lending community. This included an exercise in modelling the entire conveyancing process and the points of contact with the PRA. Subsequently, the scope of the project was agreed by all parties through their representation on the Project Board. It was agreed that the scope would be confined to the elements pertaining to registration and would not include elements of conveyancing outside of the registration process.

The system was launched late in 2013 and allows users to draft and circulate Deeds of Transfer of registered property in a secure electronic environment. The drafting process allows for interaction with the Land Register including the digital map and the system ensures that the correct form of transfer is produced and reduces opportunities for error. Other features include the facility to pay fees by variable direct debit and to correspond electronically with the PRA. As the sections of the Electronic Commerce Act 2000 governing electronic conveyancing have yet to be brought into effect, and there have been no further developments in relation to the acceptance of a digital signature facility, it is still necessary for the solicitor to print a copy of the finalised deed and to have this signed by the appropriate parties. Further enhancements will be made available in due course.

The facility to draft Deeds of Charge will be available shortly and a facility to electronically apply to protect priority (ePriority Entry) on the Register will follow. A Working Group comprising equal representation from the PRA, Law Society and Irish Banking Federation is currently being formed to design the process for these new services. Also, for the first time,

the PRA has made available the schemas which will allow designers of practice manager systems to develop their systems to interface with those of the PRA.

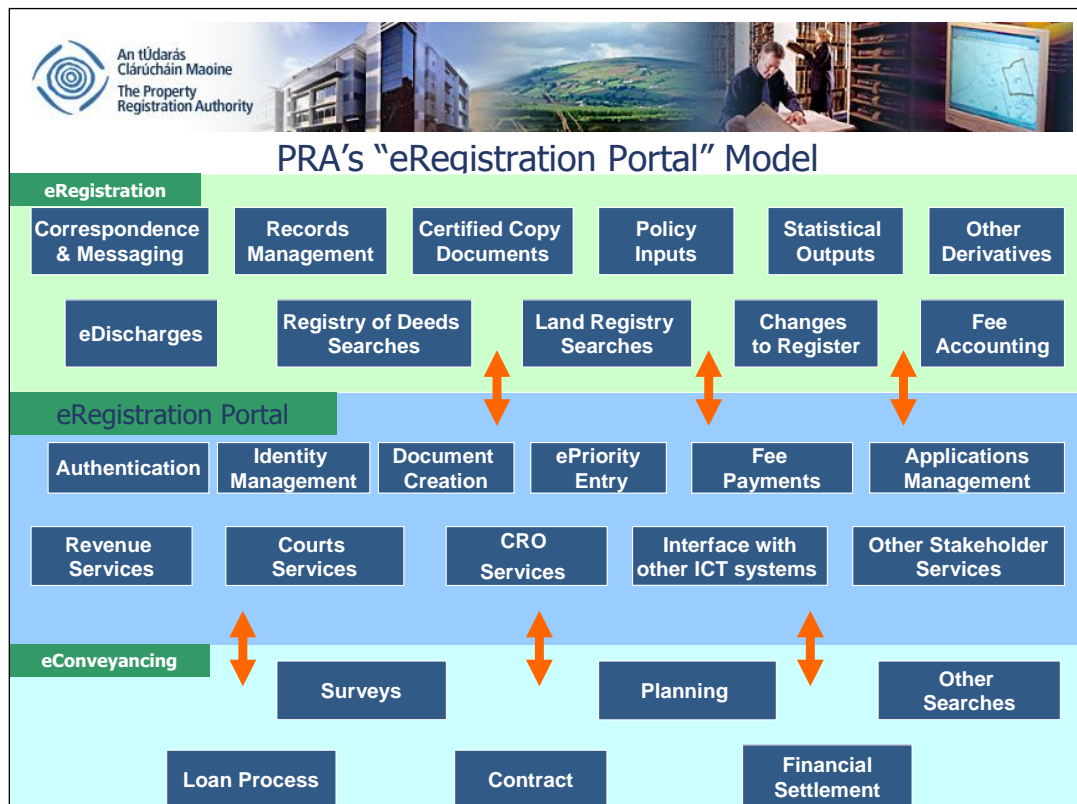
In tandem with this, the PRA has engaged actively with other public sector bodies which hold relevant information, including the Revenue Commissioners, the Courts Service and the Companies Registration Office, to identify methods of improving interaction between the bodies.

#### **4. Conclusion**

Internationally, eConveyancing is recognised as a service that brings about effectiveness, efficiency, cost reduction, transparency and improved security to a conveyancing transaction, thereby protecting the interests of the citizen and business. In the recently published policy for the construction sector, '*Construction 2020*', Government has highlighted the critical role of eConveyancing in providing a modern, efficient, cost effective and secure system to support transactions in the property market into the future.

The PRA is fully supportive of the further development of eConveyancing, whilst also acknowledging the difficult challenges that delivering end- to-end eConveyancing presents. In support of Government policy as stated in '*Construction 2020*' and as the statutory body with responsibility for property registration, the PRA will actively contribute to the review mandated and will continue, in consultation with other stakeholders, to facilitate eConveyancing through the ongoing development and further roll- out of eRegistration services.

## Appendix - The Property Registration Authority eRegistration Portal



## **Background Information Note for Joint Committee on Justice Defence and Equality**

### **1. Registration of Property in Ireland**

- 1.1 The Property Registration Authority (PRA) is the Agency responsible for the registration of property in Ireland. The Property Registration Authority replaced the Registrar of Deeds and Titles as the “registering authority” in relation to property registration in Ireland. The main functions of the PRA are to manage and control the Registry of Deeds and the Land Registry and to promote and extend the registration of title to land.
- 1.2 The title shown on the folio is **guaranteed by the State**, a feature of a title system, which is bound to indemnify any person who suffers loss through a mistake made by the Land Registry. A purchaser can accept the folio therefore as evidence of title without having to read the relevant deeds. Entry onto the register follows the examination of the relevant deeds by the Land Registry whereby a decision on the appropriate registration that is evidenced by the documents lodged is made by an official of the Property Registration Authority.
- 1.3 By international comparison, Ireland has a very extensive and well-developed system of land registration. Over the past number of years, in particular, the PRA’s ambitious modernisation programme has converted all Land Register public records and maps into electronic form. Since the completion of the Digital Mapping project in July 2010, there are now almost 2.1 million legal titles representing 2.9 million individual parcels of land available electronically. This significant and unique database of property related information now offers potential to the State for further benefit. The investment by the state in the modernisation programme by the PRA can now be exploited as a source of evidence-based policy making in order to bring about an optimum return on that investment.

### **2. Title Registration**

- 2.1 When *title* or ownership is registered in the Land Registry, all relevant particulars concerning the property and its ownership are entered on **folios** which form the registers maintained in the Land Registry. In conjunction with folios the Land Registry also maintains Land Registry **maps**. We have now reached a position where c.94% of the total land mass, comprising almost 90% of the titles in Ireland, is registered in the Land Registry. Both folios and maps are maintained in electronic

form and the PRA now offers customers Ireland's first comprehensive online national database of land related information which consists of 2.8 million land parcels represented by over 15 million boundaries.

2.3 The PRA has been very progressive in its use of technology. Major projects that have been implemented over recent years include ITRIS, landdirect.ie, Document Imaging, Accelerated Folio Conversion and Digital Mapping. Technology has played a significant role in increasing productivity to its current levels. These successes have been augmented by the exceptionally high customer usage of the Authority's existing online services and place the organisation in a strong position to continue to grow and improve its electronic service delivery

2.4 What is now available in Ireland is on a par with the "best in class" internationally and the successful transition from paper to a fully electronic national register of property ownership providing textual and geographic and index information has paved the way for further developments in the areas of electronic registration and electronic conveyancing and will support the further integration of property related services in future years.

### 3. **On-line Electronic Register**

3.1 In terms of improving efficiencies in the registration of property, the Property Registration Authority has invested heavily in technology to bring about improvements for customers, including immediate on-line access to our register of maps and folios and 1 day delivery of certified documents. In the past, customers would have had to visit one of the PRA's public offices or wait a number of days or possibly weeks to get certified documents from the paper based register of Folios and maps.

3.2 The investment in technology in the Property Registration Authority has brought about major efficiencies in the registration of property in Ireland over the recent past. One of the most significant achievements was the digitisation of the land register which was completed in August 2010.

3.3 The impact of the work undertaken in recent years has been very significant. In fact, the PRA have now reached a point whereby all of its textual records and mapping records have been fully digitised. This has been the basis for the following achievements:

- **All business customers** (solicitors, lending institutions, law searching firms, public authorities, State enforcement agencies, architects, surveyors, engineers etc.) **are now accessing PRA services via the Internet.**
- **Almost 100% of applications for some services are made on-line**
- Some **4,000 on-line fee paying business transactions *per day*** are being conducted and an even larger number of services for which no fee is payable are also provided daily over the Internet
- **100% of registrations are made on the electronic register.**

3.4 In terms of the broader measurement of registration services, significant advances have been made and the following are examples of some of our service activities and of the successes that have been achieved through the development of our electronic register and services.

- More than 60% of all discharges of mortgages are now lodged electronically and are completed within 2 days of lodgment.
- 80% of certified copy applications received electronically are issued within 24 hours of receipt of application.
- 70% of Official Map Searches are completed within 5 days over the full year.
- Searching and certification transactions delivered through our on-line **landdirect.ie** portal during 2013 reached almost 2.5 million.
- In 2000 0.2million on-line transactions were completed with 1,700 professional users and this number had increased to 2.1 million on-line transactions by 2013 with 18,113 on-line users.

3.5 Currently the PRA is providing assistance to several other Government Departments and Agencies to enable them to fulfil their obligations. For example, data has been provided to the Department of Environment, Heritage and Local Government to support their notification process under an EU Directive relating to special area of conservation. Other bodies such as the ESB, National Roads Authority, Bórd na Mona, EPA and local authorities use the resources of the PRA map data to support



their own processes. The PRA has also established electronic portfolio management facilities for NAMA to assist the latter in carrying out its statutory brief. It is also important to note that the PRA currently provides its services free of charge to Government Departments and other State organisations

- 3.6 The PRA is also working with the Office of Public Works in development of the Property Asset Management Implementation Plan.

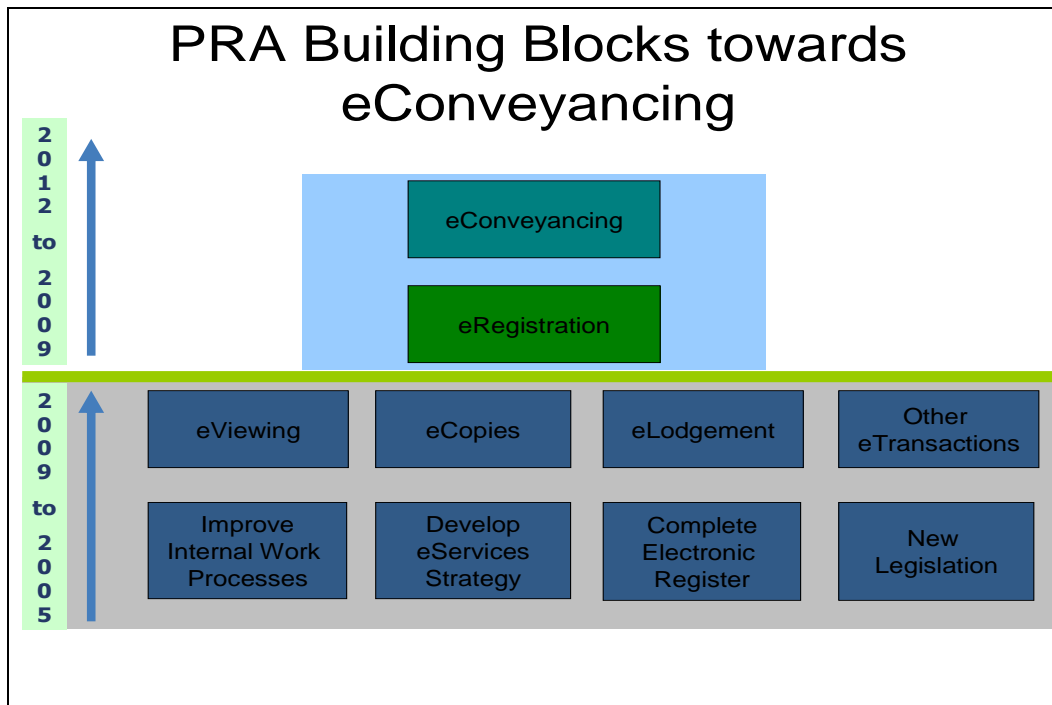
## **4 eConveyancing**

- 4.1 eConveyancing is official government policy in Ireland. In 2005, the Law Reform Commission engaged Bearing Point to undertake a study of conveyancing and the outcome of that study was published as an Appendix to the Commission's 'Report on eConveyancing: Modelling of the Irish Conveyancing System (LRC 79-2006)' in April 2006. The main findings of the Bearing Point report were that

- The current conveyancing process is too complex and heavily paper based
- Stakeholders are at varying stages of IT development
- Successful e-Conveyancing/e-Registration projects must be properly resourced and
- Stakeholder buy-in is essential during all aspects of the project.

- 4.2 The report, when commenting on the various states of readiness of the main stakeholders in the process, stated "*This base of acceptance from the Land Registry's customers places the organisation in a strong position to extend its online service offering*".

The PRA, recognised the critical role that they would play as a vital part of a future eConveyancing system developed their strategy to support eConveyancing. The diagram below gives a high level view of that strategy.



- 4.3 In 2007 the PRA initiated the first phase of its eRegistration programme, known as eDischarges. Cognisant of the Bearing Point findings and developments in similar jurisdictions, the Project Board was structured to include representation from all of the major stakeholders. Representatives of the Law Society (LS), Irish Mortgage Council (IMC), the Revenue Commissioners (Revenue) and the Companies Registration Office (CRO) were all invited to join the Project Board along with senior managers from the PRA. The Project Board signed off on all major decisions and milestones during the course of the project and this structure facilitated effective stakeholder engagement. eDischarges went live in March 2009 and has proven to be more secure, transparent and efficient than the paper based process. Its success has been validated by exceptionally high uptake and the achievement of winning both an eGovernment award and a Public Service Excellence award. Also of significant importance is that eDischarges was the first major service to be developed fully in-house by PRA staff, without any recourse to external contractors or consultants.
- 4.4 From 4th January 2010, the PRA added a second eRegistration service - eCharging Orders - which enables the Health Service Executive (HSE) to electronically apply for the registration of Charging Orders created under the Nursing Homes Support Scheme (Fair Deal Scheme).

In early 2009, when the PRA was made aware of the proposed Scheme, it worked to ensure that the relevant provisions were included in the legislation to support the

electronic lodgement of Charging Orders. It was also recognised that any system developed would have to fit in with the processes within the HSE. Both of these goals were achieved by working closely with the Department of Health and Children who were responsible for the legislation and the HSE, the statutory body that administers the Scheme. The project is an example of ‘joined-up Government in action.

