

CLC

Regulating
Property
And
Probate
Lawyers



Council for Licensed Conveyancers

Conveyancing 2030

A DISCUSSION PAPER

Welcome

I am pleased to introduce our Discussion Paper on the future of conveyancing. It is an exciting time to be involved in the property sector as technology rapidly replaces the old ways of operating. We are probably just a few short years away from a fully digital conveyancing system that promises a faster transaction and a better experience for all those involved.

Digitalisation will open up a range of opportunities for improving the home buying and selling experience for consumers. But it will not come without risk, and this paper explores how the conveyancing market is already changing and could be radically reshaped in the years to come. This change points to questions for the CLC as the specialist regulator and for conveyancers as they seek to develop their businesses.

While there are many areas of the law where there is little public pressure for reform, that is not the case for property and efforts to speed up the process are already underway. This report examines the longer-term trends and posits a future where the conveyancing market could look very different from today.

We do not expect paper and typewriters to suddenly make a resurgence, nor to see a return to personal completions. Instead we expect smart homes to enable properties to maintain an up-to-date electronic logbook that automatically collates much of the information that conveyancers are currently tasked with gathering. In other words, we could bring into existence a 'digital twin' for each property.

Our aim is to help licensed conveyancers and others think about the impact of these changes on their businesses. Of course we do not seek to offer a future-proof strategy –but to encourage those we regulate to give early thought to what is coming their way.

The changes detailed in this Discussion Paper also present significant challenges for the CLC as a regulator. How might we need to adapt our regulatory model to an era of artificial intelligence, for example? We don't pretend to have the answers, but this report is further evidence that we are actively thinking about the issues and what our response should be. We urge others to do the same and would love to hear your thoughts too.



Janet Paraskeva - Chair,
Council for Licensed Conveyancers



About this Discussion Paper

While it is not the role of this paper to necessarily provide answers to all of the issues raised, we do use it to highlight areas that we believe raise questions that will need answering by regulators, those in conveyancing and wider stakeholders who will affect and influence how conveyancing will develop.

In the latter part of this paper, you will find questions and issues we have identified as coming out of our research. We know we have not identified them all, but we will use these and others over the coming year to help us develop our thinking.

We encourage you, the readers of this discussion paper, to join us in developing the thinking and contribute to shaping what conveyancing may look like in 2030.

What we discuss

After assessing how matters have developed over the last decade and examining current trends this paper looks at a range of potential future developments.

The analysis raises questions and issues for us to consider as a regulator and we hope that you will also feel you wish to engage with these and the wider matters it discusses.

Future 1 Conveyancing will be a fully electronic process by 2030



Issues identified by the CLC for discussion:

As conveyancing becomes ever more automated, what are the implications for how the consumer is protected? Will digital conveyancing demand a new regulatory approach or will principals of legal businesses remain accountable for the output of the technology they either develop themselves or buy-in?

While it is possible to envision a time when technology could replace the conveyancer, will clients ever be prepared to have a purchase as significant as a property transaction proceed without the involvement of a qualified lawyer to advise them and ensure their interests are protected?

Technology also has the theoretical potential to enable 'unbundled' conveyancing, with the consumer taking on more of the process for themselves. This, though, raises a number of issues that will need to be tackled for it to become a reality. How will the conveyancer's responsibility to other parties (such as lenders) be protected? Will consumers understand and be willing to take on additional risk? Who becomes liable if things go wrong? Will the insurance market develop products that will enable conveyancers and consumers to share risks? Just because it may be possible for this to happen, will it actually be a positive for consumers? How will it affect the profitability of conveyancing practices? These are challenging questions that we do not attempt to address in this paper.

There have been attempts in the past to use technology to improve the home-buying process, such as the Land Registry's Chain Matrix system back in 2007. However, none have yet come to fruition, perhaps because they were ahead of their time. What are the barriers to success and why may the next decade be different?

The Government have previously ruled out mandating changes, but is this incremental market led approach the right way? Should e-conveyancing be mandated? It would undoubtedly have a huge impact on the market, with the long tail of 'part-time' conveyancers less likely to have the ability to cope with this. But if progress is too slow, when should government move from encouragement to compulsion?

Future 2 Money and financial information will move around quickly and securely



Issues identified by the CLC for discussion:

As new risks emerge, is the regulatory system ready to ensure that those risks are managed effectively through regulation by legal and financial specialist regulators?

As new solutions emerge, there are multiple regulators with a potential interest in property transactions, including legal, financial and information. Should legal regulators take the lead in developing common standards for providers or is this a financial regulation matter?

Future 3 It's all about the data

Issues identified by the CLC for discussion:



The centrality of data to the future raises big issues that are already live in other sectors. If the data becomes the single source of truth, then what needs to change to ensure all parties can trust the data? Who will validate the information and who becomes responsible if that data is incorrect or something goes wrong?

To enable data to flow across the system and to allow interoperability, there needs to be agreed standards for the data itself. Should the standards be developed by consensus or is there a role for Government or others?

As providers begin to develop different standards and seek to impose their approach, is there a risk that they effectively become non-statutory regulators mandating change without any oversight and imposing additional burdens on businesses? There are already many similar pressures on conveyancers from other players who set rules for engagement in the process.

Can insurance play a role in providing a backstop if things go wrong for consumers or is the potential detriment such that we need different safeguards?

Improving the UK's standing in the World Bank's Ease of Doing Business index has previously been of concern to Government. A low ranking on the ease of property transfer drags down our overall rating. Would changes such as BASPI and the other work of the Home Buying and Selling Group have a material impact on how easy it is to move and so increase our performance against competitor nations?

Future 4 The conveyancer's role is going to change

Issues identified by the CLC for discussion:



What are the new skills conveyancers may need to succeed in this new world? Will curriculum for trainees need to change and can ongoing training support those who are already working in conveyancing? Will it be the role of regulators to set competences in this area?

How do we ensure users of systems understand why they have to do something rather than just what they have to do?

Do regulators have a role in facilitating the use of new technology within regulated businesses?

Future 5 The shape of the conveyancing market will change

Issues identified by the CLC for discussion:



Conveyancing businesses are exposed to many factors out of their control, including the overall condition of the economy, the state of the housing market, and changes in attitudes and demographics. CLC practices recovered from the credit crunch better than others but how do we ensure that firms are able to prepare themselves for future disruption?

