

# **eRegistration & eConveyancing in Ireland – the story so far...**

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## **1. BACKGROUND**

### **1.1 The Property Registration Authority**

The registration of title system in Ireland, operated by the Land Registry since 1891, and the Registry of Deeds system operated by the Registry of Deeds since 1707 are now under the control of the Property Registration Authority (PRA). The new Authority was established on 4th November 2006 under the provisions of the Registration of Deeds and Title Act, 2006.

The PRA is a statutory body whose members are representative of the main users of land registration and related information services and it exercises the role of “registering authority” in relation to property registration in Ireland. This role was exercised by the Registrar of Deeds and Titles under the provisions of the previous legislation.

The primary statutory mandate of the PRA is to provide a system of registration of title to land which is comprehensive and readily accessible. The organisation carries out this mandate by providing a range of key services to its customers, including the professional service-providers operating in the Irish property and financial markets. When the title to a piece of property is registered, the PRA on behalf of the State, guarantees that title. The statutory position is that a deed does not operate to transfer registered land until the transferee is registered as owner. This means that no legal title passes to a purchaser of registered property until the transaction is registered on the land register.

The establishment of the PRA is intended to increase the visibility and profile of property registration services in Ireland. It is also intended to facilitate key stakeholder involvement in the determination of policy.

The Authority will seek to build on the modernisation programme that was already well under way within its predecessor organisations. In particular, it will play a dynamic role in promoting registration of ownership of land with a view to supporting the introduction of electronic conveyancing.

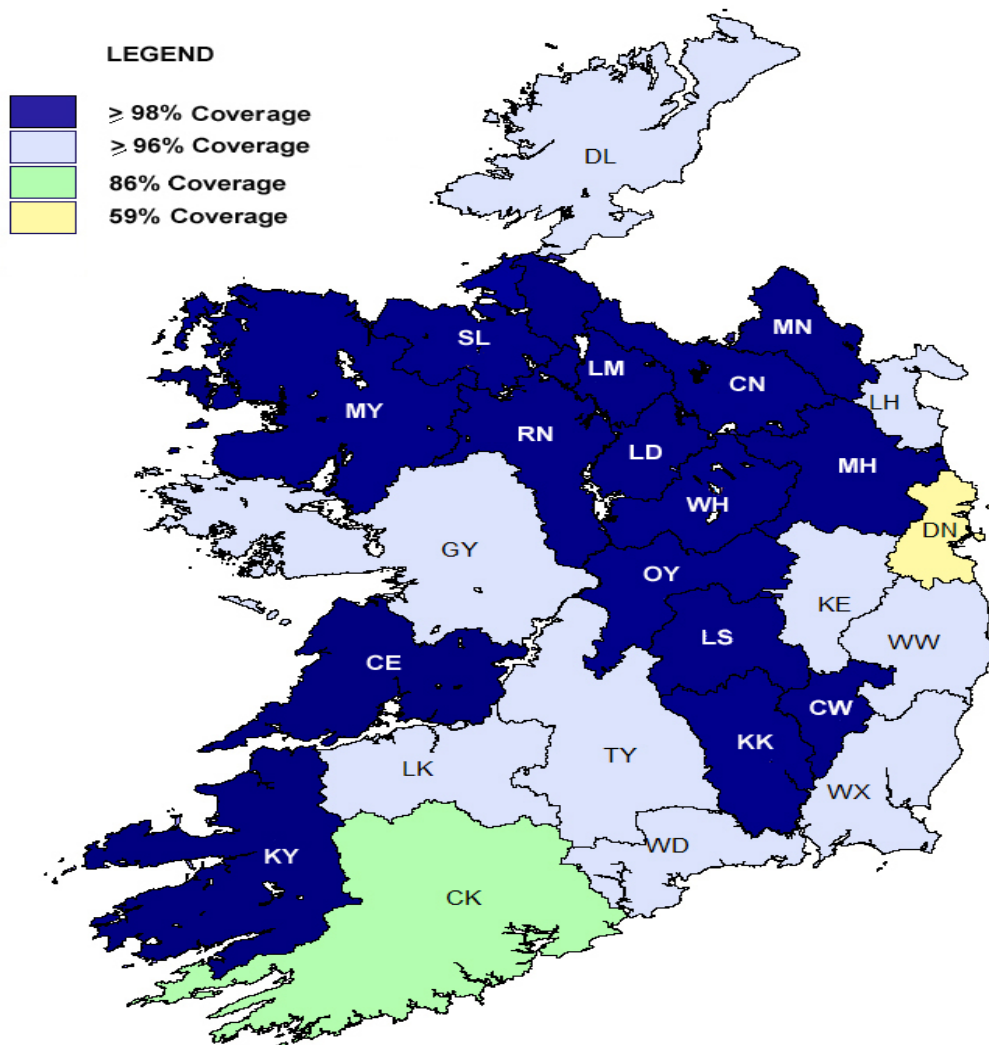
### **1.2 The Land Register in Ireland**