4.5 The project is of high priority and is very important for the business strategies of the PRA including the continuing development of eServices and commitment to improved customer services. The development of the eRegistration Portal by the PRA is central to the continuing development of e-Registration systems and services and ultimately an e-Conveyancing system for Ireland.

4.6 In November 2013 the PRA launched the next phase of its eRegistration services with the provision of services relating to transfers of property and is extending that to include charges (mortgages) against property. This allows practitioners to create the legal documents required to transfer ownership of property in a more effective manner. It also allows for electronic communication and access to documents thereby reducing some of the inherent delays in the conveyance process. The eRegistration system has been designed to accept digital signatures, but in the first instance these documents will be printed and manually signed and then be submitted to the PRA. However, the electronic process described will result in all the key data required in the Registration process being created in the PRA database in advance of the application being lodged and will provide opportunities for further internal business process improvement within the PRA.

This initiative has been well received within the Conveyancing community and at present over 100 legal practices have already applied to open eRegistration accounts. This is expected to grow over time as our outreach programme intensifies. Most of these are new accounts as the PRA has recently created greater awareness of the new service through its website and the use of mailshots. The PRA will follow up with firms that have been signed up for a reasonable period but are not actively using the system.

Seminars to demonstrate and promote the eRegistration system are ongoing with local Bar Associations across the country. Larger firms are currently being contacted on an

individual basis and offered site visits to run through the system. Four companies that specialise in the development of legal practice management systems have applied for access to the XML Schemas that will allow them to develop interfaces between their systems and PRA databases. It is envisaged that this development, when completed, will have a very positive impact on eRegistration

The revised forms of Standard Charges have been agreed with the formal approval of the PRA to issue as soon the revised documents with the agreed amendments are submitted by the lenders. Consultation with the lenders on participation in eRegistration has begun and it is intended to make Charges available on eRegistration on a lender by lender basis

The PRA is continuing to work on the provision of further eRegistration services with the focus now on the development of ePriority notes and eTransmissions on death of registered owners and we are working in close collaboration with our stakeholders with the intention of delivering such services by the end of 2014.

This work will form a cornerstone in the future development of eConveyancing services in Ireland.

END



# *Law Society of Ireland*

## **Opening Statement**

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**Progressing a model for eConveyancing in Ireland**

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**Joint Committee on Justice, Defence and Equality**

**Wednesday 25<sup>th</sup> June 2014**

Chairman, members.

1. We are very glad to have been asked to assist the Committee in its review of progress of the implementation of eConveyancing. My name is Patrick Dorgan. I am Chair of the eConveyancing Task Force set up by the Law Society as a response to Law Reform Commissions Report in 2006, which recommended the introduction of a system of eConveyancing. This meeting today is timely, coming as it does on the publication of the Government's 2020 Construction Strategy, which looks for implementation of eConveyancing.
2. I am accompanied by Dr. Gabriel Brennan who is the author of *An exploration of the impact of eConveyancing upon management of risk in conveyancing transactions* and who has led the Society's research in this field.
3. I am pleased to acknowledge the presence of Teranet, and various state agencies here, all of whom have been very supportive of the project to date.

#### **What is eConveyancing, and what are the benefits?**

4. As you know conveyancing is the process of buying and selling title to land. This old, traditional, cumbersome and paper based process does not serve Ireland or its citizens well. It is costly. It is inefficient. It is in urgent need of reform.
5. eConveyancing is a secure, paperless, electronic, end to end, pre-sale to post completion, conveyancing process. It moves the procedures to electronic delivery via information exchange between key stakeholders, initially solicitors, lenders and the land registry. Later releases would include other stakeholders for example local authorities and planning authorities.
6. When introduced eConveyancing can deliver a property transfer process that will be a world leader in efficiency, security and cost effectiveness.
7. eConveyancing has the capacity to streamline and modernise property transactions thus delivering real and substantial benefits to a range of stakeholders including government and consumers. To focus in particular on consumers the following benefits can be realised:
  - Reduce conveyancing transaction time - *to a potential five working days*
  - Reduce costs - *due to leaner and quicker system*
  - Reduce fraud - *due to inbuilt security checks with state agencies*
  - Reduce errors and delay – *due to all stakeholders being on the one platform*
  - Improve transparency of the process - *with greater transaction traceability*
  - Reduce risk - *due to reduced gaps in the process and secure transfer of funds*
  - Meet the demand for electronic service delivery – *with speed and efficiency*
  - Increase consumer confidence in the process – *with modernisation, simplification and standardisation*

8. These and other benefits are outlined in the briefing material you received and I have hard copies with me for distribution if required.
9. My colleague and I would be happy to provide further detail on these aspects or other benefits during questioning.
10. These benefits can be achieved without imposing any additional cost on the exchequer as the Law Society has identified Teranet as a funding partner who will work in collaboration with all stakeholders. Teranet has a proven track record in the delivery of electronic property services and is willing to share its knowledge, expertise and intellectual capital.

### **Policy Mandate – Political Will**

11. eConveyancing was recommended by the Law Reform Commission in 2006 and endorsed by government in the recent 2020 Construction Strategy, which acknowledged the work done to date on this project under the aegis of the Law Society. Indeed, the European Commission in its 2014 Assessment of the National Reform and Stability Programme for Ireland urged eConveyancing to be progressed and identified it as an important factor in improving Ireland's business environment.
12. The project aligns with and facilitates implementation of the Public Sector Reform Plan, eGovernment strategy 2012 – 2015, will enhance Ireland's reputation as a leader in eGovernment and eCommerce, improve our international ranking in property benchmarks, contribute to the green agenda and deliver efficiencies in revenue collection and electronic funds transfer thereby increasing Ireland's competitiveness.
13. The transformation to eConveyancing also fits with the streamlining of government land administration services through the merger of Ordnance Survey Ireland, Valuation Office and Property Registration Authority.
14. The Department of Justice and Equality is the lead government department for this initiative. While the Property Registration Authority has made great strides in advancing the electronic registration (eRegistration) element of the process, and these initiatives have been actively supported by the Law Society and its members, much remains to be done to achieve full eConveyancing.

### **Next steps**

15. The support for this project is not surprising as it is a simple, innovative and effective approach to modernisation that is being achieved in other common law jurisdictions such as Australia, Scotland and Canada who have all realised the strategic benefits. These include the opportunity for inward investment and benefits for all owners and investors in the property sector.
16. This is achievable only if the funding and mortgaging aspect of the conveyancing process is included. The Law Society would like to see the lenders commit fully to the implementation of this modernisation program and work with the Law Society and the Property Registration Authority to make eConveyancing a reality for the benefit of Irish consumers in recognition



of the fact that this project is one of critical national importance and has core government support.

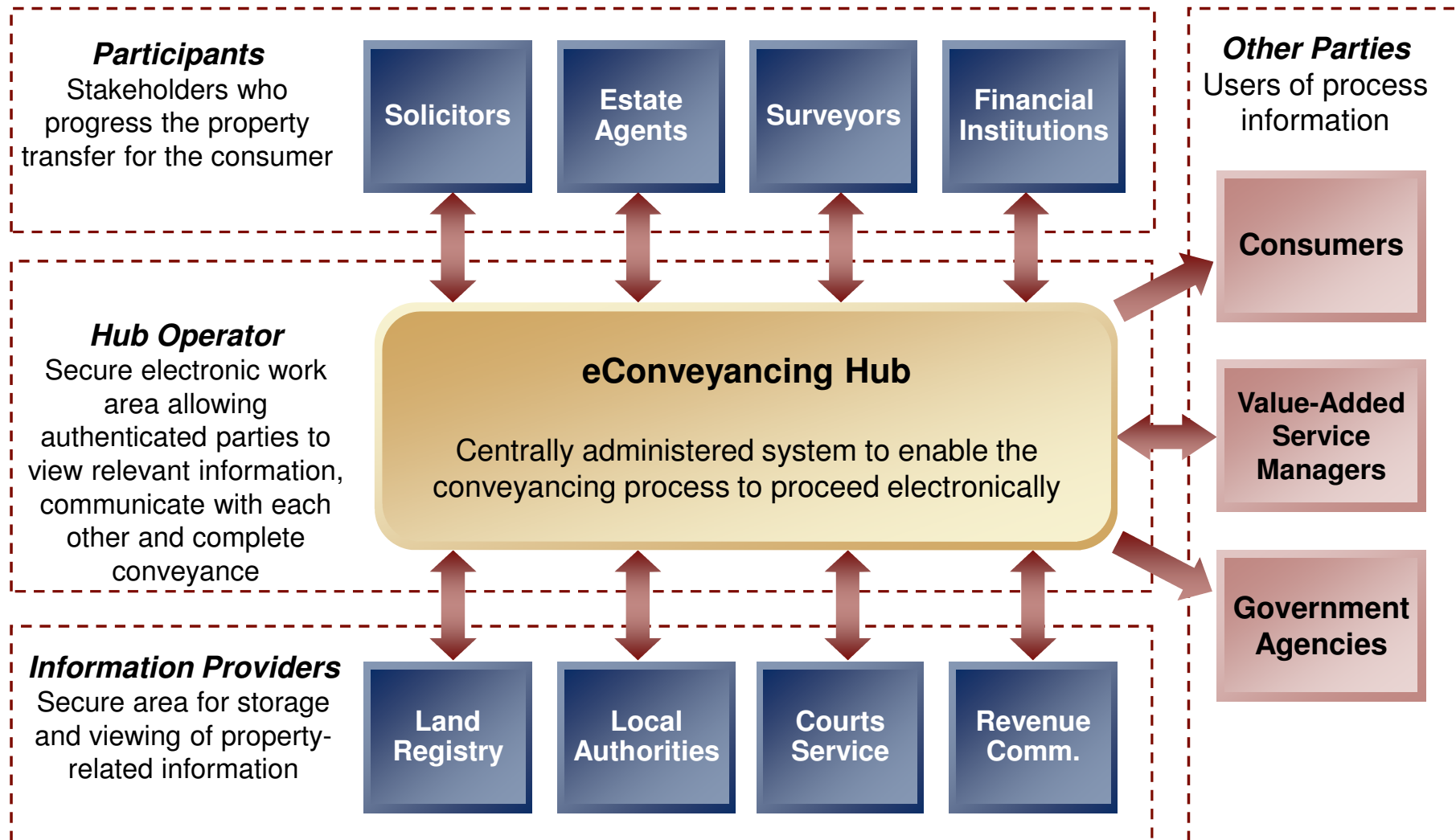
17. We shall be pleased to assist the Committee in its deliberations.

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Dr. Gabriel Brennan Solicitor and Law Society eConveyancing Senior Advisor

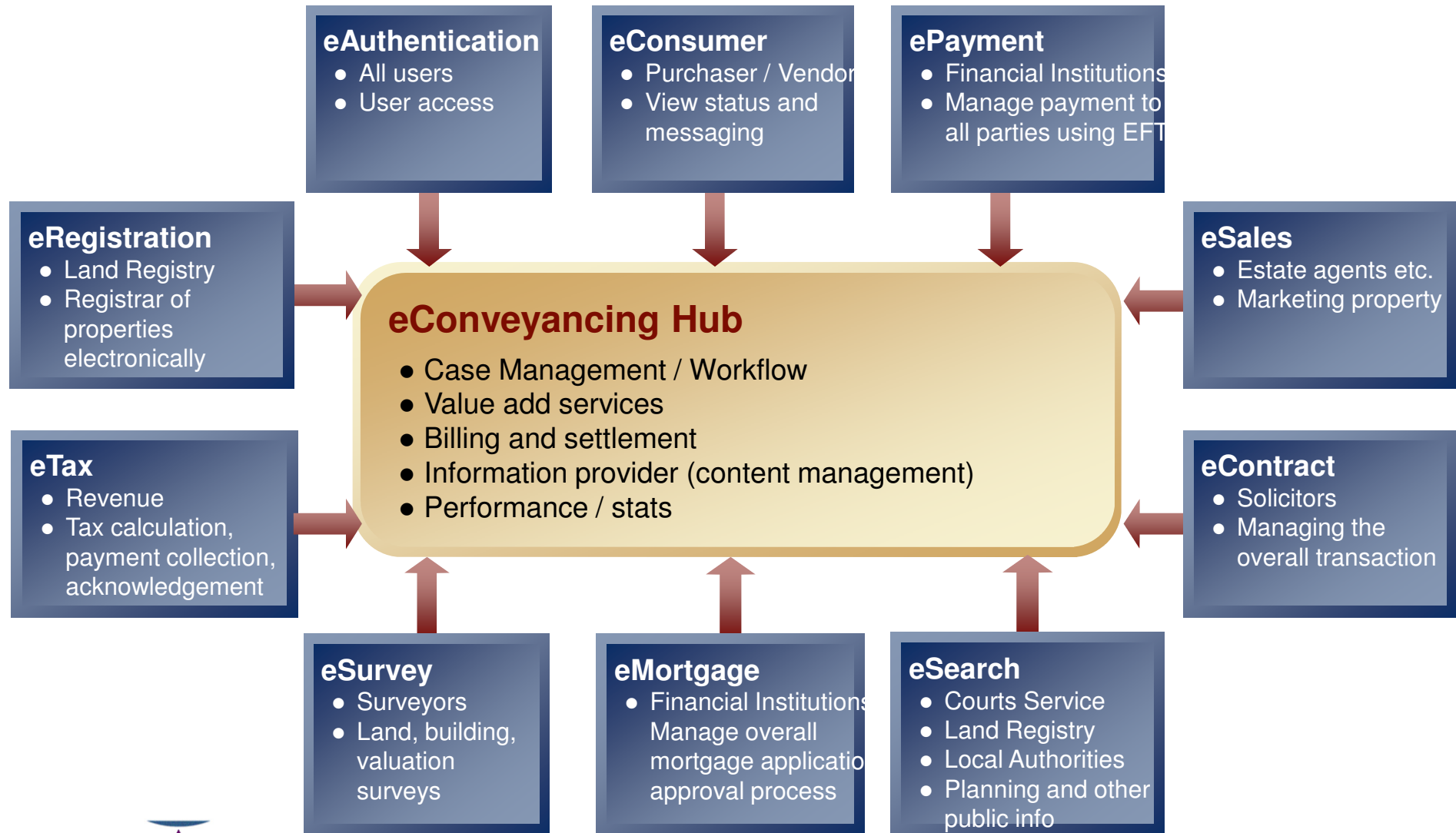
Mr. Patrick Dorgan Solicitor, Member of Law Society Council and Chair eConveyancing Task Force

# eConveyancing Operating Model



**Note :** not all stakeholders have been shown in this figure due to space constraints, others will be involved (e.g. Law Searchers, Developers, etc).