Will new business models need to emerge and will the existing predominate model of the practice survive? How may legal businesses need to structure to ensure they can compete and will this entail different forms of entity and different funding models?

Disruption in many sectors has been driven by consumers availing themselves of the new technology and so driving change. But given that home purchases are a rare occurrence for most, consumer influence may be less powerful and less effective in driving change. So where will the power and influence to drive change reside?



The legal market for conveyancing remains highly fragmented, although it is – very slowly – consolidating.



Legal services are increasingly being judged against a range of other digital service providers that are much more advanced, and this will become increasingly problematic for law firms.

Future 6 **Regulators will need to be flexible to keep up**



Issues identified by the CLC for discussion:

Will new technology require changes in the way we regulate to ensure public protection? Is an outcomes-focused structure where responsibility ultimately resides in the principals of regulated businesses still the best way to deliver protection?

As the AI 'black box' begins to guide legal decisions, will legal regulators need to widen their remit to cover the technology firms developing the systems used by conveyancing practices?

Does the potential for regulators to have access to the technology being used in firms allow for more rapid real-time intelligence and compliance monitoring? What should the relationship be between regulators and the technology developers and does this mean that regulators need to become more involved in the development of technology specifications?

As Professor Mayson argues, does the current regulatory structure provide an incomplete and limited framework for legal services regulation that will struggle in the near-term and beyond to meet the demands and expectations placed on it? If so, how does the regulatory system need to adapt to ensure it is ready for future changes?

The CLC will be returning to the issues identified in this discussion paper over the coming year. We would also be keen to hear your views.



Please feel free to email us at Conveyancing2030@clc-uk.org or complete the online form at <https://www.surveymonkey.co.uk/r/Conveyancing2030>

We look forward to your engagement.



“We always overestimate the change that will occur in the next two years and underestimate the change that will occur in the next ten,”

said Bill Gates. He may not have been speaking about conveyancing, but he could well have been.

In a world of rapid technological change, automation and instant purchasing, it is entirely possible to envision the conveyancing process of 2030 based on a range of Amazon-style one-click websites with the legal professional replaced by an AI chatbot and the human involvement a receding memory. While this can be pictured, it is perhaps harder to imagine that parties to such major transactions will be happy to dispense with advice from a trusted legal professional in such a relatively short timescale.

We live in an age of technological change which is continually reshaping consumer expectations. Customers no longer differentiate between industries: where they may have once compared the experience at two supermarkets, now they will measure the supermarket against Uber or Amazon. At the same time, customers increasingly have the guided technological literacy to interact with more advanced systems and so undertake more complex tasks themselves.

With these same expectations beginning to impact the property industry, the question is the degree to which this will flow through to conveyancing.

There are constant headlines about robot lawyers taking over, new forms of home ownership, and radical reform at every stage of the home-buying process. Is any of that change going to hit in the next two years? By the time we reach 2030, will conveyancing and those who deliver it have gone through a revolution? Which of those possible changes will not have happened and which others might have surprised us? That is what this Discussion Paper aims to investigate.

The last 10 years

If we had written a report like this in 2010, would we expect to be where we are today?

Probably not – 2010 was a challenging time to be a conveyancer. We were still in the eye of the financial storm that had begun two years earlier. Residential conveyancing transactions, which had peaked at 1.6m a year in 2006, were at 900,000 in 2010 (having been even lower in 2009), so the industry was gloomy, even if many lawyers were cheering the new Coalition Government's immediate 'suspension' of home information packs – a suspension that has never been lifted. But as we will explain, the identified need for more comprehensive up-front information on the property for sale has not gone away and industry is now looking at new ways of providing it.

Also in 2010, what was then the Office of Fair Trading (OFT) published a market study of home-buying and selling services. This found a market dominated by traditional estate agents with weak competition between them on price, and recommended updating legislation to encourage new business models and allow new entrants into the market.

We now have a range of disruptors in the market such as, to name just three, Purplebricks, Nested – an agent that enables sellers to move chain free by advancing the seller money on the sale before it has been agreed – and Settled, a fixed-fee online agent that aims to make a property 'buyer ready' earlier in the process than now.

Much of the OFT's concern in relation to conveyancers was the role of referral fees in securing instructions from estate agents' customers – 20% of buyers and 29% of sellers used a lawyer referred by the seller's estate agent, its research found – while it also predicted that *"in the longer-term much more of the conveyancing process will be conducted online."*

The Government's response to the study said it had no plans to reform the home-buying and selling process at that time, but it was keen to see the take up of e-conveyancing and the innovative use of technology.

Based on an average cost of conveyancing to a buyer of £750, and to a seller of £550, the OFT estimated that the conveyancing market value in 2007 was around £2.08bn, falling to £1.17bn in 2008 following the global economic crisis. It expected it to fall again for 2009, to about £1.05bn. Even if it were double that today – and Law Society research indicates it has not moved much – it would still represent well under 10% of the legal profession's income; some 50 years ago, around half of its turnover came from conveyancing.

On the technological side, most people were still using PCs based on Windows 98 and this was the year Apple launched the iPad, while Facebook passed Google to become the world's most visited website. The app-store model pioneered by Apple took off in a big way in 2010, signalling a paradigm shift in how programs were purchased. Could we have anticipated then that our text and data use on phones would far outstrip our voice calls by the end of the decade? And IT advisory firm Gartner was recommending that organisations think about their approach to cloud based computing services.



CLC research indicates that the ABSs it regulates – which tend to be larger practices – have embraced technology and innovation with significantly more enthusiasm than non-ABSs.



A few years ago, we looked back at the experience of the CLC community through the credit crunch, when from 2007 to 2008 transaction numbers fell by two-thirds. We saw a similar fall in the turnover of CLC firms. But CLC firms recovered, in terms of turnover, sooner and faster than the overall property market. So it seems that, coming out of that crisis, CLC-regulated firms secured a bigger market share for themselves. And we are again seeing steady growth in their market share despite the challenges of the global and domestic economies and the political uncertainties that abound.

Where are we in 2020?

Though transactions have picked up a little in recent years, to around 1.1m a year, the market seems to have settled at a plateau, with no sign of a return to pre-recession levels.

Search Acumen's Q2 2019 Conveyancing Market Tracker found that quarterly conveyancing volumes dropped below 230,000 cases for the first time in two years (228,994), 10% lower than Q1 and 20% lower than the same period three years earlier – before the EU referendum – when the number of transactions was 286,485.