The term “land” within the registration of title model operated in Ireland has a very broad meaning. It includes residential property (houses, apartments etc.), commercial and industrial property (office developments, shopping centres, forests, factories etc.), recreational property such as national parks and heritage sites and infrastructural property such as roads, bridges, tunnels, rail and tram networks, seaport and airport infrastructures. The value of housing alone indemnified under the registration of title system has been estimated to exceed €500 billion, with well over €80 billion worth of mortgages registered.

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By international standards, Ireland has historically enjoyed a high incidence of property ownership and approximately 1.8 million registered titles covering about 2.5 million land parcels are now catered for in the land register. In overall terms, this represents about 85% of all legal titles within the national boundaries. However, as *Figure 1* illustrates, it is notable that over 98% of titles are registered in fifteen of the twenty six counties in the State (in seven of these counties over 99% of titles are actually registered), while over 96% are registered in a further nine counties. In the remaining two counties, it is estimated that some 86% of titles are registered in Cork and 59% in Dublin. In both of these counties, the vast majority of rural, suburban and peri-urban titles are registered while a large number of centre-city titles are not. Accordingly, while unregistered titles are very rare over large stretches of the country, many of the titles that remain unregistered do relate to particularly valuable commercial and residential properties located in the inner-urban areas of the two largest centres of population.

**Figure 1: Percentage of Registered Titles in each county**



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### **1.3 Extending the Land Register**

One of the main priorities for the Property Registration Authority (PRA) is to accelerate the first time registration of the titles which are currently outside the registered titles system. There is general agreement that this would be very advantageous in the lead up to the full implementation of a system of eConveyancing in Ireland. Indeed, since the enactment of the Registration of Title Act, 1964 there has been a policy in place to gradually extend registration to cover all land within the jurisdiction and a programme of compulsory registration in three of the twenty six counties - Laois, Meath and Carlow - and also covering all land acquired by the State or by statutory and local authorities in all counties, has been in operation for many years.

Plans to extend compulsory registration to additional counties have been hampered in recent years because of the vast increase in volumes of casework as a result of the buoyant conditions and amount of activity in the property market in Ireland. However, two important steps have been introduced recently to advance the extension of the title system. Firstly, in January 2006, the threshold for a transaction in which the PRA accepts a solicitor's certificate to register title for the first time was raised from €320,000 to €1 million. Secondly, in April 2006, three additional counties – Longford, Westmeath and Roscommon – were added to those where registration is now compulsory. This was the first such extension since 1970.

The Registration of Deeds and Title Act, 2006, also introduced a provision which enables the extension of compulsory registration not only to specific geographical areas as heretofore, but also to specific categories of buildings or land. As a result, compulsory first registration could be extended, for example, to multi-unit apartment buildings either generally or in a specific location.

### **1.4 Growth of online services**

In Ireland, the land register is a fully public register; the information contained thereon is open to anybody, on payment of the fees prescribed by statutory instrument. Arising from this mandate, one of the main functions of the PRA is to provide high-value information services and to manage its vast, unique and ever-increasing data base of property related information. Since the publication of its first Information Systems strategy in 1991, the organisation has been continually endeavouring to find innovative ways of making that information available in the most speedy, convenient and effective manner.

Ireland has been experiencing an economic boom over the past decade or so and this has been reflected in the unprecedented levels of transactions lodged for registration. There has been a commensurate growth in the demand for ancillary services such as the inspection and provision of official copies of register records – 'maps' and 'folios'. The move towards delivering services online - through the organisation's [landdirect.ie](http://landdirect.ie) web portal - has been essential in enabling the organisation to cope with this demand. As illustrated in *Figure 2*, there has been continuous growth in both the level of activity and the number of subscribers to these online services in recent years and, arising from expanded services available through our online digital map, this trend is likely to continue for the foreseeable future.