# eConveyancing components



## **eConveyancing Project**

### **Briefing document**

#### **Executive summary**

The Law Society of Ireland is engaging with other key stakeholders in the conveyancing process to implement electronic conveyancing (eConveyancing) in Ireland. This transformation programme has the potential to create a more effective and efficient land market.

This project delivers many benefits for all stakeholders including significant benefits for consumers and government.

The following benefits can be realised for consumers:

- (a) Reduce conveyancing transaction time to a potential five working days
- (b) Reduce costs
- (c) Reduce fraud
- (d) Reduce errors and delay
- (e) Improve transparency of the process
- (f) Reduce risk
- (g) Meet the demand for electronic service delivery
- (h) Increase consumer confidence in the process

Benefits for government include the following:

- (a) Opportunity for inward investment in the Irish economy which will facilitate recovery of the property market
- (b) Benefits government as an owner and investor in the property sector
- (c) Facilitate implementation of *eGovernment strategy 2012-2015*
- (d) Assist in implementing the *Public Service Reform Plan*
- (e) Assist in implementing *Construction Strategy 2020*
- (f) Enhance Ireland as a leader for eGovernment and eCommerce
- (g) Improve Ireland's international ranking in property benchmarks
- (h) Fulfil the Property Registration Authority's eRegistration agenda
- (i) Other factors such as meeting the European Information Society agenda and green agenda, delivering efficiencies in revenue collection and electronic funds transfer thereby increasing Ireland's competitiveness

The project can be delivered and these benefits realised without any capital investment by government.

The purpose of this briefing document is to provide a framework for discussion on the 'next steps' required in order to progress implementation of this project.



## 1. Introduction

The Law Society of Ireland is working to develop an electronic conveyancing (eConveyancing) service for Ireland. This work has been being done in conjunction with the Irish Banking Federation (IBF), representing the lenders, and with the support of the Property Registration Authority (PRA).

An opportunity has arisen for this project to be delivered in partnership with a Canadian firm, Teranet ([www.teranet.ca](http://www.teranet.ca)). Teranet operates the eRegistration service in Ontario and has been working with BearingPoint ([www.bearingpoint.ie](http://www.bearingpoint.ie)), a management and technology consulting firm, to design the service.

The proposed model comprises a centralised hub as set out in the Law Reform Commission BearingPoint Report.<sup>1</sup> The agenda is a reformist one whereby current processes and workflows will be redesigned and the template for this reform is as set out in the Law Society eVision 'Back to Basic Principles'.<sup>2</sup> Initially, the focus is on the high-volume activities in the conveyancing process i.e. contract for sale, loan approval and funds release and closing.

A governance structure has been put in place consisting of a Programme Board and Steering Group. These include representatives of the PRA, lenders/IBF, Law Society, Teranet and BearingPoint.

## 2. The project

The delivery of this project involves a large and complex transformation programme as identified in the Law Reform Commission Report.<sup>3</sup> This report acknowledges that the Ontario model offers the approach that best fits the Irish environment.<sup>4</sup> It also recommends that consideration be given to private investment as a means of funding the development of the service.<sup>5</sup>

In the current economic climate the government, Law Society or lenders are not in a position to fund the system build. A partnership with private enterprise provides the best opportunity for implementation of the project without any capital investment by government. The experience of Teranet in delivering similar type advances in Ontario augurs well for a successful implementation that can maximise the benefits for all stakeholders.

## 3. Information about Teranet

Teranet was established in 1991 as a public private partnership between private enterprise and the Ontario government. In 2003 Teranet bought out the government's stake for \$179 million. Teranet is currently owned by a pension fund called OMERS (managed by Borealis), which acquired 100% of Teranet in 2008 for \$1.6 billion. Teranet has 360 employees based in Ontario, Canada and has a reputation as one of the leading Electronic Land Registration Systems (ELRS) in the world.

The system in Ontario is almost 4 times larger than in Ireland, i.e. over 1.8 million registrations per annum versus Ireland, which has about half a million. Ontario has over 40,000 lawyers. In 2011, as a result of an excellent track record of performance, Teranet was granted a fifty year extension by the government on its licence to own and operate the eRegistration system in Ontario. The model in operation means that each stakeholder retains ownership of their data and business rules but Teranet has an

exclusive licence to provide access to the data and to use the data for value added products and services related to real estate transactions. There are 370 document types in the system and Teranet has over 80,000 users of eConveyancing, eRegistration and eSearch solutions. Teranet has excellent customer experience survey results and has never had a breach in security.

As Teranet is owned by a pension fund it seeks long-term social infrastructure investment opportunities with relatively predictable revenue streams rather than immediate profitability thus guaranteeing commitment to a long-term delivery relationship. Teranet is willing to fund the entire customized system build as well as owning and operating the system and obtain a return on their investment through an agreed fee structure and gain sharing agreement over a multi year exclusivity period. A partnership with Teranet provides the opportunity for financing of the project but also provides an acknowledged proof of concept and expertise in the delivery of world-class electronic conveyancing solutions in the property market.

Teranet has a proven track record in the delivery of electronic property services and is willing to share its knowledge, expertise and intellectual capital in business, technology, operational performance and governance. It also has expertise in managing projects with complicated governance structures and business models. It has the technical capacity to deliver, as it can design, build and operate the infrastructure and is committed to establishing a long-term presence in Ireland that benefits solicitors, lenders, estate agents, citizens and the government.

#### **4. Benefits**

There is widespread acceptance that the current conveyancing process in Ireland is archaic, manually driven, paper based, error prone and time consuming so there is a clear mandate for change. Appendix 1 on page 9 provides a sample of the paper based interactions in the current process.

Appendix 2 on page 10 demonstrates the new model for eConveyancing which will deliver interoperability between stakeholders. The Law Reform Commission report has already articulated many of the benefits and efficiencies that can flow from the implementation of this model. The following provides details of some key benefits for government and consumers as they apply today.

This list is by no means exhaustive and merely highlights some of the benefits for government and consumers. There are additional benefits that will flow to these parties and also to other stakeholders, such as lenders and the legal community.

##### **4.1 Benefits for the consumer**

###### **(a) Reduce conveyancing transaction time to a potential five working days**

The average transaction time is currently more than 22 weeks.<sup>6</sup> eConveyancing has the potential to reduce this transaction time to five working days.<sup>7</sup> This can be done by reducing the time for transmission of paper from one location to another (and often back again). As the agenda is a reformist one, some processes will be removed and others will be replaced with electronic communication. This provides the opportunity to deliver a more efficient and effective service to all those engaged in the property market. The aim is to provide a system whereby a person could agreed to buy a property on a Monday morning and be the registered owner by Friday afternoon.



#### **(b) Reduce costs**

The paper based process contains hidden costs such as the cost of taking up title deeds from the lender or courier costs for transporting paper documentation. The average fee for furnishing title documents is €78.<sup>8</sup> Often the consumer has difficulty distinguishing these costs from the professional fee being charged. eConveyancing provides an opportunity to eliminate or reduce many of these hidden costs. Consumers will also directly benefit from reduced search and registration fees as a result of the mandate to incentivise electronic delivery through reduced fees.<sup>9</sup> Other costs will no longer apply such as the cost of reconstructing title as there will be no paper title documents that can be lost.

A more efficient, streamlined conveyancing process will also reduce the costs inherent in paper processes which contain duplicate activity. Consumers would only need to provide information once for it to be accessible to all stakeholders in the system. For example 70% of solicitor firms use case management systems.<sup>10</sup> eConveyancing will deliver interoperability between those systems and other stakeholder systems.

#### **(c) Reduce fraud**

Use of secure and efficient electronic funds transfer will lead to reduced fraud. As loan funds will be held in a central secure repository the opportunity for fraud is reduced. This will remove the risk of such funds being dealt with dishonestly. Purchasers and lenders can be sure that the funds will be correctly applied to the purchase and charge of the agreed property while vendors will have the security of knowing that their mortgage will be paid off immediately on closing of the transaction and that there is no further action required from them or their advisor.

#### **(d) Reduce errors and delay**

The implementation of standardisation enforced by the electronic system will reduce the risk of errors occurring in the process thus eliminating delay. In particular errors in applications for registration will be reduced.

Currently the main reason for delay in a standard residential conveyancing transaction is waiting for title documents from the lender.<sup>11</sup> The majority of closings also occur by delivery of paper from one location to another<sup>12</sup> leading to further delay. These inefficiencies will be removed with the introduction of the electronic process.

Use of electronic funds transfer in real time with same day value will be a considerable benefit to the consumer who currently has to wait three to five days for cheques to clear before the transaction can proceed.

#### **(e) Improve transparency of the process**

In implementing a transformation agenda there is the opportunity to improve process transparency. By removing delays and inefficiencies and incorporating greater transaction traceability, eConveyancing provides the opportunity to deliver a fast, transparent and predictable conveyancing service for the benefit of consumers. The improved collaboration between stakeholders via the eConveyancing system will also provide increased transparency to consumers.

#### **(f) Reduce risk**

The gap between closing and registration will be compressed so that there is less potential for an intervening interest to be registered ahead of the purchasers or lenders. This reduces risk in the process.



As the electronic signature system, which will be introduced to facilitate eConveyancing, will be linked to the solicitors database consumers also have the confidence of knowing that their advisor is on the roll of solicitors and has professional indemnity insurance.

The system provides that the discharge of the prior lender's charge would be pre-approved so that the purchaser would no longer be at risk of a delay in removing the vendor's charge from the title. Improvements in quality and risk management will flow from a more transparent, efficient and effective process.

**(g) Meet the demand for electronic service delivery**

Consumers seek electronic service delivery across all areas of work and life. Older, traditional, paper based processes are not immune from this demand. Much communication is currently done by email but this is not secure and is limited in its application. While the process continues to rely on paper title documents and paper applications for registration, delay is an inevitable feature of the operation of the property market.

**(h) Increase consumer confidence in the process**

Modernisation, simplification, standardisation and reform will improve consumer confidence and satisfaction in the conveyancing and registration process. The current process is not designed to deal with the expectations of 21<sup>st</sup> century consumers as well as the increased volume and diversity of transaction and market expectations for speed and transparency.<sup>13</sup> Reform of the process will provide a platform to re-invigorate the property market by providing an improved service to buyers, sellers, state agencies and providers of finance.

## **4.2 Benefits for government**

**(a) Opportunity for inward investment in the Irish economy which will facilitate recovery of the property market**

Teranet is prepared to invest a significant amount of money into the design, build and operation of eConveyancing in Ireland. It proposes to set up a manned office in Dublin which will assist in delivery and training. The Tánaiste and Minister for Foreign Affairs and Trade, Eamon Gilmore, T.D. visited Canada in 2012 and spoke of his visit in the following terms:

*"Canada is the world's 7<sup>th</sup> largest economy and the rich historical and cultural connections we share place Ireland in an ideal position to benefit from the growing trade and investment opportunities that exist. We have a solid base from which to build - total trade in 2011 stood at €1.6 billion; Ireland is the 5<sup>th</sup> largest recipient of Canadian foreign direct investment; 60 Irish companies have a presence in Canada employing over 6,000 Canadians; while 80 Canadian companies are located in Ireland. The economic message during my visit will be clear - now is the opportunity for Canada to invest in Ireland's economic recovery."<sup>14</sup>*

The investment by Teranet represents an opportunity to facilitate recovery of the Irish property market by enabling more secure lending, reducing risk for lenders and consumers, reducing transaction times and streamlining the conveyancing process.

**(b) Benefits government as an owner and investor in the property sector**

Similar to all owners and investors in the property sector the government will benefit from a more streamlined, effective and efficient conveyancing process.

As a shareholder in the lending community the government will benefit from less risk in lending practices. Loan funds will be released into a central hub and will only be called upon at the point of completion of the transaction. Registration of title will occur virtually simultaneously reducing risk for all land owners.

Use of electronic services will reduce the cost of providing that service and compress transaction times. Office overheads for all those involved in the land market will be reduced. This includes solicitors, lenders, local authorities, state and semi-state bodies.

**(c) Facilitate implementation of eGovernment strategy 2012-2015**<sup>15</sup>

eConveyancing will assist in delivering this strategy by

1. providing a reduction in the administrative burden for citizens and businesses;<sup>16</sup>
2. implementing digital delivery of applications for registration to the Property Registration Authority;<sup>17</sup>
3. ensuring greater interoperability of government services;<sup>18</sup>
4. facilitating increased data sharing in relation to the property sector;<sup>19</sup>
5. providing an electronic collaboration tool to empower citizens and businesses;<sup>20</sup> and
6. implementing business process improvements which deliver gains to all stakeholders in the conveyancing process.<sup>21</sup>

eConveyancing can provide a single electronic signature system for the secure electronic exchange of data between solicitors, lenders and all government services. There is scope to extend this system beyond the Property Registration Authority to other areas such as eLitigation with the Courts Service, eProbate with the Probate office and so on. This will facilitate sharing of data by public bodies and a reduced administrative burden for users and citizens. eConveyancing can be the platform for legal e-services between citizens, the legal community and government.

In line with the eGovernment strategy, eConveyancing groups transactional services around the life event of buying and selling property and allows for this to be integrated across organisational boundaries.<sup>22</sup>

eConveyancing will also incentivise the take up of electronic services with the potential to link to ePlanning in the local authorities and many other online eGovernment services.<sup>23</sup>

The system also provides scope for gathering of necessary statistical data about the property sector.<sup>24</sup>

**(d) Assist in implementing the Public Service Reform Plan**<sup>25</sup>

This will be done by delivering a new and innovative service-delivery channel between government and business.<sup>26</sup> eConveyancing can also improve information sharing across the public service, reduce transaction costs, rationalise ICT infrastructure<sup>27</sup> relating to property ownership and transfer, streamline administrative operations, enhance government property asset management,<sup>28</sup> eliminate duplication through business process improvements and implement a shared service model within the property sector.<sup>29</sup>

**(e) Assist in implementing Construction Strategy 2020**<sup>30</sup>

This strategy published in May 2014 acknowledges that conveyancing remains largely paper based and takes a disproportionate amount of time

*"[t]herefore, a system of eConveyancing which harnesses modern technology to assist in the timely transfer of property ownership would provide a more modern,*



*efficient, cost effective and secure system to support transactions in the property market in the future. Moving to a full eConveyancing system will require a number of further elements over and above existing and planned developments to be put in place to provide for the secure transmission of communications, the management and disbursement of funds between parties and the creation and management of digital signatures."*

This strategy adds to the compelling case for reform of the current conveyancing system.