Aside from Brexit, there are longer term demographic reasons for this – the average age of the population is increasing and older people tend to move less often, while about half of the population increase in recent years is as a result of net immigration and, at least in the short-term, immigrants are less likely to become homeowners.

And then there are shorter-term financial issues, with many homeowners choosing instead to extend rather than move, driven no doubt by the high levels of stamp duty, the disappearance of 100% mortgages, and stricter mortgage eligibility criteria.

The conveyancing market

The legal market for conveyancing remains highly fragmented, although it is – very slowly – consolidating.

Earlier in 2019, Search Acumen research found that the number of active conveyancing law firms dropped below the 4,000 mark for the first time (3,961) – having been around 4,800 in 2011 – while the hold the largest practices have on the market was strengthening. The data for Q2 2019 showed that the top 200 conveyancing firms controlled more of the market (39.7%) than ever before, compared to 31.9% eight years earlier.

Consolidation is happening among big and small firms alike: last year Palamon Capital Partners acquired My Home Move – owner of CLC-regulated Premier Property Lawyers and Advantage Property Lawyers – to create what is the by far the largest conveyancing business in the country in combination with its existing investment, the Simplify Group, which owns other CLC-regulated property firms DC Law and JS Law.

Then in August, private equity company Inflexion acquired two of the biggest volume providers: Stockport-based O'Neill Patient – consistently one of the five biggest conveyancing firms when judged by Land Registry applications – and Stoke firm Grindeys, which is in the top 20.

This activity comes against the background of the Competition and Markets Authority's (CMA) report on legal services in late 2016 that identified conveyancing as an area of law where consumers were receiving inappropriate advice and poor quality of service in certain circumstances – it has long been the case that around a quarter of complaints made to the Legal Ombudsman are from conveyancing clients.

Subsequently the frontline legal regulators introduced new transparency requirements, mandating cost and service information that regulated legal service businesses needed to provide with the aim of ensuring customers were better able to make an informed choice of provider. While it is too soon to know how consumer behaviour may change, early indications are positive: the CLC's 2019 Annual Regulatory Return found that 27% of the firms we regulate said customers have started to shop around more in the last year when choosing a legal services provider.

As this paper explores, new technology as well as access to more and more reliable data may have a more profound effect on consumer behaviour, but the starting point of enabling consumers to have an informed choice in their decision as to which lawyer they appoint should already have begun to drive some changes against the background of a wider evolution of consumer attitudes towards service providers of all kinds.

Regulators are now starting to explore what quality indicators may look like in relation to legal services, thus raising the potential for further contributions to consumer choices.



We're fiddling around at the edges at the moment – there's no appetite to review the actual process itself. There's some good stuff going on around leasehold, more upfront information and reservation agreements, but ultimately we want a transformation of the conveyancing process.

Eddie Goldsmith

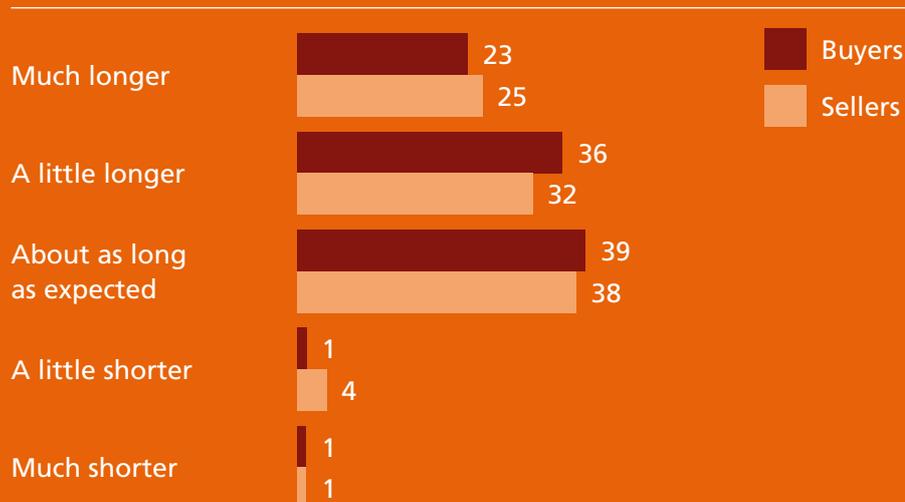
Process pinch-points

According to a survey by Which? in 2015, people find buying or selling a house more stressful than arranging care for an elderly relative, having a child, changing jobs or getting married.

With it generally estimated to take around 14 weeks to get from offer to completion, the lengthy period creates even more stress and worry as fears about failures in the process increase stress.

Research by the Department for Business, Energy and Industrial Strategy in 2017 found that, for 38% of buyers and 41% of sellers, the time taken from offer to exchange of contracts took longer than they expected. Those experiencing delays tended to hold the other party's conveyancer responsible, with nearly half (47%) of buyers blaming the seller's lawyer, and 58% of sellers blaming the buyer's lawyer.

Whether the process was longer than expectations (%)¹



Why buyers and sellers found the process complicated

	Buyers %	Sellers %
Issues with solicitors/conveyancers	24	31
Took too long	20	19
Issues with seller/buyer	19	23
Lack of communication	9	15
Issues with estate agent	7	15

Inevitably, when transactions take this length of time, there is more capacity for things to go wrong, and the government estimates that between a quarter and a third of purchases fall through, at an average cost to a party of around £700.



1. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/653581/buying-selling_homes-research.pdf



The role of technology

There has, unsurprisingly, been a big focus on the use of technology, with the MHCLG saying in 2018 that;

“conveyancers should be encouraged to move towards using a digital platform that allows them to communicate more easily and have a chain view, and [we] will be working with industry to make this happen.”

Signs of changes

In an initiative led by the Ministry of Housing, Communities and Local Government (MHCLG), reservation agreements are set to be tested to combat this problem. Both seller and buyer sign one after an offer is accepted, with possible financial consequences if one later pulls out of the transaction, depending on the reason.

The MHCLG believes the agreement will encourage sellers to sort out early on (ideally before marketing the property) problems that might otherwise come up later in the transaction, as they could lose money if the buyer pulls out as a result of them.

Reservation agreements might prove more attractive when another proposition is in place – the provision of more reliable information about properties for sale during the marketing stage. This will mean buyers can make an offer with greater confidence that the due diligence will not throw up unexpected obstacles.