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**Figure 2: Usage of online searching, inspection, and document ordering services through the [landdirect.ie](http://landdirect.ie) portal**

Year	2000	2004	2005	2006	2007 (est.)
No. of Professional Users	1,700	7,500	9,200	10,900	13,000
No. of online transactions	0.2 million	1.2 million	1.7 million	2.5 million	3.1 million

In addition to the growth of online searching, inspection, document ordering and other *information services* illustrated above, the PRA's online services have also experienced a steady increase in the uptake of eLodgement of applications for *registration*. This facility, known as the eForm 17, was introduced in late 2002 and, as indicated in *Figure 3*, has now grown to represent over 32% of all applications for registration. This is a very positive indicator for the imminent implementation of electronic registration services.

**Figure 3: eLodgement of applications for registration through [landdirect.ie](http://landdirect.ie)**

Month	eLodged applications for registration as a % of all applications for registration
February 2003	3.6%
February 2004	12.5%
February 2005	21.8%
February 2006	22.9%
August 2007	32.1%

Indeed, by the end of 2006, the PRA had reached a position whereby:

- More than 90% of the organisation's traditional customer base (solicitors, financial institutions, law searchers, public and local authorities etc.) were regularly using a wide range of its online services
- Over 98% of some services were conducted online exclusively

Additionally, the organisation's *direct* customer base has been widening significantly to include more estate agents, surveyors, architects and engineers.

These statistics enable the organisation to assess its own readiness and that of its customers for the move to the next generation of electronic services and, in particular, 'electronic registration'.

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## 2. ELECTRONIC REGISTRATION & ELECTRONIC CONVEYANCING

### 2.1 Definitions and Terminology

One of the difficulties sometimes encountered when observing international developments in electronic registration of title (eRegistration) and electronic conveyancing (eConveyancing) is that, in some jurisdictions at least, these terms and related concepts tend to be used somewhat interchangeably. This is, perhaps, attributable to differences in legal systems and is sometimes simply down to the use of language.

Accordingly, for the purpose of this paper, and to avoid confusion in relation to outlining developments in Ireland, the following working definitions have been adopted:

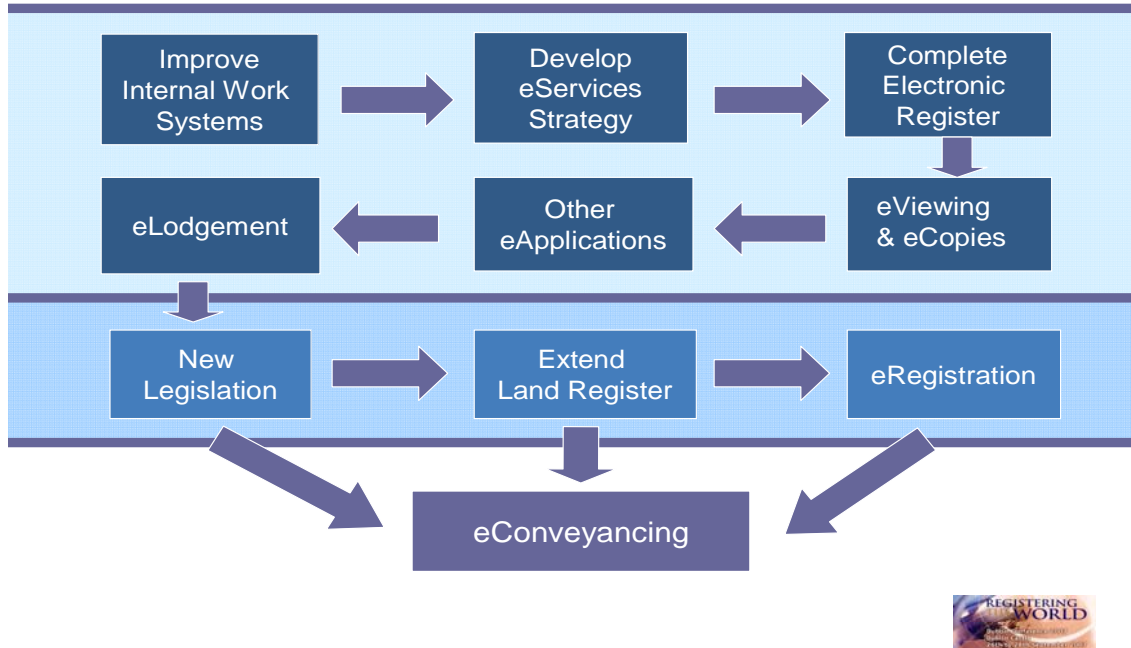
- eApplications: this covers ordering documents and services online. Examples include several services current available through [landdirect.ie](http://landdirect.ie) such as ordering official copies of records. In Ireland, over 98% of all such applications to the PRA are now made online.
- eLodgement: relates to the lodgement of applications resulting in *changes to the register* ('registration'). At present in Ireland, applications for registration can be lodged online but paper documents must be lodged separately. This is how the 'electronic Form 17' facility currently operates through the [landdirect.ie](http://landdirect.ie) portal. As indicated above, over 32% of all applications for registration in Ireland are now made through this channel.
- eRegistration: lodgement of documents occurs in electronic format only (paper documents are not lodged) and all registrations are made on an electronic register. Depending on the underlying model, the documents can be either digitally signed electronic documents, instructions/applications delivered in a secure messaging environment using e.g. an XML schema or, as is the case in some jurisdictions, scanned versions of paper documents.
- eConveyancing: the term envisages paperless transactions through most or all stages of the conveyancing process from pre-sale to post-completion of the transaction.