**(f) Enhance Ireland as a leader for eGovernment and eCommerce**

eConveyancing can enhance Ireland's reputation as a leader for eGovernment services<sup>31</sup> and as a location that facilitates eCommerce. In the United Nations Global E-Government Survey of 2012 Ireland was ranked 34<sup>th</sup> as against Canada's 11<sup>th</sup> place.<sup>32</sup>

The European Commission in its 2014 Assessment of the National Reform and Stability Programme for Ireland<sup>33</sup> urged eConveyancing to be progressed and identified it as an important factor in improving Ireland's business environment.

eConveyancing will provide a reputational enhancement to the Irish government through improving its standing with international investors in the property sector.

**(g) Improve Ireland's international ranking in property benchmarks**

In the World Bank *Doing Business* league table for 2014<sup>34</sup> Ireland is placed 15<sup>th</sup> and Canada 19<sup>th</sup> under the ranking for ease of doing business. By contrast under registering property Ireland is ranked 57<sup>th</sup> and Canada 55<sup>th</sup>. However when Ontario was ranked separately from the other Canadian provinces in 2005/6 it was ranked 1<sup>st</sup>.<sup>35</sup> eConveyancing provides the opportunity to further improve Ireland's ranking in international property benchmarks.

**(h) Fulfil the Property Registration Authority's eRegistration agenda**

The Property Registration Authority eRegistration project has been a major success story for the Irish public sector. The first phase called eDischarge won the state body category at the Public Sector Times 2010 eGovernment Award and also An Taoiseach's Public Service Excellence Award.

The first strategic objective of the Property Registration Authority is to complete the Irish land register which will lead to a single system of title registration thus contributing to the eConveyancing programme.<sup>36</sup> This will be done by implementing core elements centred around eRegistration services. In order to implement eRegistration fully a secure electronic platform, with electronic signatures, is required between solicitors, lenders and the Property Registration Authority. eConveyancing will provide this platform.

eConveyancing can also improve the customer experience in engaging with government by integrating all state property related services<sup>37</sup> and channelling these through the Property Registration Authority's access to the system.

eConveyancing will also facilitate implementation of other objectives in the Property Registration Authority's Strategic Plan<sup>38</sup> by broadening public access to data by electronic means, promoting standardisation, improving standards in applications for registration and optimising the return on investment in technology.

**(i) Other factors**

eConveyancing assists in meeting the demands of the European Information Society agenda. The INSPIRE directive provides an example in relation to spatial data that demonstrates the move towards harmonisation and interoperability of property related data across Europe.<sup>39</sup>

eConveyancing meets the green agenda as a core tenet of eConveyancing is dematerialisation. Paper which requires printing, posting and long-term storage will instead be replaced by electronic data and communication channels. Some paper processes will be removed entirely.

Stamp duty and other taxes triggered by a transfer of ownership will be paid immediately on closing thus introducing efficiencies into the revenue collection process.

Loan cheques will be eliminated as all funds will be dealt with by electronic funds transfer. This will meet the strategy set out in the National Payments Implementation Programme.<sup>40</sup> The reduction in use of cheques will provide a saving to stakeholders which will increase Ireland's competitiveness.

## **5. Advancing the project**

The governments Construction Strategy 2020 acknowledges that the steps to eConveyancing will require the representatives of the legal profession, the banking sector and the relevant statutory agencies to work together closely building on work already completed on this issue under the aegis of the Law Society.<sup>41</sup>

The engagement among stakeholders has confirmed that the move towards eConveyancing offers an excellent opportunity for the reform of the Irish conveyancing process with tangible benefits for all.

The Department of Justice and Equality is the lead responsible body for reviewing and reporting on the steps required to deliver a system of eConveyancing in Ireland, including the resource implications and timeframes for delivery.<sup>42</sup> The purpose of this briefing document is to provide a framework for discussion on these 'next steps' in order to maintain momentum and progress implementation of this project.

Further information can be sought or queries directed to the Law Society's eConveyancing Senior Advisor, Dr. Gabriel Brennan, at [g.brennan@lawsociety.ie](mailto:g.brennan@lawsociety.ie)

**Law Society of Ireland**  
**June 2014**

Interactions between the various stakeholders in the current conveyancing process are heavily paper based which is costly and inefficient.

The flowchart illustrates the interactions between the following stakeholders:

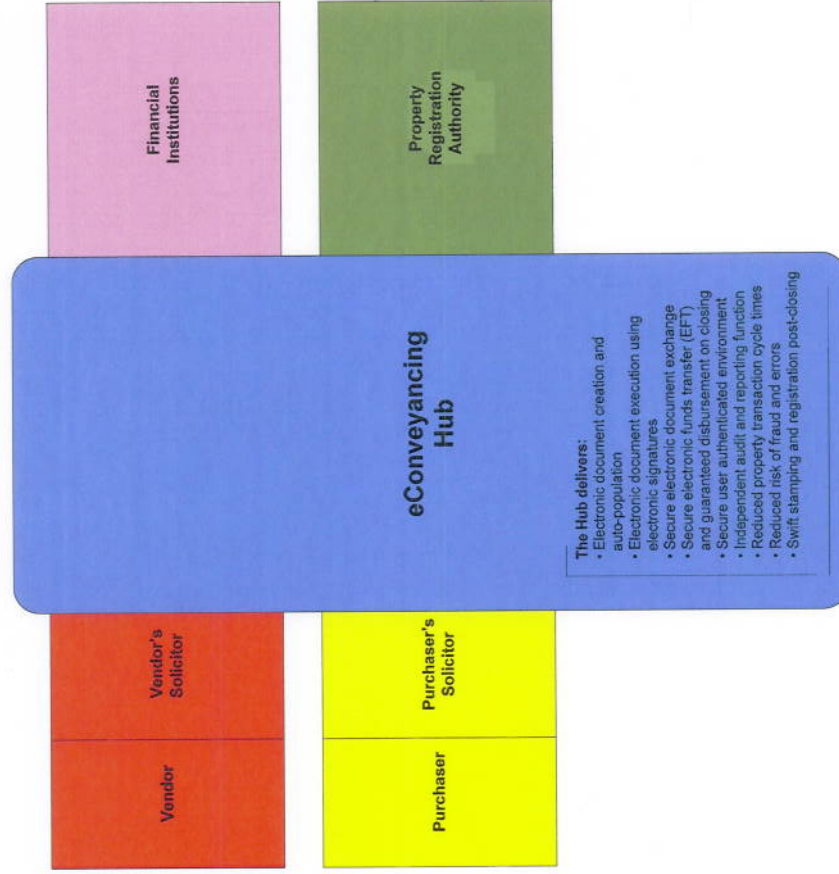
- Financial Institutions** (Pink box)
- Property Registration Authority** (Green box)
- Purchaser's Solicitor** (Yellow box)
- Vendor's Solicitor** (Red box)
- Vendor** (Red box)

The interactions shown are:

- Financial Institutions** and **Property Registration Authority**:
  - Request eDischarge
  - Confirm eDischarge
- Financial Institutions** and **Vendor's Solicitor**:
  - Loan Approval
  - Request Title Documents
  - Issue Title Documents
  - Discharge Vendor's Mortgage
  - Confirm Vendor's Mortgage Discharged
- Financial Institutions** and **Property Registration Authority**:
  - Request & Issue of Loan Monies
  - Compliance with Loan Pre-conditions
  - Qualifications on Title
  - Underwriting
  - Loan Approval
- Financial Institutions** and **Vendor's Solicitor**:
  - Release of Undertaking
  - Closing Documents
  - Purchase Deed
  - Requisitions on Title
  - Contract Amendments
  - Contract & copy Title
- Property Registration Authority** and **Purchaser's Solicitor**:
  - Certificate of Title & Title Documents
  - Title Information
  - Registration of Documents
  - Queries



## Appendix 2: Proposed eConveyancing Model



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- <sup>1</sup> Law Reform Commission (LRC) Report *eConveyancing: Modelling of the Irish Conveyancing System* LRC 79-2006 p. 136 and 168.
- <sup>2</sup> Law Society of Ireland *eConveyancing: Back to Basic Principles. Vision of an Electronic System of Conveyancing* ('eVision') March 2008. The principles underpinning this vision have been welcomed by all stakeholders in the conveyancing process including the Law Reform Commission.
- <sup>3</sup> Law Reform Commission (LRC) Report *eConveyancing: Modelling of the Irish Conveyancing System* LRC 79-2006 p. 2.
- <sup>4</sup> *Ibid.*, p. 8. It is noted that this offers all stakeholders the levels of functionality they require for an all encompassing end-to-end eConveyancing solution. See also p. 138.
- <sup>5</sup> *Ibid.*, p. 138.
- <sup>6</sup> Law Society survey June 2012.
- <sup>7</sup> Law Society of Ireland *eConveyancing: Back to Basic Principles. Vision of an Electronic System of Conveyancing* ('eVision') March 2008 p. 4.
- <sup>8</sup> Law Society survey June 2012.
- <sup>9</sup> Department of Public Expenditure and Reform *Supporting Public Service Reform eGovernment 2012 – 2015* <http://egovstrategy.gov.ie/wp-content/uploads/2012/04/eGovernment-2012-2015.pdf> Action 17 p. 10.
- <sup>10</sup> Law Society survey June 2012.
- <sup>11</sup> *Ibid.*
- <sup>12</sup> *Ibid.*
- <sup>13</sup> Law Society of Ireland *eConveyancing: Back to Basic Principles. Vision of an Electronic System of Conveyancing* ('eVision') March 2008 p. 1.
- <sup>14</sup> Press Release *Tánaiste to focus on trade, investment and Irish emigrants during visit to Canada* 15 March 2012 <https://www.dfa.ie/news-and-media/press-releases/press-release-archive/2012/march/tanaiste-visit-to-canada/>
- <sup>15</sup> Department of Public Expenditure and Reform *Supporting Public Service Reform eGovernment 2012 – 2015* <http://egovstrategy.gov.ie/wp-content/uploads/2012/04/eGovernment-2012-2015.pdf>
- <sup>16</sup> *Ibid.*, Key principle number 3 p. 2.
- <sup>17</sup> *Ibid.*, Actions 15 - 20 p. 10 – 11.
- <sup>18</sup> *Ibid.*, Action 41 p. 17.
- <sup>19</sup> *Ibid.*, Action 40 p. 17.
- <sup>20</sup> *Ibid.*, Action 12 p. 9.
- <sup>21</sup> *Ibid.*, Key principle number 4 p. 2.
- <sup>22</sup> *Ibid.*, Action 3 p. 7.
- <sup>23</sup> *Ibid.*, Action 16 p. 10.
- <sup>24</sup> *Ibid.*, Actions 24 - 26 p. 13.
- <sup>25</sup> Department of Public Expenditure and Reform *Public Service Reform Plan 2014 - 2016* <http://reformplan.per.gov.ie/downloads/files/Reform%20Plan%202014.pdf>
- <sup>26</sup> *Ibid.*, p. 56.
- <sup>27</sup> *Ibid.*, p. 58.
- <sup>28</sup> *Ibid.*, p. 69 and 70.
- <sup>29</sup> *Ibid.*, p. 56 and 65.
- <sup>30</sup> Government Publications 'Construction Strategy 2020' <http://www.merrionstreet.ie/wp-content/uploads/2014/05/Construction-Strategy-14-May-20141.pdf>
- <sup>31</sup> Department of Public Expenditure and Reform *Supporting Public Service Reform eGovernment 2012 – 2015* <http://egovstrategy.gov.ie/wp-content/uploads/2012/04/eGovernment-2012-2015.pdf>
- <sup>32</sup> [http://www.unpan.org/egovkb/global\\_reports/08report.htm](http://www.unpan.org/egovkb/global_reports/08report.htm)
- <sup>33</sup> European Commission 'Assessment of the 2014 national reform programme and stability programme for Ireland' (2014) Brussels SWD (2014) 408 final [http://ec.europa.eu/europe2020/pdf/csr2014/swd2014\\_ireland\\_en.pdf](http://ec.europa.eu/europe2020/pdf/csr2014/swd2014_ireland_en.pdf) p. 33.
- <sup>34</sup> The World Bank <http://www.doingbusiness.org/rankings/>

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<sup>35</sup> Law Reform Commission (LRC) Report *eConveyancing: Modelling of the Irish Conveyancing System* LRC 79-2006 p. 20.

<sup>36</sup> The Property Registration Authority 'Strategic Plan 2013 – 2015' (2013) The Property Registration Authority  
[http://www.landdirect.ie/eng/Publications/Strategic\\_Plan/Strategic\\_Plan\\_2013\\_-\\_2015.pdf](http://www.landdirect.ie/eng/Publications/Strategic_Plan/Strategic_Plan_2013_-_2015.pdf) p. 6.

<sup>37</sup> Department of Public Expenditure and Reform *Public Service Reform Plan 2014 - 2016*  
<http://reformplan.per.gov.ie/downloads/files/Reform%20Plan%202014.pdf> p. 60 and 61.

<sup>38</sup> The Property Registration Authority 'Strategic Plan 2013 – 2015' (2013) The Property Registration Authority

[http://www.landdirect.ie/eng/Publications/Strategic\\_Plan/Strategic\\_Plan\\_2013\\_-\\_2015.pdf](http://www.landdirect.ie/eng/Publications/Strategic_Plan/Strategic_Plan_2013_-_2015.pdf)

<sup>39</sup> Implementing the INSPIRE Directive regulations in public bodies  
<http://www.environ.ie/en/Publications/DevelopmentandHousing/Planning/FileDownload,27309,en.pdf> See also European Land Information Service (EULIS) at <http://eulis.eu/>

<sup>40</sup> <http://www.ipso.ie/section/NationalPaymentsImplementationProgramme>

<sup>41</sup> Government Publications 'Construction Strategy 2020' <http://www.merriestreet.ie/wp-content/uploads/2014/05/Construction-Strategy-14-May-20141.pdf> p. 58.

<sup>42</sup> Government Publications 'Construction Strategy 2020' <http://www.merriestreet.ie/wp-content/uploads/2014/05/Construction-Strategy-14-May-20141.pdf> p. 58.





# eCONVEYANCING: BACK TO BASIC PRINCIPLES

VISION OF AN ELECTRONIC SYSTEM OF CONVEYANCING ('eVISION')

LAW SOCIETY eCONVEYANCING TASK FORCE

## INTRODUCTION

In 2002 the Law Reform Commission established a Working Group to look at introducing a system of electronic conveyancing (eConveyancing) in Ireland. The Group identified three main areas which required examination. These were: changes to the existing law, changes in the conveyancing process itself and changes required to State services associated with the process.

Progress in relation to the first area has been rapid. A joint project established by the Law Reform Commission with the Department of Justice, Equality and Law Reform produced a consultation paper entitled *Reform and Modernisation of Land Law and Conveyancing Law* (LRC CP 34-2004). This was published in tandem with a major conference held in U.C.D. in November 2004 as a result of which the Land and Conveyancing Law Reform Bill 2006 is due to be enacted shortly.