It also pledged to work with the industry and other public sector bodies to encourage the development of digital signatures, improve the ID verification process and promote the adoption of e-conveyancing.

There are something like 400 proptech companies in the UK, of which nearly 60% are focused on residential, according to Unissu, which tracks proptech solutions from around the world.

As in most sectors, there are sharp differences in technology take-up between different businesses. CLC research indicates that the alternative business structures (ABSs) it regulates – which tend to be larger practices – have embraced technology and innovation with significantly more enthusiasm than non-ABSs.

This is consistent with wider findings by the Legal Services Board, published in late 2018. Of the six “innovation activities” it measured – ranging from low-level to radical innovation – larger providers were far more likely to undertake them than small providers. “Indeed, as the number of employees doubles, the probability of innovation increases by nearly a quarter,” it said.

Providers whose main market segment was residential conveyancing were among those most likely to undertake any or all of the activities. This is probably because of the tighter margins and strong consumer focus shared by those firms.

It is also positive for conveyancers that alongside a thriving proptech and legaltech market, HM Land Registry is taking a lead. Its stated goal is to become the world’s leading land registry for speed, simplicity and an open approach to data. Key to this is digitising services that will make the process of buying and selling property easier.

To enable this, in 2017 it launched Digital Street, a research and development project exploring how land registration might work in 2030.

Mike Harlow, acting chief executive of HM Land Registry at the time of speaking, explains: “The important thing for us is to make sure that what we do tomorrow helps the industry develop. If we do tomorrow what we have done for the past 157 years, we will be a drag anchor on the economy because we will still be asking conveyancers to submit what looks like paper applications in an electronic form.

“So, we are keen to understand what the future looks like. What can we do to enable that to happen? Because we are a monopoly, we have to understand what our role is in enabling the market place to be the best that it can be.”

He finds it “extraordinary” that you can stand in someone’s kitchen, shake hands and agree to buy a property without even knowing how the seller would answer “some really basic questions which might completely deter you from buying the property. You haven’t even seen the public information which is readily available to help make your buying decision.”

This is why HM Land Registry has developed its digital local land charges service. Under the Infrastructure Act 2015, responsibility for the 316 local authority registers is being transferred to the Land Registry in a phased approach, beginning in summer 2018.

Says Mike Harlow:

“We are doing what we can do as a public sector organisation and Land Registry to make data properly digital and properly available in all of the ways that people might want to consume it and repackage it and sell it or present it.”

Its other recent priorities have been how smart contracts can enable interactions with the land register; the benefits, and possible applications, of distributed ledger technology (blockchain) for land registration and conveyancing; and how identity can be checked once and shared securely across the buying and selling process.

There have already been significant milestones. In April 2018, the first digital mortgage deed was signed and entered into the land register, with applicants using the Government’s Verify system to prove their identities.

By last October, HM Land Registry celebrated registration of the 1,000th digital mortgage deed. It said some customers have been able to complete the remortgage process in three days, 18 days less than the average for a paper transaction. HM Land Registry said it planned to expand the service to all home owners in the future.

In April 2019, HM Land Registry also successfully tested a prototype blockchain involving the digital transfer of property ownership as a means of speeding up the conveyancing process. However, it was simply a “proof of concept” to ensure the registry was up to speed with the potential of distributed ledger technology. While blockchain is used for land registration in at least one other jurisdiction, it is not clear that the technology is necessary for these purposes.

Conveyancing is particularly responsive to lawtech and automation, because it is extremely cost competitive and conveyancers are anxious to meet increasing client expectations around the customer experience.

The Law Society’s Lawtech Adoption Research, published last year, said: *“Automation and digital solutions are slowly filtering through, particularly where law firms are beginning to deliver more services online. Conveyancing volumes in the larger, more commoditised and industrialised providers allow for process automation that can drive down the cost to serve. Examples here include Land Registry integration tools, production of welcome packs, and some mobile app services sharing information such as project milestones or automated notifications with the client.”*

But that research found new delivery models were “embryonic”. It said: *“The adoption of technology (most notably mobile) is key here and is forcing service providers across all sectors to invest in the digital experience.”*

It quoted the business development director at a large conveyancing firm on how this might impact law firms: *“Consumers are no longer comparing their digital experience with what others are doing in their service sector (for example, HSBC v Barclays), but are ranking one service provider against the best regardless of sectors (for example, HSBC v Amazon).”*

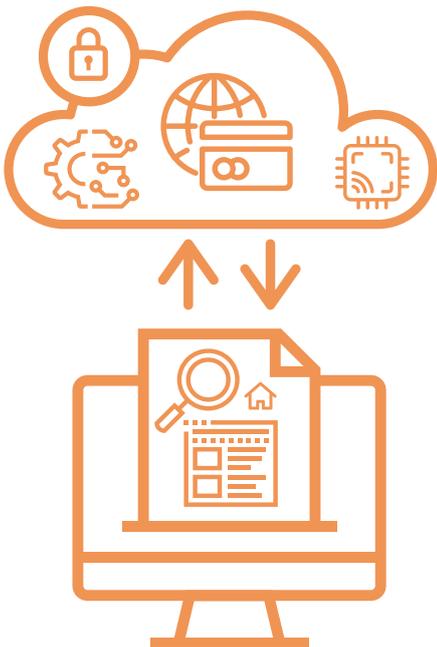
“Legal services are increasingly being judged against a range of other digital service providers that are much more advanced, and this will become increasingly problematic for law firms.”

A number of lawtech providers are developing mobile solutions specifically for business-to-consumer law firms, but this is still not a mainstream experience for customers as law firms remain reluctant to invest in technology, the report found, even when consumer behaviour and expectation is more advanced than what is currently being offered by most law firms.

“However, the research suggests that self-service law with minimal interaction with lawyers is not that far away. One B2C law firm executive said: ‘We would like to become a self-service law provider enabling individuals to do conveyancing via an app on their phone, with notifications, payment through Android or Apple Pay. There would be no need to call up or log on to portals. Providing direct access via a phone will get things enacted much faster.’”

Upfront information

While Home Information Packs are a thing of the past, the idea behind them – that buyers should have access to a lot more information about the property at the start of the process – is once again the focus of much work.