### 2.2 eRegistration as part of eConveyancing

As indicated by the above definitions, eRegistration in Ireland is viewed as a distinct subset of activities but also as a critical element within the wider eConveyancing process. In fact, the PRA has been working towards these dual goals since 2002 through a series of steps which are illustrated in *Figure 4*. As with the approach being adopted in many other jurisdictions, all plans and activities arising from the eRegistration project are carefully designed to advance, complement and integrate with the wider national eConveyancing agenda.

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**Figure 4: PRA Roadmap towards eConveyancing: 2002 to date**



Section 3 of this paper outlines the developments in respect of electronic registration in Ireland, while Section 4 outlines the progress to date and the main initiatives which are underway or planned with regard to electronic conveyancing.

### 3. ELECTRONIC REGISTRATION OF TITLE

#### 3.1 Principles underpinning eRegistration

The PRA’s electronic service strategy in recent years has placed customer service at the centre of the delivery model. Similar to developments in other land registration organisations worldwide, this has provided customers with convenient access to the electronic register and to the database of electronic records - title records (‘folios’), maps and associated information - and related services, through the medium of the Internet. The Authority has also sought to extend the range of applications and lodgement facilities which can be availed of online.

In an important report prepared by BearingPoint for Ireland’s Law Reform Commission and published in 2006 (see paragraph 4.3 below), stakeholders in the overall eConveyancing process viewed the development of an eRegistration capability as central to a future conveyancing solution.

In 2006, the PRA outlined its eRegistration vision, the next stage of its strategy for delivering services electronically. The initial objectives of this programme, which build on the success of the [landdirect.ie](http://landdirect.ie) portal, are to incrementally extend the range of applications which can be registered *without the presentation of paper documents to the Authority*. This will commence with the implementation of electronic facilities for cancelling mortgage entries on the register, followed - as

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confidence in the process becomes established - by online registration of charges (mortgages). Full transfers of ownership, transmissions-on-death and other types of registration such as building schemes are planned for the subsequent stages of the programme. The PRA is, at present, examining the legislative impact of the proposals and assessing the changes required to primary and secondary legislation.

The current vision for eRegistration in Ireland is based on a number of fundamental principles:

- eRegistration will be *optional* at the outset. However, though usage of the eRegistration facilities will be voluntary, it will be encouraged by the introduction of fee-based incentives for the use of the electronic registration facilities. This will require the implementation of one or more new Fees Orders underpinned by a differential fees model.
- The PRA will encourage customers to avail of eRegistration by providing standardised forms, prescribed by Statutory Instrument. This will require the development of a small number of highly structured online processes to directly support the new procedures and ensure the accuracy of the information underpinning the application for registration.
- eRegistration will be implemented in respect of registered land only.
- In order to ensure that the PRA's responsibility for maintaining the register is not diminished, PRA officials will continue to have input into applications for changes to the register before the register is updated.
- There will be no lodgement of paper documents
- Payment of Registration Fees will be electronically executed through Electronic Funds Transfer (EFT) facilities utilising variable Direct Debit of customer accounts.