In relation to the conveyancing process, the Law Society formed the view that it should endorse the development of eConveyancing as a means for solicitors to do the business of land transfer quickly and efficiently. This view was encouraged by the rapid and successful rollout of electronic and online services such as the Property Registration Authority's *landdirect.ie*, the Revenue Online Service and proposals for eStamping, all of which have been embraced by solicitors.

The Law Society, as a leading stakeholder, was very pleased to be asked by the Law Reform Commission to devise a vision for eConveyancing. In 2005 the Society established a Task Force to deal with this important issue. As the scale of the project became apparent, the Society appointed a full-time Executive to carry out research and to work with the Task Force.

This document sets out a vision for eConveyancing, as conceived by the Task Force, and reflects three years of research and consultation. This involved looking at systems in Canada, New Zealand, Australia, Estonia, Netherlands, England and Wales and many other countries, both in Europe and further afield. This gave the Task Force the opportunity to find out what has worked, or will work best, and to apply this to the Irish context.

## 1. WHAT IS CONVEYANCING?

Conveyancing is the process of transferring title to land from one person to another, typically, where one person buys another's house. The process ensures that the purchaser gets proper title to their property and that the property will be unaffected by matters which can currently attach to title e.g. charges for tax, non-compliance with planning, financial interests of spouses, judgments or otherwise. The process that is currently in place has evolved over several hundred years.

## 2. WHAT IS eCONVEYANCING?

eConveyancing, or electronic conveyancing, can be described as a secure, paperless, electronic, end to end, pre-sale to post-completion, conveyancing process.

## 3. WHY eCONVEYANCING?

Is the existing process broken? It isn't, but it is creaking at the seams. The current process is not adapted to deal with modern society, increased volume and diversity of transactions and market expectations for speed and transparency. It is hampered by a complex, cumbersome legislative framework and thus inherent delay.

We have taken the view that the introduction of eConveyancing provides an ideal opportunity for a root and branch

review of the entire conveyancing process. In particular, the introduction of the following major changes will, we believe, smooth the path towards full eConveyancing.

## 4. WHAT IS OUR VISION?

### ■ BACK TO BASICS

In developing a system of electronic conveyancing the Task Force strongly recommends that the process revert back to simply transferring title. How is that different to what is happening now?

The conveyancing process has been used by the State as a tool for implementing social policy, for the collection of tax, for statutory enforcement and various other aims, for which the process was not designed. As a result, even the most basic residential conveyance now requires multiple enquiries that have little to do with ownership, transfer and security of title. All these enquiries add to the complexity of the conveyancing process and ultimately, to the cost to the consumer.

Thus, our primary recommendation is that the process be pared back to its basics. Each element of the process should be examined and only those elements in the current process which impact on the transfer of title should be retained. Much detailed legislative, procedural and administrative reform will be required to achieve this. In particular, we believe that for eConveyancing to work, the following innovations will be required:

### ■ TITLE BY REGISTRATION, NOT REGISTRATION OF TITLE

Title to all land in the State, and any interests in land, whether as owner, lender or otherwise, must be registered in the Land Registry. No interest should affect title unless it is registered. The title Register should be definitive, conclusive and all encompassing.

This means that all rights which currently affect land without registration must be removed. For example:

- Section 72 of the Registration of Title Act 1964 should be repealed,
- The right of the official assignee of a bankrupt to deal with land should only arise on registration of the bankruptcy on the folio,
- No judgments or other court order should affect land unless and until they are registered,
- The Sheriffs' power to seize leasehold land should be repealed,
- Consideration should be given as to whether the objectives of Section 3 of the Family Home Protection Act 1976 are needed in a modern context.

These are only a few examples of the changes required. There are many instances where the title of a person can be undermined or devalued by the establishment of rights by some other party. The onus must be on that other party to assert their rights by registration. In the absence of such assertion, and registration, the registered owner should be able to freely deal with their interest in their property without a purchaser having to undertake numerous searches and without the vendor having to execute a myriad of documentation.

### ■ eCONVEYANCING, NOT eREGISTRATION

Many other jurisdictions, which we examined, have made what we consider to be a fundamental mistake. They have "electronified" their existing paper systems. We believe that this is the wrong



## APPENDIX 1

### DIAGRAM TERMINOLOGY

Vendor = eV

Purchaser = eP

Vendor's Solicitor = eVS

Purchaser's Solicitor = ePS

Vendor's Lender = eVL

Purchaser's Lender = ePL

Auctioneer = eA

The diagram at Appendix 3 represents a transaction where no new covenants, conditions or easements are being created. Therefore no deed is required to be executed by the parties.

The diagram at Appendix 5 represents a transaction where covenants, conditions or easements are being created. Therefore a deed is required setting out the new covenants, conditions or easements.

Both diagrams represent transactions where the purchaser's solicitor ensures that the mortgage is registered on behalf of the purchaser's lender. These diagrams require modification where the lender nominates a solicitor to act on its own behalf.

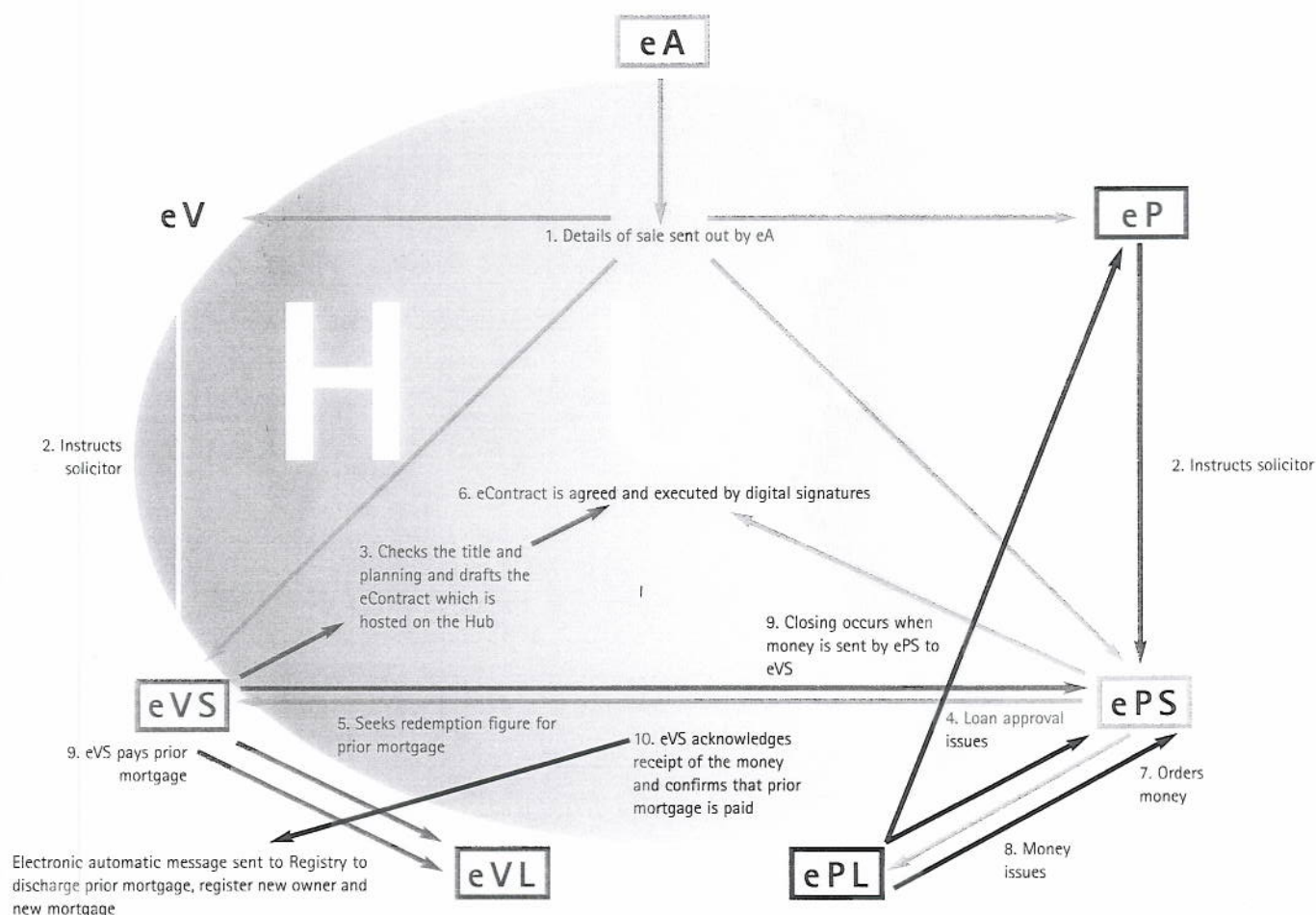
## APPENDIX 2

### SEQUENTIAL STEPS FOR DIAGRAM AT APPENDIX 3

Transactions where no new covenants, conditions or easements are being created i.e. one step system

- **Step 1**  
eA electronically sends details of the sale agreed to eV, eP, eVS and ePS
- **Step 2**  
eV and eP instruct their solicitors
- **Step 3**  
eVS checks the title and planning through the Hub and drafts the eContract which is then hosted on the Hub
- **Step 4**  
Loan approval issues electronically to eP and ePS
- **Step 5**  
eVS applies electronically for redemption figure for prior mortgage
- **Step 6**  
ePS and eVS agree terms of eContract and this is executed by digital signatures
- **Step 7**  
ePS orders money from ePL

## APPENDIX 3



- **Step 8**  
Money issues from ePL
- **Step 9**  
Closing occurs when the money is sent by ePS to eVS  
eVS pays eVL the amount of the prior mortgage
- **Step 10**  
eVS acknowledges receipt of the money and confirms that the prior mortgage has been paid

This triggers an automatic electronic message to the Register to discharge the prior mortgage, register the new owner and the new mortgage.

## APPENDIX 4

### SEQUENTIAL STEPS FOR DIAGRAM AT APPENDIX 5

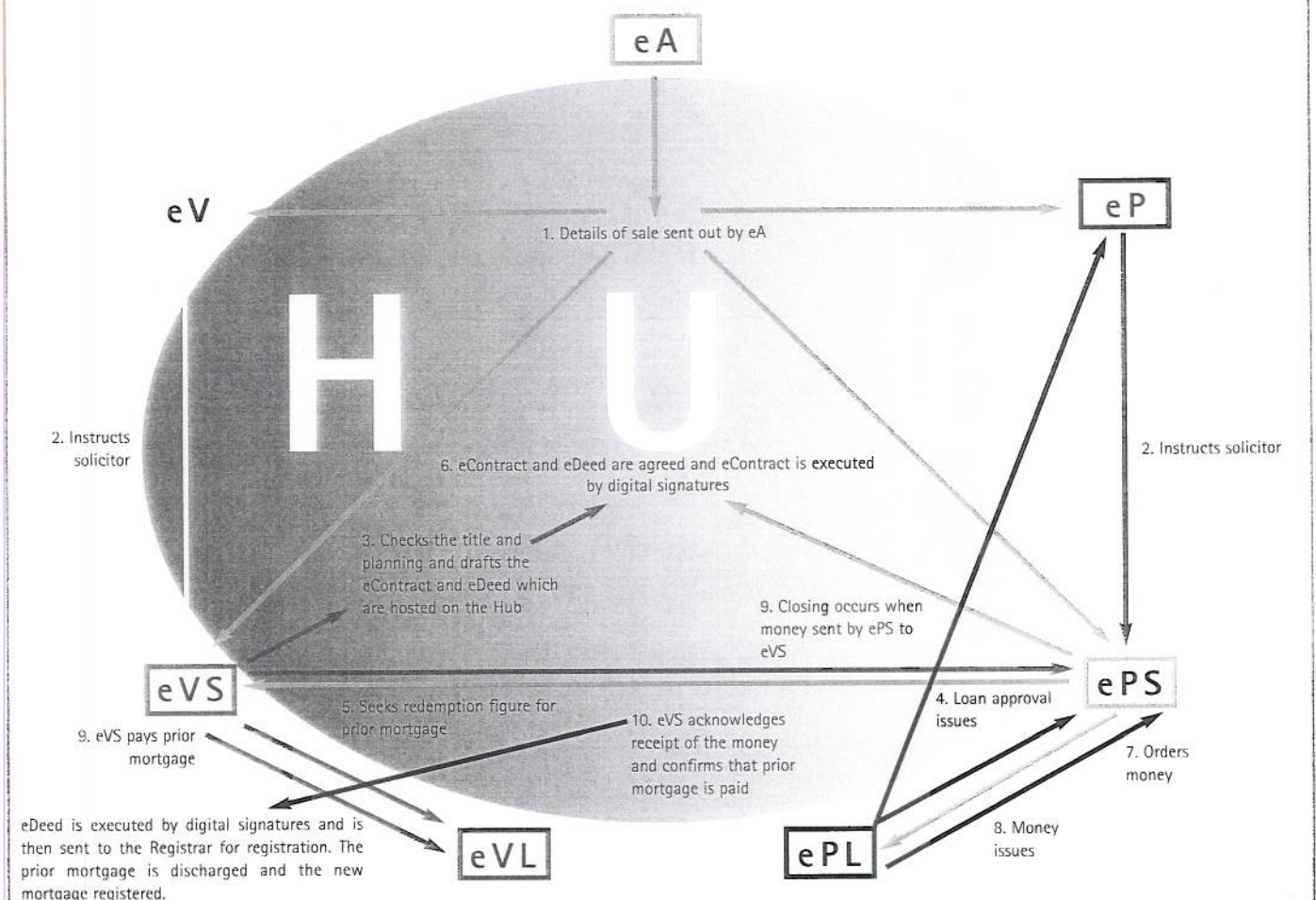
Transactions where new covenants, conditions or easements are being created i.e. two step system

- **Step 1**  
eA electronically sends details of the sale agreed to eV, eP, eVS and ePS
- **Step 2**  
eV and eP instruct their solicitors
- **Step 3**  
eVS checks the title and planning through the Hub and drafts the

eContract and eDeed which are then hosted on the Hub

- **Step 4**  
Loan approval issues electronically to eP and ePS
  - **Step 5**  
eVS applies electronically for redemption figure for prior mortgage
  - **Step 6**  
ePS and eVS agree terms of eContract and eDeed and then eContract is executed by digital signatures
  - **Step 7**  
ePS orders money from ePL
  - **Step 8**  
Money issues from ePL
  - **Step 9**  
Closing occurs when the money is sent by ePS to eVS  
eVS pays eVL the amount of the prior mortgage
  - **Step 10**  
eVS acknowledges receipt of the money and confirms that the prior mortgage has been paid
- eDeed is executed by digital signatures and is then sent to the Registrar for registration. The prior mortgage is discharged and the new mortgage registered.

## APPENDIX 5





approach. The entire process should be re-engineered to suit the electronic and online environment, not the other way around.