The Home Buying and Selling Group is a stakeholder body set up to assist MHCLG in developing and testing improvements to the home buying and selling process as identified by the department through its call for evidence.

The upfront information sub-group has created Buying and Selling Property Information (BASPI) – which has been described as intended to deliver “one source of truth” about a property.

As Beth Rudolf, director of delivery at the Conveyancing Association and one of those involved in the development of BASPI, puts it “What we really want is information that is completed at the beginning of the transaction before the property goes on the market so that the buyer can make an informed choice.”

This will be completed at the point of marketing and pre-populated with “authoritative” data that is available electronically. Around a third of the required data is currently available that way and the seller will be able simply to confirm whether it is correct or if anything has changed. The form will also be intelligent, for example recognising that certain searches are appropriate for the property’s postcode.

It will be accessible to the buyer prior to the offer as well as lenders, and sent to all parties with the memorandum of sale. This will include the valuer, reducing or eliminating the need for post-valuation enquiries that currently do so much to lengthen transaction times.

Ms Rudolf also suggests that lenders should have access to all the information out there on a property to identify whether that property is suitable for their own lending policies.

“So you could look at a property on a property portal with a ‘Lender approved’ banner across it that will make it clear that this is a title that is acceptable to the major high street lenders,” she forecast. Similarly, HM Land Registry is working with Nationwide Building Society, which wants to access Local Land Charge data instantly to inform its decisions in principle on mortgage and remortgage applications.

She adds:

Because we would like to see it available in digital format, it could be signed digitally and supported by biometric identity verification for the seller to establish that they own that identity and that it is the identity of the registered proprietor? How far would this go in terms of eradicating seller impersonation fraud and reducing claims, which in turn would reduce conveyancers’ insurance premiums that have currently reached an eye-watering high this year thanks to several big claims? That is all possible and would create a significant improvement across the entire process for all stakeholders.”

The key to the next stage of progress, however, will be a data standard that enables all of the parties’ different systems to talk to each other. Agreeing data standards and a scheme of the data with agreed fields and metatags is also part of the group’s work.

Lawtech firms are already looking at digitising BASPI and investigating how it could be integrated into their systems.

The Forces of change

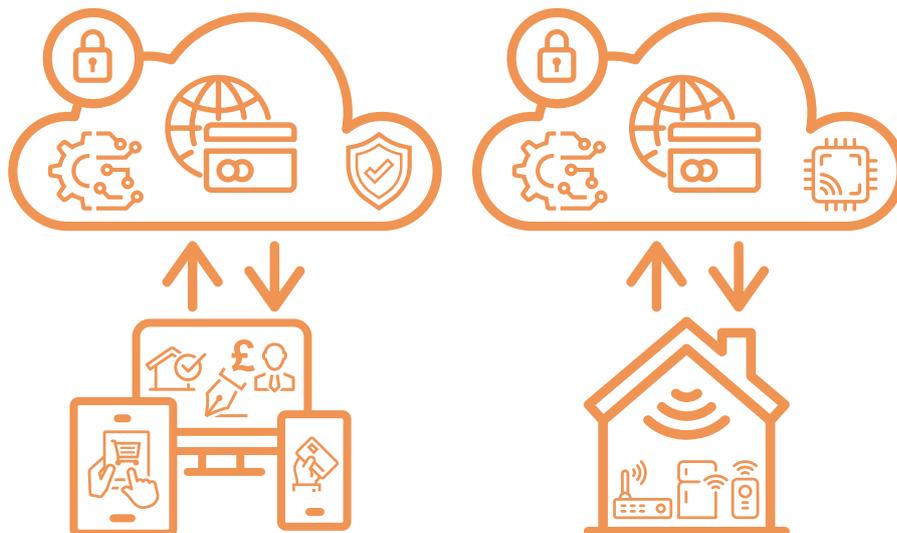
The UK in 2030 – the wider context

Brexit makes it hard to predict where the UK economy will be in 10 years' time, although a report last year from Standard Chartered predicted that the UK will have fallen out of the world's 10 biggest economies by 2030, as Asian countries' GDP rises.

The most recent UK population figure is 66.4m in 2018, according to the Office for National Statistics, and it is projected to pass 70m by mid-2029. This represents a slowing down of growth as people live longer and have fewer children.

"The ways in which people live are also changing with cohabiting families the fastest-growing family type and more young adults living with their parents," it added.

According to a PwC forecast in 2018, this slow-down in population growth means that, if the Government could achieve its pre-election target of building 300,000 new homes a year in England, this should exceed the increase in housing demand from projected population growth and should therefore start to make up the backlog from past under-supply.



Consumer behaviour

Certainly, consumer behaviour will have changed significantly by then as Generation Z (anyone born since 1996) matures. Global management consultancy AT Kearney's *Global Future Consumer Study* predicts that, while older generations will have affluence, younger ones will have influence, driven by personal values – rather than the value inherent in the product or service they are consuming – and hyper-connectivity, *"where markets can be moved through the amplified power of an individual voice."*

It will in future be trust, influence and personalisation – rather than affluence, advertising and scale – that drive the market, the study says.

Euromonitor's Households in 2030 report says single-person households will see faster growth than any other household type globally, a trend driven by younger singles exchanging relationships for careers and education, as well as the growing widowed and divorced elderly group. It will also be a more urbanised world, with more people living in flats. *"Countries such as China, Brazil and the UK will see surging growth in apartments through to 2030,"* it says.

Smart homes

Connected homes are already becoming the norm for many, whether through virtual assistants like Alexa, smart meters or doorbells with cameras that allow you to see who is outside your house from wherever in the world you may be. This trend will only accelerate.

A 2017 report by smart home technology company Andrew Lucas International foresaw that, by 2030, such technology will have become a standard feature in houses:

"Technology-focused new builds will create homes that are both extremely environmentally friendly and more resistant to environmental threats such as floods and fires."

Artificial intelligence will play a major role in the house of 2030, with predictive algorithms, inference engines and deep-learning networks helping smart home technology to contextualise its surroundings. *"Facial and voice recognition could immediately recognise various members of the household and provide informed responses to open-ended questions, as well as alter settings and trigger systems to create an ideal living environment without the need for any human interaction."*

A 2016 report by the NHBC Foundation, *The Connected Home*, looked ahead to developments like self-diagnosing and reporting mechanical and electrical systems, such as boilers, heat pumps and mechanical ventilation units that will diagnose their own faults, schedule routine maintenance actions and request appropriate action from a central service company. This takes us towards the idea of properties having and automatically updating their own logbooks, which we consider further below.