### **3.2 Phases of the eRegistration Programme**

In order to achieve a smooth transition, there will be a number of distinct projects within Phase 1 of the eRegistration programme:

- Phase 1a will provide online services for Releases of Charges (eReleases). This will be achieved through extending the existing eLodgement facilities which are available through the [landdirect.ie](http://landdirect.ie) portal and, subject to a number of dependencies, the current plan is for this to go live in March 2008. The project board for the eReleases phase, which includes representatives from key stakeholders such as the Law Society, Irish Mortgage Council and the Revenue Commissioners, is also exploring the possible use of the Public Service Broker (PSB) (see [www.reach.ie](http://www.reach.ie)) to facilitate 'bulk' system-to-system e-lodgements between financial institutions and the Authority.
- Phase 1b relates to eRegistration of Charges, which is currently planned for implementation in 2009.
- Phase 1c will cover registration of transfers of ownership which do not result in a subdivision of a registered entity ('full' transfers), soon followed by eTransmissions of ownership following death of the registered owner (Phase 1d) and Building Schemes involving multiple units (Phase 1e). These phases are subject to the outcome of a more detailed implementation strategy and other administrative reviews.
- Phase 2 will address digitally signed electronic documents.

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### **3.3 Engaging with Stakeholders**

As we have heard from several presenters at this conference, the successful implementation of electronic services can only be brought about through partnership between the main stakeholders. In Ireland, the process of consultation with the key stakeholders in the registration of title process is well underway and, in the lead up to implementation, this will be augmented by advertisements and promotional articles in publications of professional bodies, periodicals and national newspapers. A number of well-attended presentations and customer 'roadshows' have taken place in recent months and these will continue over the coming period and beyond. The PRA has also held a number of very productive meetings and received very positive input from groups representing solicitors and the main lending institutions. The PRA's Customer Focus Group, established several years ago, also continues to provide a very useful forum for consultation, discussion and feedback on all new initiatives.

As indicated earlier, the project board for the current phase of eRegistration includes representatives from key partners such as the Law Society, the Irish Mortgage Council and the Revenue Commissioners. Currently the PRA, in conjunction with the Irish Revenue Commissioners, is also investigating the potential for the introduction of 'eStamping' processes. The purpose of this is to examine how technology used in both offices can be best deployed to provide a simple and seamless process for handling stamp duty that would also facilitate an eRegistration process and support the wider eConveyancing agenda.

## **4. ELECTRONIC CONVEYANCING**

### **4.1 Background to eConveyancing**

The Law Reform Commission's *Second Programme of Law Reform 2000-2007* included Land Law and Conveyancing Law within its remit and the Commission launched its eConveyancing Project in January 2003. This project was to encompass not only a long-overdue and comprehensive programme of reform and modernisation of land law and conveyancing law, but also to plan moves towards an online paperless conveyancing transaction model resulting in improved and more cost effective conveyancing processes.

As one of the Commission's reports acknowledges (LRC 79 – 2006), the identification of conveyancing as one of the processes where significant reform could be achieved was driven by a number of factors:

- The overall process was perceived as being inefficient, complex and paper intensive, which resulted in relatively high costs being incurred by private house purchasers
- Advances in technology had resulted in an increased demand to conduct business online. In Ireland, and internationally, Governments were actively encouraging and implementing an electronic agenda
- Conveyancing in Ireland, as in other common law jurisdictions, has evolved over several hundred years. It was recognised that reform of substantive land law in Ireland was a key element in the overall strategy to simplify elements of Irish Law so as to make them more easily understood and accessible.

The Commission also recognised that the implementation of a full end-to-end eConveyancing solution would, necessarily, be a large scale, complex and multi-

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year programme involving several integrated workstreams and requiring very close co-operation among the stakeholder organisations.

#### **4.2 Modernising Land and Conveyancing Law**

One of the most important tasks facing the Law Reform Commission, following the launch of the eConveyancing project, was the development of proposals for the reform and modernisation of Irish land and conveyancing law, which included consideration of a large number of pre-1922 statutes, some of which dated back as far as 1285, and which still formed part of the legislation in force in the State.