#### ■ FROM CAVEAT EMPTOR TO VENDOR DISCLOSURE

For several hundred years the law has been that the risk in buying property has been with the purchaser (*caveat emptor*). Therefore the various enquiries, searches and safeguards which evolved had to be put in place to protect the purchaser's position. After careful consideration of the options, and examination of practice in analogous commercial transactions and other jurisdictions, we have come to the view that *caveat emptor* is no longer appropriate to modern conditions. We recommend a move from *caveat emptor* to the vendor being required to make disclosure. The purchaser would however still be required to carry out his own survey of the property.

This will remove the current necessity for elaborate enquiries to be raised pre-contract with, essentially, the same enquiries being raised again after the contract has been signed. This will be achieved by the careful drafting of an eContract with comprehensive guarantees, covenants, warranties and certificates by the vendor.

#### ■ PLANNING

A complete electronic, searchable Planning Register is required. It should include detailed information about all planning and environmental issues affecting a property, to include zoning, applications, permissions, enforcement notices, environmental data, C.P.O.'s, Preservation Orders, road widening proposals, energy rating etc.

A planning amnesty is required. Only the planning history of the property for the seven years prior to the transaction should need to be investigated.

At the completion of any development or exempted development the owner should be required to lodge an architect's certificate or opinion on compliance with planning and building regulations with the planning authority and a record of this should also form part of the electronic register. Thus the electronic Planning Register should confirm the planning and environmental status of the property.

All statutory registers should be conclusive, and the holder of any statutory register or database, should be liable for errors or omissions therein.

#### ■ TAX

All taxes should be personal taxes, payable on a self-assessment basis. Revenue has extensive powers of enforcement and collection, and unpaid tax or a potential tax liability should not, as currently is the case, be a contingent charge on land. In practice, Revenue rarely use the powers they have to collect tax through property. Taxes should be charged on the transaction, and not on the deed or contract, and a system put in place, if required by Revenue, that facilitates the payment of tax as part of the transfer process. Hence, no enquiry in relation to taxes need be carried out and no clearance certificates required. At present, up to four separate tax clearances may be required.

#### ■ LENDERS

The loan approval should issue and be signed electronically. This should contain all the terms and conditions of the mortgage and there should be no separate mortgage deed. Registration of the new loan should be virtually instantaneous with the release of the monies and thus there should be no requirement for a Certificate of Title to be furnished by the solicitor to the lender.

#### ■ ELECTRONIC WORKSPACE OR HUB

All steps will be completed electronically and all stakeholders could communicate through an electronic workspace or Hub. It is recommended that this workspace or Hub prompt the parties at various points in the transaction so as to ensure that all deadlines

are met and the transaction progresses swiftly.

The workspace or Hub could provide a means for solicitors to access information electronically from the following:

- Lenders
  - PRA
  - Local authorities
  - Companies Office
  - Courts Service
  - Law Searchers
  - Probate Office
  - Registrar of Births, Deaths and Marriages
- and other relevant stakeholders.

#### ■ IDENTIFIERS

It is vital that all stakeholders agree common identifiers for the searching of data through the Hub e.g. postal address, name of owner, postal code, folio number.

#### ■ MONEY

All monies should pass by electronic funds transfer, in real time, with same day value.

#### ■ STEPS IN THE PROCESS

We see a typical transaction being processed in sequential steps as set out in Appendices 2 and 4 and represented by the diagrams at Appendices 3 and 5. The terminology used in the diagrams is explained in Appendix 1.

Where no new covenants, conditions or easements are being created by the transaction the process should involve a one step system. The eContract would be the only document executed. The eContract will specify the closing date i.e. when the money is to be transferred. Acknowledging receipt of the money should trigger an automatic electronic message from the Hub to the Registrar to discharge the prior mortgage, register the new owner and the new mortgage. This one step system is represented by the diagram at Appendix 3.

Where new covenants, conditions or easements are being created by the transaction the process should involve a two step system. The first step would be the execution of the eContract and the second step would involve the execution of the eDeed/eLease containing the new covenants, conditions or easements. This eDeed/eLease should be registered in the Land Registry. This two step system is represented by the diagram at Appendix 5.

#### ■ ELECTRONIC SIGNATURE

It would be preferable for each client to have their own electronic signature so as to sign the eContract themselves but this will not be feasible for some time. In the interim the solicitor would have an electronic signature and sign on the client's behalf having been duly authorised by the client.

#### ■ TIME FOR COMPLETION

In an eConveyancing environment the Task Force anticipates that, if the purchaser is in funds, the total transaction time for a residential conveyance, from initial viewing of the property to completion, registration of ownership and discharge of the prior mortgage, could be 5 working days.

#### ■ WHAT NEXT?

The foregoing vision represents the distillation of three years of thought, consultation, discussion and research by the Law Society eConveyancing Task Force. We believe the vision, as presented in this document, provides a workable model for eConveyancing in Ireland.

This document is intended to provide a framework for discussion. It is our intention to stimulate other stakeholders to examine their procedures and involvement in the current conveyancing process and thus initiate the changes required to facilitate eConveyancing.

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## eConveyancing Project

### Briefing document

#### Executive summary

The Law Society of Ireland is engaging with other key stakeholders in the conveyancing process to implement electronic conveyancing (eConveyancing) in Ireland. This transformation programme has the potential to create a more effective and efficient land market.

This project delivers many benefits for all stakeholders including significant benefits for consumers and government.

The following benefits can be realised for consumers:

- (a) Reduce conveyancing transaction time to a potential five working days
- (b) Reduce costs
- (c) Reduce fraud
- (d) Reduce errors and delay
- (e) Improve transparency of the process
- (f) Reduce risk
- (g) Meet the demand for electronic service delivery
- (h) Increase consumer confidence in the process

Benefits for government include the following:

- (a) Opportunity for inward investment in the Irish economy which will facilitate recovery of the property market
- (b) Benefits government as an owner and investor in the property sector
- (c) Facilitate implementation of *eGovernment strategy 2012-2015*
- (d) Assist in implementing the *Public Service Reform Plan*
- (e) Assist in implementing *Construction Strategy 2020*
- (f) Enhance Ireland as a leader for eGovernment and eCommerce
- (g) Improve Ireland's international ranking in property benchmarks
- (h) Fulfil the Property Registration Authority's eRegistration agenda
- (i) Other factors such as meeting the European Information Society agenda and green agenda, delivering efficiencies in revenue collection and electronic funds transfer thereby increasing Ireland's competitiveness

The project can be delivered and these benefits realised without any capital investment by government.

The purpose of this briefing document is to provide a framework for discussion on the 'next steps' required in order to progress implementation of this project.

## 1. Introduction

The Law Society of Ireland is working to develop an electronic conveyancing (eConveyancing) service for Ireland. This work has been being done in conjunction with the Irish Banking Federation (IBF), representing the lenders, and with the support of the Property Registration Authority (PRA).

An opportunity has arisen for this project to be delivered in partnership with a Canadian firm, Teranet ([www.teranet.ca](http://www.teranet.ca)). Teranet operates the eRegistration service in Ontario and has been working with BearingPoint ([www.bearingpoint.ie](http://www.bearingpoint.ie)), a management and technology consulting firm, to design the service.

The proposed model comprises a centralised hub as set out in the Law Reform Commission BearingPoint Report.<sup>1</sup> The agenda is a reformist one whereby current processes and workflows will be redesigned and the template for this reform is as set out in the Law Society eVision 'Back to Basic Principles'.<sup>2</sup> Initially, the focus is on the high-volume activities in the conveyancing process i.e. contract for sale, loan approval and funds release and closing.

A governance structure has been put in place consisting of a Programme Board and Steering Group. These include representatives of the PRA, lenders/IBF, Law Society, Teranet and BearingPoint.

## 2. The project

The delivery of this project involves a large and complex transformation programme as identified in the Law Reform Commission Report.<sup>3</sup> This report acknowledges that the Ontario model offers the approach that best fits the Irish environment.<sup>4</sup> It also recommends that consideration be given to private investment as a means of funding the development of the service.<sup>5</sup>

In the current economic climate the government, Law Society or lenders are not in a position to fund the system build. A partnership with private enterprise provides the best opportunity for implementation of the project without any capital investment by government. The experience of Teranet in delivering similar type advances in Ontario augurs well for a successful implementation that can maximise the benefits for all stakeholders.

## 3. Information about Teranet

Teranet was established in 1991 as a public private partnership between private enterprise and the Ontario government. In 2003 Teranet bought out the government's stake for \$179 million. Teranet is currently owned by a pension fund called OMERS (managed by Borealis), which acquired 100% of Teranet in 2008 for \$1.6 billion. Teranet has 360 employees based in Ontario, Canada and has a reputation as one of the leading Electronic Land Registration Systems (ELRS) in the world.

The system in Ontario is almost 4 times larger than in Ireland, i.e. over 1.8 million registrations per annum versus Ireland, which has about half a million. Ontario has over 40,000 lawyers. In 2011, as a result of an excellent track record of performance, Teranet was granted a fifty year extension by the government on its licence to own and operate the eRegistration system in Ontario. The model in operation means that each stakeholder retains ownership of their data and business rules but Teranet has an



exclusive licence to provide access to the data and to use the data for value added products and services related to real estate transactions. There are 370 document types in the system and Teranet has over 80,000 users of eConveyancing, eRegistration and eSearch solutions. Teranet has excellent customer experience survey results and has never had a breach in security.

As Teranet is owned by a pension fund it seeks long-term social infrastructure investment opportunities with relatively predictable revenue streams rather than immediate profitability thus guaranteeing commitment to a long-term delivery relationship. Teranet is willing to fund the entire customized system build as well as owning and operating the system and obtain a return on their investment through an agreed fee structure and gain sharing agreement over a multi year exclusivity period. A partnership with Teranet provides the opportunity for financing of the project but also provides an acknowledged proof of concept and expertise in the delivery of world-class electronic conveyancing solutions in the property market.

Teranet has a proven track record in the delivery of electronic property services and is willing to share its knowledge, expertise and intellectual capital in business, technology, operational performance and governance. It also has expertise in managing projects with complicated governance structures and business models. It has the technical capacity to deliver, as it can design, build and operate the infrastructure and is committed to establishing a long-term presence in Ireland that benefits solicitors, lenders, estate agents, citizens and the government.

#### **4. Benefits**

There is widespread acceptance that the current conveyancing process in Ireland is archaic, manually driven, paper based, error prone and time consuming so there is a clear mandate for change. Appendix 1 on page 9 provides a sample of the paper based interactions in the current process.

Appendix 2 on page 10 demonstrates the new model for eConveyancing which will deliver interoperability between stakeholders. The Law Reform Commission report has already articulated many of the benefits and efficiencies that can flow from the implementation of this model. The following provides details of some key benefits for government and consumers as they apply today.

This list is by no means exhaustive and merely highlights some of the benefits for government and consumers. There are additional benefits that will flow to these parties and also to other stakeholders, such as lenders and the legal community.

##### **4.1 Benefits for the consumer**

###### **(a) Reduce conveyancing transaction time to a potential five working days**

The average transaction time is currently more than 22 weeks.<sup>6</sup> eConveyancing has the potential to reduce this transaction time to five working days.<sup>7</sup> This can be done by reducing the time for transmission of paper from one location to another (and often back again). As the agenda is a reformist one, some processes will be removed and others will be replaced with electronic communication. This provides the opportunity to deliver a more efficient and effective service to all those engaged in the property market. The aim is to provide a system whereby a person could agreed to buy a property on a Monday morning and be the registered owner by Friday afternoon.

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**(b) Reduce costs**

The paper based process contains hidden costs such as the cost of taking up title deeds from the lender or courier costs for transporting paper documentation. The average fee for furnishing title documents is €78.<sup>8</sup> Often the consumer has difficulty distinguishing these costs from the professional fee being charged. eConveyancing provides an opportunity to eliminate or reduce many of these hidden costs. Consumers will also directly benefit from reduced search and registration fees as a result of the mandate to incentivise electronic delivery through reduced fees.<sup>9</sup> Other costs will no longer apply such as the cost of reconstructing title as there will be no paper title documents that can be lost.

A more efficient, streamlined conveyancing process will also reduce the costs inherent in paper processes which contain duplicate activity. Consumers would only need to provide information once for it to be accessible to all stakeholders in the system. For example 70% of solicitor firms use case management systems.<sup>10</sup> eConveyancing will deliver interoperability between those systems and other stakeholder systems.

**(c) Reduce fraud**

Use of secure and efficient electronic funds transfer will lead to reduced fraud. As loan funds will be held in a central secure repository the opportunity for fraud is reduced. This will remove the risk of such funds being dealt with dishonestly. Purchasers and lenders can be sure that the funds will be correctly applied to the purchase and charge of the agreed property while vendors will have the security of knowing that their mortgage will be paid off immediately on closing of the transaction and that there is no further action required from them or their advisor.

**(d) Reduce errors and delay**

The implementation of standardisation enforced by the electronic system will reduce the risk of errors occurring in the process thus eliminating delay. In particular errors in applications for registration will be reduced.

Currently the main reason for delay in a standard residential conveyancing transaction is waiting for title documents from the lender.<sup>11</sup> The majority of closings also occur by delivery of paper from one location to another<sup>12</sup> leading to further delay. These inefficiencies will be removed with the introduction of the electronic process.

Use of electronic funds transfer in real time with same day value will be a considerable benefit to the consumer who currently has to wait three to five days for cheques to clear before the transaction can proceed.

**(e) Improve transparency of the process**

In implementing a transformation agenda there is the opportunity to improve process transparency. By removing delays and inefficiencies and incorporating greater transaction traceability, eConveyancing provides the opportunity to deliver a fast, transparent and predictable conveyancing service for the benefit of consumers. The improved collaboration between stakeholders via the eConveyancing system will also provide increased transparency to consumers.

**(f) Reduce risk**

The gap between closing and registration will be compressed so that there is less potential for an intervening interest to be registered ahead of the purchasers or lenders. This reduces risk in the process.



As the electronic signature system, which will be introduced to facilitate eConveyancing, will be linked to the solicitors database consumers also have the confidence of knowing that their advisor is on the roll of solicitors and has professional indemnity insurance.

The system provides that the discharge of the prior lender's charge would be pre-approved so that the purchaser would no longer be at risk of a delay in removing the vendor's charge from the title. Improvements in quality and risk management will flow from a more transparent, efficient and effective process.

**(g) Meet the demand for electronic service delivery**

Consumers seek electronic service delivery across all areas of work and life. Older, traditional, paper based processes are not immune from this demand. Much communication is currently done by email but this is not secure and is limited in its application. While the process continues to rely on paper title documents and paper applications for registration, delay is an inevitable feature of the operation of the property market.

**(h) Increase consumer confidence in the process**

Modernisation, simplification, standardisation and reform will improve consumer confidence and satisfaction in the conveyancing and registration process. The current process is not designed to deal with the expectations of 21<sup>st</sup> century consumers as well as the increased volume and diversity of transaction and market expectations for speed and transparency.<sup>13</sup> Reform of the process will provide a platform to re-invigorate the property market by providing an improved service to buyers, sellers, state agencies and providers of finance.