Access to internet-enabled tools at a property and the data they hold, will need to be considered as part of the transaction in future too. Work will need to be done to ensure that necessary data is preserved while the privacy of both seller and buyer is protected.



Reliable, trusted data will be the cornerstone of the digital property market and will be integral to the e-conveyancing process.



Housing trends

The UK experienced the largest fall in home ownership of any country in the EU since the financial crisis. According to data compiled by Bloomberg Economics in 2018, the proportion of people owning their own home collapsed from 73% in 2007 to 63% in 2016. And as many younger people see themselves as priced out of the housing market, it may be that Britain’s love-affair with being a property-owning democracy has waned.

Or it may come in different ways. One idea that has been floated is collective home purchasing schemes.

A Which? report *Consumers in 2030* – albeit published in the pre-Brexit days of 2013 – suggested that the increase in life expectancy over the coming years would decrease the value of many people’s estates, as savings are used to top up pensions, or are eaten up paying for care. Which? suggested that a scheme that allows online ‘teams’ of home-buyers to take out low-interest loans and support one another to make repayments, would be an attractive solution.

In 2016, Shelter produced a report entitled *The future of house and home: Scenarios for 2030*. It details a housing crisis that has developed from declining volumes of building, increasing prices, reducing affordability, and a dramatic shift in tenure.

It went on to lay out four scenarios (not predictions) detailing possible futures for housing and the home, depending on different institutional and political decisions, and different values about the purpose of the home. In summary, these were:

- **Growing Local:** Housing is devolved to cities and regions. Homes are more connected to shared spaces, but provision is geographically uneven.
- **Bricks and Mortar:** A large scale national housebuilding programme is the backbone of an economic regeneration plan. Housing is regarded as a right, but for cost reasons most new houses are compact, flexible and modular.
- **Rent Radicals:** The generational impacts of expensive rented housing, and its high public costs, leads to intervention in the housing market. There is a fairer market, but attitudes to housing and home tend to the functional.
- **Ragged Edges:** Home ownership is promoted in the face of falling numbers of homes bought through a mortgage. The home remains a nest egg – but is, increasingly, also a ‘cocoon’ – a place of retreat and security.

Shelter said:

“Taking this set of scenarios as a whole, it is clear that although our housing problems are deeply rooted, they are not inevitable. Things can get better, but that depends on the choices that we decide to make as a society.”

This all has to be seen against the backdrop of ever-rising house prices, although according to KPMG’s *Outlook for UK housing prices* report in September last year, the market has been “stuck in the slow lane since 2016”, with annual house price growth slowing to 0.9% in June 2019, from a rate of 8.2% three years earlier.

At the time of writing, the impact of Brexit is the great unknown and makes predicting house prices in 2030 difficult – although if longer-term trends re-establish themselves, then prices could increase by more than 50% by then.

What does this all mean for conveyancing?

In a study of the Australian conveyancing market, the consultancy firm Deloitte identified two “critical uncertainties” through which different futures could be imagined.

The degree to which conveyancing is digitally enabled versus digitally led: how fast actors take up continued digitisation, move towards automation and integrate new technologies into the industry such that conveyancing becomes a digitally enabled service delivered by people, or a digitally led service requiring less human input. This will be dependent on investment cost, customer demand, Government regulation or the industry working together to establish new standards.

The visibility of conveyancing as a distinct or embedded service: the extent to which customers and the industry move toward purchasing conveyancing as a separate, standalone service, or to which it becomes horizontally integrated into other elements of the property transaction process – such as real estate sales or banking and mortgage broking. This will be dependent on customer preferences, industry business models, cost and competition.

[The future of the Australian conveyancing industry 2025 and 2030, Deloitte 2018]





Future 1

Conveyancing will be a fully electronic process by 2030



This seems less a hypothetical and more of a racing certainty.

It is instructive to look at Australia. It has led the world on e-conveyancing, creating PEXA (Property Exchange Australia). The system provides an online secure 'workspace' which allows each participant in the transaction to talk to each other. All the documents are created within the workspace, signed and lodged online. This means conveyancers use PEXA to liaise with their client's bank, conduct title searches, lodge documents and transfer funds – paying any duties, taxes and other disbursements along the way – and ultimately register the transaction with the appropriate state land registry.

PEXA is the result of a concerted political effort that began in 2008 that saw various states gradually adopt an e-conveyancing law. The first full online transaction was carried out in New South Wales in 2014 and that state continues to lead the way, with all property transactions in the state moving online last July.

Paul Denny, a conveyancer who took part in that first transaction, said: *"When we don't do a PEXA settlement now, it's a real hassle. Looking back to the old method, in retrospect, it's so archaic. Now that people are on board, it'd be extremely difficult to go back to the way it used to be done."*

A 2018 KPMG analysis into the benefits of e-conveyancing in Australia found that the electronic platform not only reduces the potential risks associated with human error during a conveyancing transaction, but also delivers time and cost savings.

PEXA has already handled more than two million transactions. The Deloitte report predicted that, by 2022, the majority of transactions would be conducted electronically.

Eddie Goldsmith, a founder, former chairman and now executive member of the UK's Conveyancing Association, explains that, at the time PEXA was introduced, conveyancers in Australia were still undertaking personal completions. Now, it is way ahead of England and Wales, and conveyancers are still involved – evidence that end-to-end digital conveyancing is not their death knell.

"We're fiddling around at the edges at the moment – there's no appetite to review the actual process itself," he argues. "There's some good stuff going on around leasehold, more upfront information and reservation agreements, but ultimately we want a transformation of the conveyancing process."

For him, that future is similar to Australia, where a home buyer will go to an estate agent, find a property, put down a holding deposit and agree a completion date for 60 or 90 days hence, leaving the office knowing they are going to buy it. *"The current levels of uncertainty are not acceptable,"* he argues.

The UK is heading in the same direction as PEXA – especially as the Land Registry intends to have all land in England and Wales registered by 2030 – but neither as quickly nor in such a focused way. In its 2018 response to the call for evidence, MHCLG predicted that progress towards e-conveyancing would be made “via a large number of small increments rather than a single panacea.”