This multi-stage project, undertaken by the Commission, gave rise initially to the publication of a *Consultation Paper - Reform and Modernisation of Land Law and Conveyancing Law* (LRC CP 34-2004) in October 2004. This was followed by the Commission's *Report on Reform and Modernisation of Land Law and Conveyancing Law* (LRC 74/2005) in July 2005, which included a draft Bill to implement the recommendations contained in the earlier Consultation Paper. The Government then requested the Commission, in partnership with the Department of Justice, Equality and Law Reform, to draft a Bill for Government based on the Commission's earlier draft and the latter was published by Government as the Land and Conveyancing Law Reform Bill in 2006. This Bill is, at the time of writing (September 2007), at an advanced stage towards enactment by the Oireachtas (Irish Parliament). The Bill repeals and replaces over 150 statutes and amends various sections of the Registration of Title Acts significantly.

#### **4.3 Modelling the Irish Conveyancing Process**

As part of the overall eConveyancing project, and in parallel with the development of proposals to reform and modernise the underlying legal framework, the Law Reform Commission appointed the international consultancy firm BearingPoint, in 2005, to undertake a study of conveyancing in Ireland with a view to preparing for the introduction of electronic conveyancing.

The resulting report, *Modelling of the Irish Conveyancing System*, contains a thorough analysis of the conveyancing procedures operating in Ireland, together with an assessment of the state of readiness of the main public and private stakeholder organisations for the introduction of eConveyancing. The report also examined the initiatives underway in a number of other countries and provided an outline implementation strategy and future roadmap accompanied by a high-level process model, technical model and business model.

The roadmap for implementation of eConveyancing envisages three workstreams:

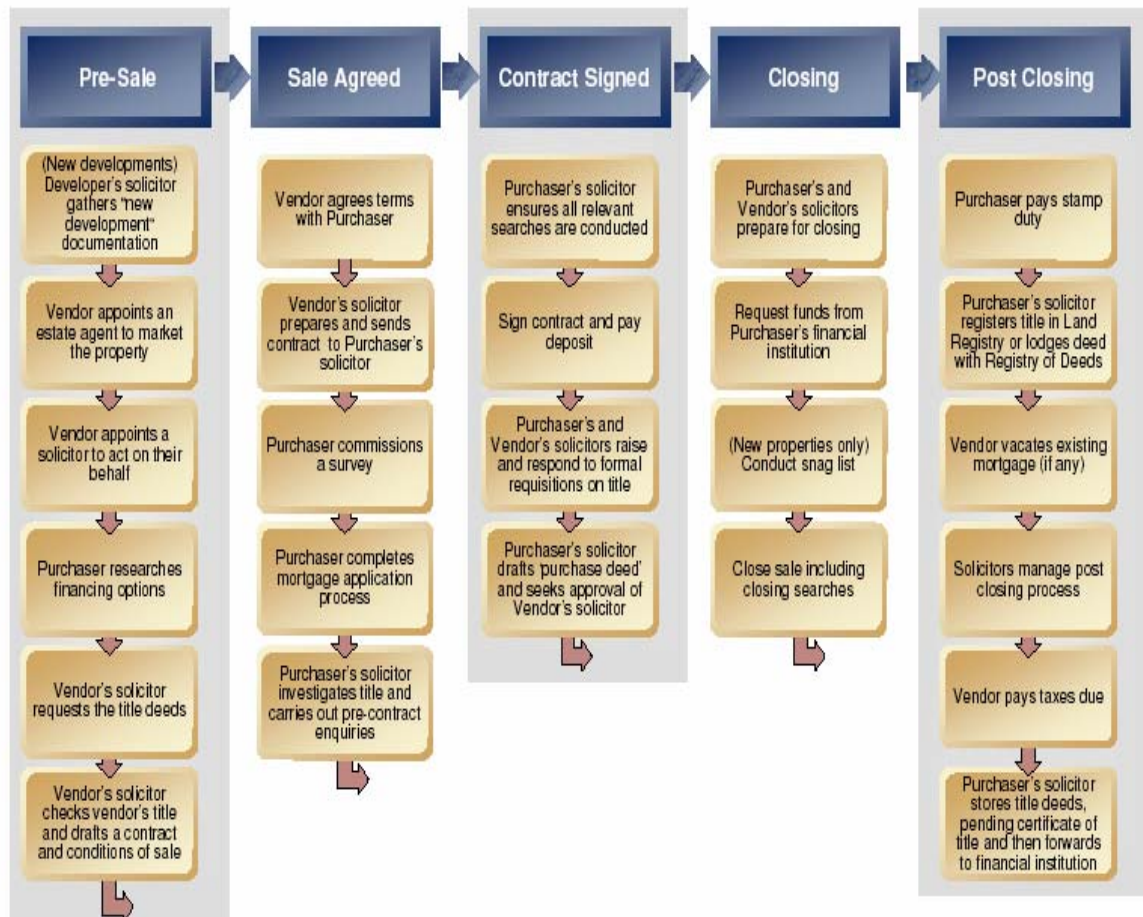
- An eConveyancing Development workstream which would consider the most appropriate operational, technical and business model
- A Process Improvement workstream which would identify and implement improvements to the current process, based on opportunities identified in the report
- A Legislative Changes workstream which would advance the programme of legislative reform.