## **4.2 Benefits for government**

**(a) Opportunity for inward investment in the Irish economy which will facilitate recovery of the property market**

Teranet is prepared to invest a significant amount of money into the design, build and operation of eConveyancing in Ireland. It proposes to set up a manned office in Dublin which will assist in delivery and training. The Tánaiste and Minister for Foreign Affairs and Trade, Eamon Gilmore, T.D. visited Canada in 2012 and spoke of his visit in the following terms:

*"Canada is the world's 7<sup>th</sup> largest economy and the rich historical and cultural connections we share place Ireland in an ideal position to benefit from the growing trade and investment opportunities that exist. We have a solid base from which to build - total trade in 2011 stood at €1.6 billion; Ireland is the 5<sup>th</sup> largest recipient of Canadian foreign direct investment; 60 Irish companies have a presence in Canada employing over 6,000 Canadians; while 80 Canadian companies are located in Ireland. The economic message during my visit will be clear - now is the opportunity for Canada to invest in Ireland's economic recovery."<sup>14</sup>*

The investment by Teranet represents an opportunity to facilitate recovery of the Irish property market by enabling more secure lending, reducing risk for lenders and consumers, reducing transaction times and streamlining the conveyancing process.

**(b) Benefits government as an owner and investor in the property sector**

Similar to all owners and investors in the property sector the government will benefit from a more streamlined, effective and efficient conveyancing process.

As a shareholder in the lending community the government will benefit from less risk in lending practices. Loan funds will be released into a central hub and will only be called upon at the point of completion of the transaction. Registration of title will occur virtually simultaneously reducing risk for all land owners.

Use of electronic services will reduce the cost of providing that service and compress transaction times. Office overheads for all those involved in the land market will be reduced. This includes solicitors, lenders, local authorities, state and semi-state bodies.

**(c) Facilitate implementation of eGovernment strategy 2012-2015<sup>15</sup>**

eConveyancing will assist in delivering this strategy by

1. providing a reduction in the administrative burden for citizens and businesses;<sup>16</sup>
2. implementing digital delivery of applications for registration to the Property Registration Authority;<sup>17</sup>
3. ensuring greater interoperability of government services;<sup>18</sup>
4. facilitating increased data sharing in relation to the property sector;<sup>19</sup>
5. providing an electronic collaboration tool to empower citizens and businesses;<sup>20</sup> and
6. implementing business process improvements which deliver gains to all stakeholders in the conveyancing process.<sup>21</sup>

eConveyancing can provide a single electronic signature system for the secure electronic exchange of data between solicitors, lenders and all government services. There is scope to extend this system beyond the Property Registration Authority to other areas such as eLitigation with the Courts Service, eProbate with the Probate office and so on. This will facilitate sharing of data by public bodies and a reduced administrative burden for users and citizens. eConveyancing can be the platform for legal e-services between citizens, the legal community and government.

In line with the eGovernment strategy, eConveyancing groups transactional services around the life event of buying and selling property and allows for this to be integrated across organisational boundaries.<sup>22</sup>

eConveyancing will also incentivise the take up of electronic services with the potential to link to ePlanning in the local authorities and many other online eGovernment services.<sup>23</sup>

The system also provides scope for gathering of necessary statistical data about the property sector.<sup>24</sup>

**(d) Assist in implementing the Public Service Reform Plan<sup>25</sup>**

This will be done by delivering a new and innovative service-delivery channel between government and business.<sup>26</sup> eConveyancing can also improve information sharing across the public service, reduce transaction costs, rationalise ICT infrastructure<sup>27</sup> relating to property ownership and transfer, streamline administrative operations, enhance government property asset management,<sup>28</sup> eliminate duplication through business process improvements and implement a shared service model within the property sector.<sup>29</sup>

**(e) Assist in implementing Construction Strategy 2020<sup>30</sup>**

This strategy published in May 2014 acknowledges that conveyancing remains largely paper based and takes a disproportionate amount of time

*"[t]herefore, a system of eConveyancing which harnesses modern technology to assist in the timely transfer of property ownership would provide a more modern,*

*efficient, cost effective and secure system to support transactions in the property market in the future. Moving to a full eConveyancing system will require a number of further elements over and above existing and planned developments to be put in place to provide for the secure transmission of communications, the management and disbursement of funds between parties and the creation and management of digital signatures.”*

This strategy adds to the compelling case for reform of the current conveyancing system.

**(f) Enhance Ireland as a leader for eGovernment and eCommerce**

eConveyancing can enhance Ireland's reputation as a leader for eGovernment services<sup>31</sup> and as a location that facilitates eCommerce. In the United Nations Global E-Government Survey of 2012 Ireland was ranked 34<sup>th</sup> as against Canada's 11<sup>th</sup> place.<sup>32</sup>

The European Commission in its 2014 Assessment of the National Reform and Stability Programme for Ireland<sup>33</sup> urged eConveyancing to be progressed and identified it as an important factor in improving Ireland's business environment.

eConveyancing will provide a reputational enhancement to the Irish government through improving its standing with international investors in the property sector.

**(g) Improve Ireland's international ranking in property benchmarks**

In the World Bank *Doing Business* league table for 2014<sup>34</sup> Ireland is placed 15<sup>th</sup> and Canada 19<sup>th</sup> under the ranking for ease of doing business. By contrast under registering property Ireland is ranked 57<sup>th</sup> and Canada 55<sup>th</sup>. However when Ontario was ranked separately from the other Canadian provinces in 2005/6 it was ranked 1<sup>st</sup>.<sup>35</sup> eConveyancing provides the opportunity to further improve Ireland's ranking in international property benchmarks.

**(h) Fulfil the Property Registration Authority's eRegistration agenda**

The Property Registration Authority eRegistration project has been a major success story for the Irish public sector. The first phase called eDischarge won the state body category at the Public Sector Times 2010 eGovernment Award and also An Taoiseach's Public Service Excellence Award.

The first strategic objective of the Property Registration Authority is to complete the Irish land register which will lead to a single system of title registration thus contributing to the eConveyancing programme.<sup>36</sup> This will be done by implementing core elements centred around eRegistration services. In order to implement eRegistration fully a secure electronic platform, with electronic signatures, is required between solicitors, lenders and the Property Registration Authority. eConveyancing will provide this platform.

eConveyancing can also improve the customer experience in engaging with government by integrating all state property related services<sup>37</sup> and channelling these through the Property Registration Authority's access to the system.

eConveyancing will also facilitate implementation of other objectives in the Property Registration Authority's Strategic Plan<sup>38</sup> by broadening public access to data by electronic means, promoting standardisation, improving standards in applications for registration and optimising the return on investment in technology.

**(i) Other factors**

eConveyancing assists in meeting the demands of the European Information Society agenda. The INSPIRE directive provides an example in relation to spatial data that demonstrates the move towards harmonisation and interoperability of property related data across Europe.<sup>39</sup>

eConveyancing meets the green agenda as a core tenet of eConveyancing is dematerialisation. Paper which requires printing, posting and long-term storage will instead be replaced by electronic data and communication channels. Some paper processes will be removed entirely.

Stamp duty and other taxes triggered by a transfer of ownership will be paid immediately on closing thus introducing efficiencies into the revenue collection process.

Loan cheques will be eliminated as all funds will be dealt with by electronic funds transfer. This will meet the strategy set out in the National Payments Implementation Programme.<sup>40</sup> The reduction in use of cheques will provide a saving to stakeholders which will increase Ireland's competitiveness.

## **5. Advancing the project**

The governments Construction Strategy 2020 acknowledges that the steps to eConveyancing will require the representatives of the legal profession, the banking sector and the relevant statutory agencies to work together closely building on work already completed on this issue under the aegis of the Law Society.<sup>41</sup>

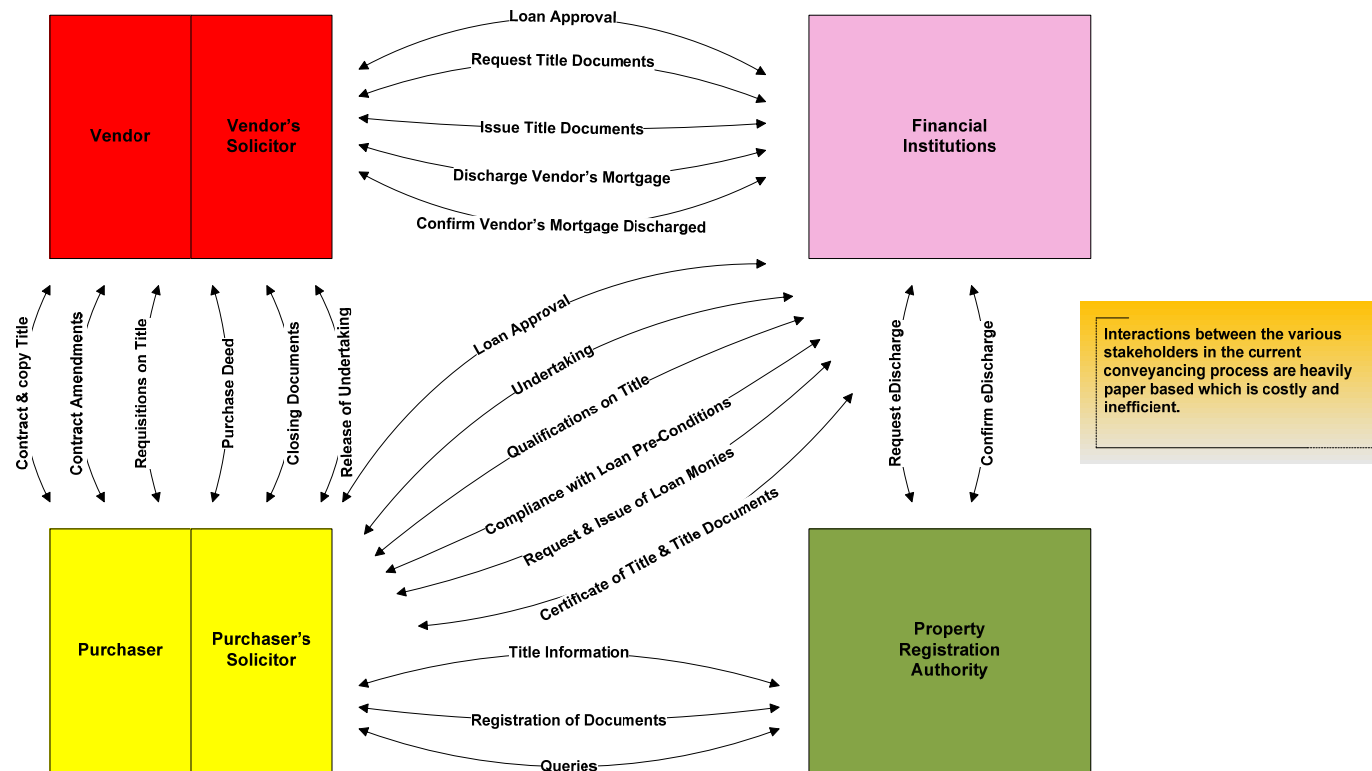
The engagement among stakeholders has confirmed that the move towards eConveyancing offers an excellent opportunity for the reform of the Irish conveyancing process with tangible benefits for all.

The Department of Justice and Equality is the lead responsible body for reviewing and reporting on the steps required to deliver a system of eConveyancing in Ireland, including the resource implications and timeframes for delivery.<sup>42</sup> The purpose of this briefing document is to provide a framework for discussion on these 'next steps' in order to maintain momentum and progress implementation of this project.

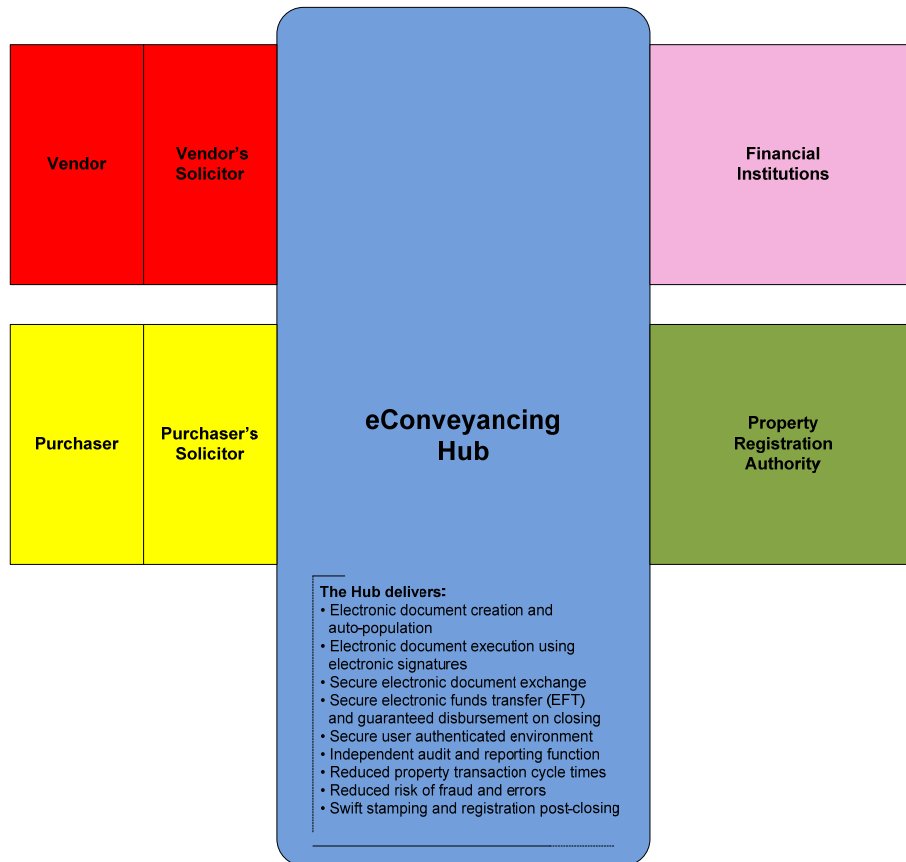
Further information can be sought or queries directed to the Law Society's eConveyancing Senior Advisor, Dr. Gabriel Brennan, at [g.brennan@lawsociety.ie](mailto:g.brennan@lawsociety.ie)