It continued: “We do not think that mandating a move to e-conveyancing through legislation would be helpful at this point, although we acknowledge that this has been successful in countries such as Australia. However, we do want progress to continue to be made, so we will be setting up a technology working group to help drive through changes.

“Amongst the first items this group will look at is digital signatures and ID verification. We are also investigating routes to market for innovative digital solutions.”

Whether e-conveyancing is mandated or not, the trend for conveyancing to become increasingly concentrated in specialist firms is likely to continue. Whether it is owing to the rise in professional indemnity insurance premiums, the need to invest in technology or specialist requirements to combat fraud, we can expect the trend will be away from generalist legal businesses undertaking a modest number of conveyancing transactions each year.

Issues identified by the CLC for discussion:

As conveyancing becomes ever more automated, what are the implications for how the consumer is protected? Will digital conveyancing demand a new regulatory approach or will principals of legal businesses remain accountable for the output of the technology they either develop themselves or buy-in?

While it is possible to envision a time when technology could replace the conveyancer, will clients ever be prepared to have a purchase as significant as a property transaction proceed without the involvement of a qualified lawyer to advise them and ensure their interests are protected?

Technology also has the theoretical potential to enable ‘unbundled’ conveyancing, with the consumer taking on more of the process for themselves. This raises a number of issues that will need to be tackled for it to become a reality. How will the conveyancer’s responsibility to other parties (such as lenders) be protected? Will consumers understand and be willing to take on additional risk and who becomes liable if things go wrong? Will the insurance market develop products that will enable conveyancers and consumers to share risks?

Just because it may be possible for this to happen, will it actually be a positive for consumers and how will it affect the profitability of conveyancing practices? These are challenging questions that we do not attempt to address in this paper.



There have been attempts in the past to use technology to improve the home-buying process, such as the Land Registry’s Chain Matrix system back in 2007. However, none has yet come to fruition, perhaps because they were ahead of their time. What are the barriers to success and why may the next decade be different?

The Government have previously ruled out mandating changes, but is this incremental market-led approach the right way? Should e-conveyancing be mandated? It would undoubtedly have a huge impact on the market, with the long tail of ‘part-time’ conveyancers less likely to have the ability to cope with this. But if progress is too slow, when should Government move from encouragement to compulsion?

Professor Nick Hopkins

Under the model of electronic conveyancing envisaged by the Land Registration Act 2002, all aspects of a transaction, from the provision of information to the registration of dispositions, would occur electronically. This would close the registration gap: an interest would be registered at the same moment that it was created, with completion and registration occurring simultaneously. The registrar would have oversight of transactions on an electronic network – though ‘chain management’ – although they would still be conducted by a conveyancer as the ‘chain manager’.

The Act does not implement this vision directly. Rather, it contains rule-making powers, intended to allow the provision for electronic conveyancing to be based on technological developments. These include the power to ‘switch off’ paper-based conveyancing, but only once simultaneous completion and registration is possible.

The Act was drafted in the expectation that electronic conveyancing would develop relatively quickly, but it has not happened that fast.

In July 2018, the Law Commission completed an update of the Act. The project was not designed to fundamentally reformulate the legislation, but to improve specific aspects of its operation within the existing legal framework.

The review found that it was not practicable to move directly from a paper-based system to electronic conveyancing based on simultaneous completion and registration because the technology does not exist *“in a form that is sufficiently cost-effective, widespread and integrated with other aspects of the conveyancing process”*.

Rather, says Professor Nick Hopkins, the Law Commissioner in charge of the project, for electronic conveyancing to become a reality, the legal framework needs to be amended to allow development to occur flexibly and incrementally. *“Our consultation found a lot of support for what Act was trying to achieve – particularly closing the registration gap – but that it was necessary to take steps rather than a giant leap.”*



Under the commission's proposals, the Act would still allow for simultaneous completion and registration once the technology allowed, however.

It also said that some of the benefits of electronic conveyancing might only be achievable once it became compulsory: *"For example, the benefits that can be obtained through chain management might fall away if any part of the chain is being conducted through a paper-based conveyance. Moreover, once electronic conveyancing has been adopted by the vast majority of users, it may become inefficient and expensive to operate a parallel paper system."*

But Professor Hopkins says he was struck during the review by how the system *"works when it facilitates rather than prescribes"*. At the same time, he acknowledges that the move towards electronic conveyancing needs someone driving it, but the review was confined to considering what the Act itself should provide for.

A review of the home-buying and selling process – the Law Commission's most recent consultation on its work programme did see *"a number of people"* call for this. He says: *"We would be very happy to look at it. Under the protocol with the government, we can only look at an area if Government agrees that the Law Commission should conduct a review and the relevant minister indicates that there is a serious prospect of reform. If they did so, I think there would be a lot of support within the Law Commission."*

Looking longer term, Professor Hopkins is intrigued by the implications of increasing data about properties. *"There are currently a limited number of repositories for information about land, of which the land register is the most significant. If other living databases around land arose, that could raise general questions about the sort of information we want to have on the register. What about those pieces of information that would be useful to capture but do not have the same status as what is on the register, such as the land's environmental footprint, school catchment area or bin emptying days?"*

The commission's final report recommended other technical reforms to iron out the kinks in the law and help prevent fraud. The Government's preliminary response in January 2019 was that many of the recommendations were *"likely to be acceptable in principle"*, but its final response has still to be published.



The system works when it facilitates rather than prescribes.



Future 2

Money and financial information will move around quickly and securely



Fraudsters have successfully targeted the property market, attracted by the large sums of money that are on the move. This has encouraged new solutions and third-party managed account (TPMA) providers are at the forefront. The rules of both the CLC and the SRA allow for the possibilities they offer.

TPMAs use a single central client account to handle transactions on behalf of buyers, sellers and mortgage lenders – they take place simultaneously, rather than sequentially as now. This has the potential both to improve the client experience and, crucially, reduce the risk of fraud.

In 2018, one of these providers, Shieldpay, completed the UK's first fully digital mortgage settlement with Barclays and MyHomeMove, and the support of the CLC as the latter's regulator. Shieldpay provided a digital escrow facility to take charge of the purchase money, pay the seller; in time it will be able to pay both the stamp duty and HM Land Registry fees for the property. Other TPMA or escrow providers are also developing products for the conveyancing marketing – Thirdfort is the other notable start-up in this market.

In Australia, PEXA has launched an app which provides a guaranteed secure communication channel for bank account details to be shared between practitioners and their clients.