One of the most important outputs from the BearingPoint assignment was the development of a detailed process model of the existing conveyancing system. *Figure 5* overleaf, taken from the report, demonstrates a high-level model of the five distinct stages in a typical purchase of a residential property in Ireland at

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present. To support this high-level model, detailed and multi-level process maps were developed in conjunction with the stakeholder community, and were used to identify where improvements could be made, including straight-forward changes to the process itself and those which would be enabled by changes to current legislation or by deploying new technology.

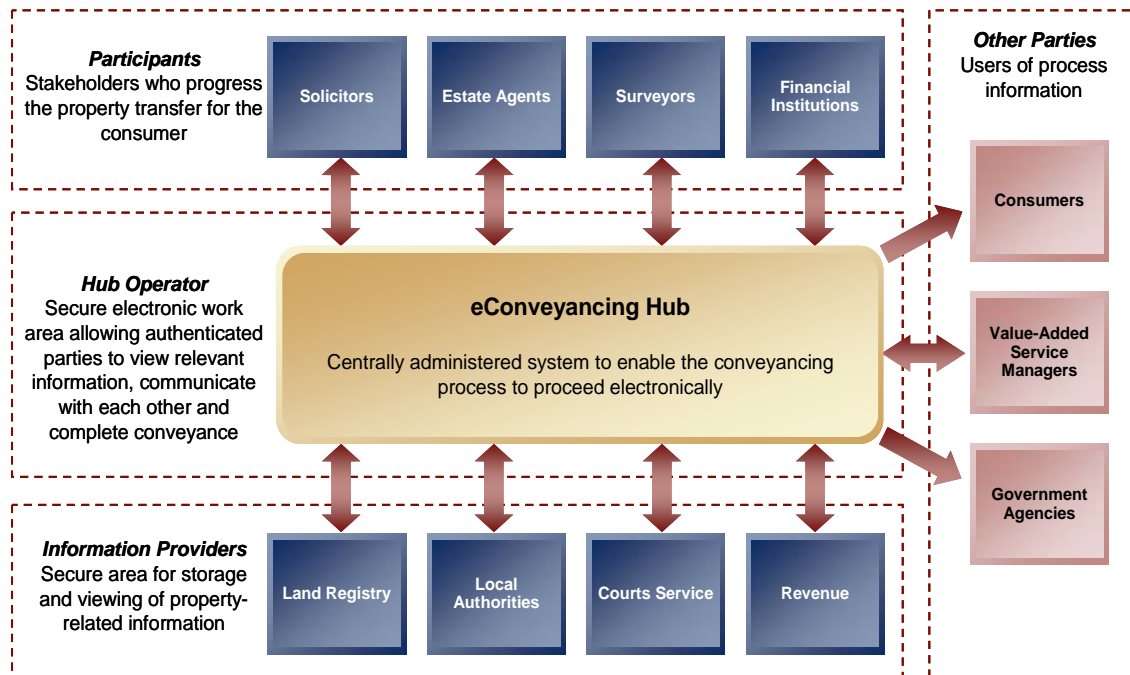
**Figure 5: Stages of a typical purchase of a residential property**



#### 4.4 eConveyancing Model

One of the central recommendations of the BearingPoint report is the establishment of an 'eConveyancing hub' to operate at the centre of any future solution. As *Figure 6* overleaf (also taken from the report) illustrates, the purpose of the hub would be to act as a central 'workspace' for participants; providing the case management, workflow, document management, payment, reporting, authentication and messaging functionality necessary to underpin the process. In this conceptual model, the individual information providers would provide services to the central hub to support the completion of the conveyancing transaction.