**Law Society of Ireland**  
**June 2014**

## Appendix 1: Sample of Paper-Based Interactions in the Current Conveyancing Process



## Appendix 2: Proposed eConveyancing Model



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- <sup>1</sup> Law Reform Commission (LRC) Report *eConveyancing: Modelling of the Irish Conveyancing System* LRC 79-2006 p. 136 and 168.
- <sup>2</sup> Law Society of Ireland *eConveyancing: Back to Basic Principles. Vision of an Electronic System of Conveyancing* ('eVision') March 2008. The principles underpinning this vision have been welcomed by all stakeholders in the conveyancing process including the Law Reform Commission.
- <sup>3</sup> Law Reform Commission (LRC) Report *eConveyancing: Modelling of the Irish Conveyancing System* LRC 79-2006 p. 2.
- <sup>4</sup> *Ibid.*, p. 8. It is noted that this offers all stakeholders the levels of functionality they require for an all encompassing end-to-end eConveyancing solution. See also p. 138.
- <sup>5</sup> *Ibid.*, p. 138.
- <sup>6</sup> Law Society survey June 2012.
- <sup>7</sup> Law Society of Ireland *eConveyancing: Back to Basic Principles. Vision of an Electronic System of Conveyancing* ('eVision') March 2008 p. 4.
- <sup>8</sup> Law Society survey June 2012.
- <sup>9</sup> Department of Public Expenditure and Reform *Supporting Public Service Reform eGovernment 2012 – 2015* <http://egovstrategy.gov.ie/wp-content/uploads/2012/04/eGovernment-2012-2015.pdf> Action 17 p. 10.
- <sup>10</sup> Law Society survey June 2012.
- <sup>11</sup> *Ibid.*
- <sup>12</sup> *Ibid.*
- <sup>13</sup> Law Society of Ireland *eConveyancing: Back to Basic Principles. Vision of an Electronic System of Conveyancing* ('eVision') March 2008 p. 1.
- <sup>14</sup> Press Release *Tánaiste to focus on trade, investment and Irish emigrants during visit to Canada* 15 March 2012 <https://www.dfa.ie/news-and-media/press-releases/press-release-archive/2012/march/tanaiste-visit-to-canada/>
- <sup>15</sup> Department of Public Expenditure and Reform *Supporting Public Service Reform eGovernment 2012 – 2015* <http://egovstrategy.gov.ie/wp-content/uploads/2012/04/eGovernment-2012-2015.pdf>
- <sup>16</sup> *Ibid.*, Key principle number 3 p. 2.
- <sup>17</sup> *Ibid.*, Actions 15 - 20 p. 10 – 11.
- <sup>18</sup> *Ibid.*, Action 41 p. 17.
- <sup>19</sup> *Ibid.*, Action 40 p. 17.
- <sup>20</sup> *Ibid.*, Action 12 p. 9.
- <sup>21</sup> *Ibid.*, Key principle number 4 p. 2.
- <sup>22</sup> *Ibid.*, Action 3 p. 7.
- <sup>23</sup> *Ibid.*, Action 16 p. 10.
- <sup>24</sup> *Ibid.*, Actions 24 - 26 p. 13.
- <sup>25</sup> Department of Public Expenditure and Reform *Public Service Reform Plan 2014 - 2016* <http://reformplan.per.gov.ie/downloads/files/Reform%20Plan%202014.pdf>
- <sup>26</sup> *Ibid.*, p. 56.
- <sup>27</sup> *Ibid.*, p. 58.
- <sup>28</sup> *Ibid.*, p. 69 and 70.
- <sup>29</sup> *Ibid.*, p. 56 and 65.
- <sup>30</sup> Government Publications 'Construction Strategy 2020' <http://www.merriestreet.ie/wp-content/uploads/2014/05/Construction-Strategy-14-May-20141.pdf>
- <sup>31</sup> Department of Public Expenditure and Reform *Supporting Public Service Reform eGovernment 2012 – 2015* <http://egovstrategy.gov.ie/wp-content/uploads/2012/04/eGovernment-2012-2015.pdf>
- <sup>32</sup> [http://www.unpan.org/egovkb/global\\_reports/08report.htm](http://www.unpan.org/egovkb/global_reports/08report.htm)
- <sup>33</sup> European Commission 'Assessment of the 2014 national reform programme and stability programme for Ireland' (2014) Brussels SWD (2014) 408 final [http://ec.europa.eu/europe2020/pdf/csr2014/swd2014\\_ireland\\_en.pdf](http://ec.europa.eu/europe2020/pdf/csr2014/swd2014_ireland_en.pdf) p. 33.
- <sup>34</sup> The World Bank <http://www.doingbusiness.org/rankings/>

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<sup>35</sup> Law Reform Commission (LRC) Report *eConveyancing: Modelling of the Irish Conveyancing System* LRC 79-2006 p. 20.

<sup>36</sup> The Property Registration Authority 'Strategic Plan 2013 – 2015' (2013) The Property Registration Authority  
[http://www.landirect.ie/eng/Publications/Strategic\\_Plan/Strategic\\_Plan\\_2013\\_-\\_2015.pdf](http://www.landirect.ie/eng/Publications/Strategic_Plan/Strategic_Plan_2013_-_2015.pdf) p. 6.

<sup>37</sup> Department of Public Expenditure and Reform *Public Service Reform Plan 2014 - 2016*  
<http://reformplan.per.gov.ie/downloads/files/Reform%20Plan%202014.pdf> p. 60 and 61.

<sup>38</sup> The Property Registration Authority 'Strategic Plan 2013 – 2015' (2013) The Property Registration Authority  
[http://www.landirect.ie/eng/Publications/Strategic\\_Plan/Strategic\\_Plan\\_2013\\_-\\_2015.pdf](http://www.landirect.ie/eng/Publications/Strategic_Plan/Strategic_Plan_2013_-_2015.pdf)

<sup>39</sup> Implementing the INSPIRE Directive regulations in public bodies  
<http://www.environ.ie/en/Publications/DevelopmentandHousing/Planning/FileDownload,27309,en.pdf> See also European Land Information Service (EULIS) at <http://eulis.eu/>

<sup>40</sup> <http://www.ipso.ie/section/NationalPaymentsImplementationProgramme>

<sup>41</sup> Government Publications 'Construction Strategy 2020' <http://www.merrionstreet.ie/wp-content/uploads/2014/05/Construction-Strategy-14-May-20141.pdf> p. 58.

<sup>42</sup> Government Publications 'Construction Strategy 2020' <http://www.merrionstreet.ie/wp-content/uploads/2014/05/Construction-Strategy-14-May-20141.pdf> p. 58.





# *Law Society of Ireland*

## **Opening Statement**

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**Progressing a model for eConveyancing in Ireland**

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**Joint Committee on Justice, Defence and Equality**

**Wednesday 25<sup>th</sup> June 2014**

Chairman, members.

1. We are very glad to have been asked to assist the Committee in its review of progress of the implementation of eConveyancing. My name is Patrick Dorgan. I am Chair of the eConveyancing Task Force set up by the Law Society as a response to Law Reform Commissions Report in 2006, which recommended the introduction of a system of eConveyancing. This meeting today is timely, coming as it does on the publication of the Government's 2020 Construction Strategy, which looks for implementation of eConveyancing.
2. I am accompanied by Dr. Gabriel Brennan who is the author of *An exploration of the impact of eConveyancing upon management of risk in conveyancing transactions* and who has led the Society's research in this field.
3. I am pleased to acknowledge the presence of Teranet, and various state agencies here, all of whom have been very supportive of the project to date.

**What is eConveyancing, and what are the benefits?**

4. As you know conveyancing is the process of buying and selling title to land. This old, traditional, cumbersome and paper based process does not serve Ireland or its citizens well. It is costly. It is inefficient. It is in urgent need of reform.
5. eConveyancing is a secure, paperless, electronic, end to end, pre-sale to post completion, conveyancing process. It moves the procedures to electronic delivery via information exchange between key stakeholders, initially solicitors, lenders and the land registry. Later releases would include other stakeholders for example local authorities and planning authorities.
6. When introduced eConveyancing can deliver a property transfer process that will be a world leader in efficiency, security and cost effectiveness.
7. eConveyancing has the capacity to streamline and modernise property transactions thus delivering real and substantial benefits to a range of stakeholders including government and consumers. To focus in particular on consumers the following benefits can be realised:
  - Reduce conveyancing transaction time - *to a potential five working days*
  - Reduce costs - *due to leaner and quicker system*
  - Reduce fraud - *due to inbuilt security checks with state agencies*
  - Reduce errors and delay – *due to all stakeholders being on the one platform*
  - Improve transparency of the process - *with greater transaction traceability*
  - Reduce risk - *due to reduced gaps in the process and secure transfer of funds*
  - Meet the demand for electronic service delivery – *with speed and efficiency*
  - Increase consumer confidence in the process – *with modernisation, simplification and standardisation*

8. These and other benefits are outlined in the briefing material you received and I have hard copies with me for distribution if required.
9. My colleague and I would be happy to provide further detail on these aspects or other benefits during questioning.
10. These benefits can be achieved without imposing any additional cost on the exchequer as the Law Society has identified Teranet as a funding partner who will work in collaboration with all stakeholders. Teranet has a proven track record in the delivery of electronic property services and is willing to share its knowledge, expertise and intellectual capital.

#### **Policy Mandate – Political Will**

11. eConveyancing was recommended by the Law Reform Commission in 2006 and endorsed by government in the recent 2020 Construction Strategy, which acknowledged the work done to date on this project under the aegis of the Law Society. Indeed, the European Commission in its 2014 Assessment of the National Reform and Stability Programme for Ireland urged eConveyancing to be progressed and identified it as an important factor in improving Ireland's business environment.
12. The project aligns with and facilitates implementation of the Public Sector Reform Plan, eGovernment strategy 2012 – 2015, will enhance Ireland's reputation as a leader in eGovernment and eCommerce, improve our international ranking in property benchmarks, contribute to the green agenda and deliver efficiencies in revenue collection and electronic funds transfer thereby increasing Ireland's competitiveness.
13. The transformation to eConveyancing also fits with the streamlining of government land administration services through the merger of Ordnance Survey Ireland, Valuation Office and Property Registration Authority.
14. The Department of Justice and Equality is the lead government department for this initiative. While the Property Registration Authority has made great strides in advancing the electronic registration (eRegistration) element of the process, and these initiatives have been actively supported by the Law Society and its members, much remains to be done to achieve full eConveyancing.

#### **Next steps**

15. The support for this project is not surprising as it is a simple, innovative and effective approach to modernisation that is being achieved in other common law jurisdictions such as Australia, Scotland and Canada who have all realised the strategic benefits. These include the opportunity for inward investment and benefits for all owners and investors in the property sector.
16. This is achievable only if the funding and mortgaging aspect of the conveyancing process is included. The Law Society would like to see the lenders commit fully to the implementation of this modernisation program and work with the Law Society and the Property Registration Authority to make eConveyancing a reality for the benefit of Irish consumers in recognition

of the fact that this project is one of critical national importance and has core government support.

17. We shall be pleased to assist the Committee in its deliberations.

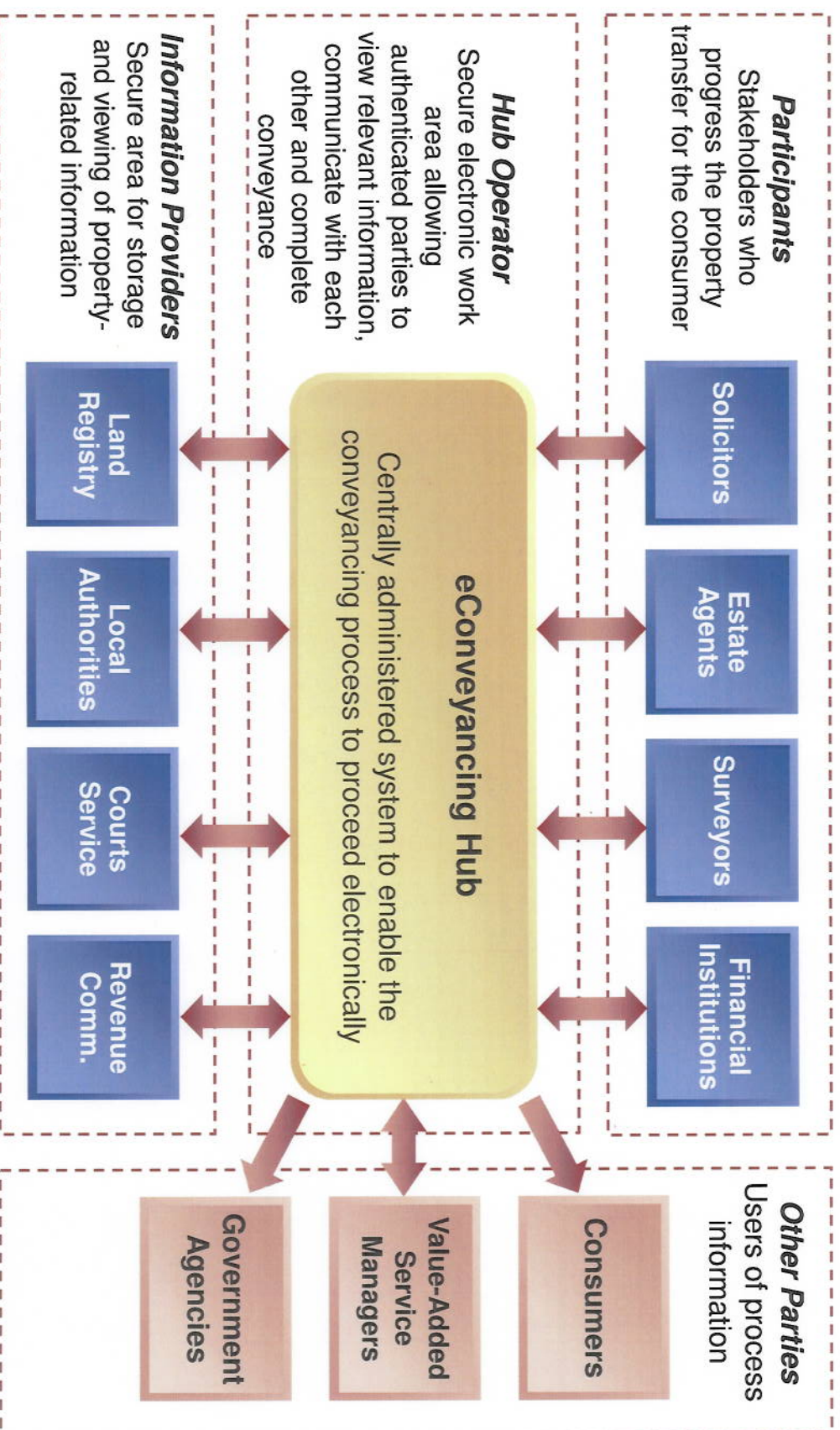
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Dr. Gabriel Brennan Solicitor and Law Society eConveyancing Senior Advisor

Mr. Patrick Dorgan Solicitor, Member of Law Society Council and Chair eConveyancing Task Force



# eConveyancing Operating Model



**Note :** not all stakeholders have been shown in this figure due to space constraints, others will be involved (e.g. Law Searchers, Developers, etc).

# eConveyancing components