**Figure 6: eConveyancing conceptual model**



Following consideration of the report produced by BearingPoint, the Law Reform Commission published its report titled *eConveyancing: Modelling of the Irish Conveyancing System* – LRC 79/2006 in April 2006, in which it generally supported the content and analysis made by BearingPoint.

The BearingPoint report itself is published as an Appendix to the Law Reform Commission’s Report and is available at [www.lawreform.ie/publications/reports.htm](http://www.lawreform.ie/publications/reports.htm)

**4.5 eConveyancing, Next Steps**

A major recommendation in the BearingPoint Report is the establishment of a group drawn from the main public sector and private sector stakeholders with specific terms of reference to coordinate the next phase in the development of an eConveyancing system for Ireland. This Steering Group, which includes representatives from the Property Registration Authority, is now in place. The primary task of the group will be to conduct a detailed assessment of the most appropriate operational model for eConveyancing in Ireland, including preparation of recommendations for consideration by Government as to the design, establishment, operation, funding, governance and implementation of the model.

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## **5. CONCLUSION**

### **5.1 Where are we now?**

The eRegistration project now underway places the Property Registration Authority in an excellent position to play a pivotal role in the successful implementation of full electronic conveyancing in Ireland. Indeed, the technology infrastructure already in place in the PRA, together with other relevant technical initiatives in place within the wider public sector, provide essential building blocks for such a project.

The overall experience of the Authority in implementing electronic services has, to date, been very positive and this will prove invaluable to the organisation and its customers, as the next wave of initiatives become a reality. Management of the change which must, inevitably, go hand-in-hand with rolling out eRegistration and eConveyancing facilities will pose considerable challenges for all stakeholders and it is evident that the implementation of a programme of this nature will require partnership and close engagement between all of the key constituent players. The experience of the PRA from its current programme is that, while customers do want and, indeed, often prefer electronic services, a heavily resourced 'outreach' effort must be undertaken. This will involve numerous demonstrations, road-shows, hosting extensive information sessions and participating in promotional and related events. It is also clear that this must be underpinned by an easily accessible and appropriately skilled helpdesk operation.

### **5.2 Learning from each other**

The online delivery of land registration services is a phenomenon which transcends international borders. Indeed, the sharing of information between different jurisdictions has been critical to our efforts so far in relation to eRegistration and eConveyancing in Ireland and this will continue to be the case. Frequent contact with other European colleagues through the European Land Information Service (EULIS) project has been an important element in broadening our horizons. We have also benefited from the ongoing exchange of experiences with colleagues working on eRegistration/eConveyancing projects in England and Wales, Scotland and Northern Ireland and we hope that we too have contributed something to their respective programmes.

One of the themes underpinning the 'Registering the World' conference this week is, of course, directly concerned with eRegistration and eConveyancing and, this morning, we will hear of developments in Australia, Canada, New Zealand, Scotland, Netherlands and Estonia in particular. Over the course of the conference, we will also learn from several other jurisdictions in relation to additional developments which are relevant to this topic and I am delighted that this occasion will provide a unique forum for all participants to share experiences and ideas and to learn from each other in a spirit of openness and mutual co-operation.

**END**

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## **BIOGRAPHICAL NOTE:**

John O'Sullivan is Information Systems Manager at the Property Registration Authority (PRA), the statutory body responsible for land registration in Ireland. John is based at the Dublin headquarters of the organisation and is a member of its senior management team.

John has worked in a number of roles within the PRA and has over fifteen years experience in planning, managing and implementing large-scale Information Systems. He is currently responsible for the PRA's *eRegistration* programme and its involvement in the *European Land Information Service (EULIS)* and is also working with the Law Reform Commission and other stakeholders in developing the next stage of Ireland's *eConveyancing* project.

John holds a Bachelor of Arts degree from University College, Dublin and a Barrister-at-Law degree from the King's Inns, Dublin.

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