Alongside these property-specific developments is open banking, a secure way to give financial services providers access to individuals' financial information. This could significantly assist lenders in speeding up the mortgage process.

The Open Banking API is a secure way to give providers access to individuals' financial information, enabling customers to aggregate and integrate their products and services from different financial institutions. It has been used by Thirdfort to undertake source of funds checks. The system aims to improve the speed and rigour of identity checks by removing the need for firms to inspect physical passports and documents.

Better tools should streamline the process and provide greater certainty to all parties involved. As the Thirdfort product shows, new applications can aim to use data to seamlessly protect vendors, prevent fraud and enable property lawyers to fulfil their anti-money laundering obligations.

Issues identified by the CLC for discussion:

As new risks emerge, is the regulatory system ready to ensure that those risks are managed effectively through regulation by legal and financial specialist regulators?

As new solutions emerge, there are multiple regulators with a potential interest in property transactions, including legal, financial and information. Should legal regulators take the lead in developing common standards for providers or is this a financial regulation matter?



Future 3

It's all about the data



Reliable, trusted data will be the cornerstone of the digital property market and will be integral to the e-conveyancing process. In 2017, the Government established the Geospatial Commission, which aims to maximise the value of information relevant to location – geospatial data. It is working with six core partners, including HM Land Registry, Ordnance Survey and the Coal Authority.

When combined with the BASPI discussed earlier, it all leads into the idea of property logbooks, which is a hot topic in the Home Buying and Selling Group. Rather than going through an arduous process of aggregating all the data needed to transfer a property and then leaving it in a dead file, it would be far better to keep the information accessible so that it can be downloaded when the property is next put on the market and updated as necessary.

As data flows more freely, with live data streams and blockchain, the logbook can become dynamic, updating automatically, and even be connected directly to the property through the Internet of Things. In other words, a real-world property could have an accurate digital twin.

Indeed, Andrew Lloyd, managing director of Search Acumen, suggests that live data and blockchain could render the entire search process redundant: *“It could be that, within a decade, property searches as we know them cease to exist. Instead, incorporating several streams of live data will allow lawyers to call on the most up-to-date data sets needed in the due diligence process all by simply searching an address or title number.”*

Artificial intelligence could also change the work of lawyers, analysing the data and producing exception reports to flag up the areas on which lawyers need to focus.

Kris Clark, chief innovation officer and head of AI strategy at Landmark Information Group, says: *“Our goal is to ensure that the next generation of data products and services have less friction, fewer manual interventions, and surface the right level of information upfront to support legal professionals in streamlining conveyancing.”*

“There should be less waiting for information, less reliance on reading and interpretation, and more time for fee-earners to focus on delivering excellent customer experience to clients.”

Law firms sit on a wealth of data and know-how, and with the right tools to analyse and interrogate this data, they could move away from the administrative side of the work to the pure advisory – which is why they qualified in the first place.

Interrogating and analysing data will serve to maximise the value of the advice offered to clients, changing the conversations taking place with clients. Instead of simply pointing out a risk, the lawyer could put it into context, for example saying that the risk is one shared by two-thirds of the properties in the area and has proved not to be a problem.

This is a future where lawyers need to start acting as data scientists by recognising and capturing the value that they have in theirs and their clients' data. Married with contract analytics, natural language processing and machine learning, law firms could generate powerful, useable data.

Blockchain and distributed ledger technologies

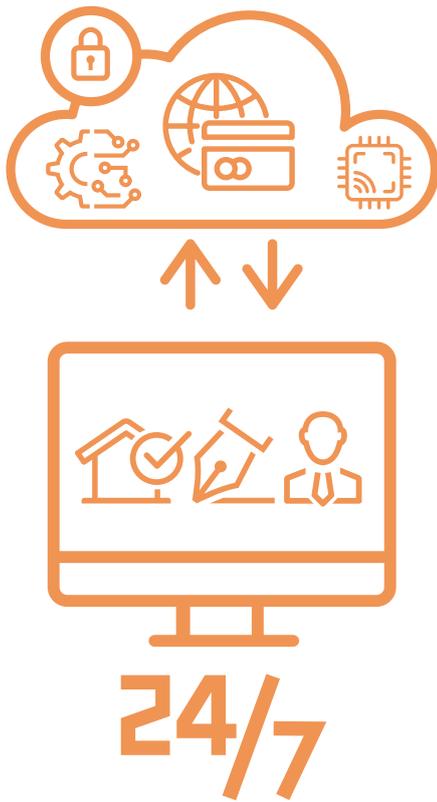
Blockchain could be a key to this future. Once there is a common standard – one blockchain for land – the possibilities open up. The Land Registry is almost certainly where this change would originate.

But it is not alone. Last year, start-up company Instant Property Network – which is also involved in the Digital Street project – ran its own worldwide trial involving international law firms and banks, and found the time taken to transact properties could be cut from over three months to less than three weeks.

The trial, which was facilitated by enterprise blockchain software firm R3, ran transactions using test data through a new distributed ledger to simulate residential property sales over a five-day period. It was unusual because the platform being tested did not store data but integrated participants' own technology.

IPN said the trial *“showcased how duplications and costly reconciliation processes could be removed from the buy/sell process, with the first transaction taking less than an hour to complete.”*

Tara Waters, a partner at City of London law firm Ashurst, which was one of those involved in the trial, says: *“The IPN trial has demonstrated the efficiency of enabling multiple parties to work on a single property transaction using a shared technology platform. The addition of distributed ledger technology to residential conveyancing enhances transparency, trust and certainty in a process that for many can seem opaque, inefficient and outside of their control.”*



“We believe that the success of the IPN trial represents an important first step towards the digitisation of the wider real estate sector. To have so many stakeholders participating is a testament to the transformative value that distributed ledger technology can bring to the sector.”

There are, of course, a significant number of hurdles to overcome with a system of this nature, such as dealing with local law requirements. Plus there is huge hype around blockchain and distributed ledger technology (DLT) that inevitably makes some people sceptical.

But there are plenty of enthusiasts too. Search Acumen took part in the trial and Andrew Lloyd says: *“DLT essentially allows many parties to remotely access the same digital documents. A distributed ledger is able to ‘cut out the middleman’ who would traditionally have been the conduit that sends the document from one party to another when each stage of a property transaction is completed.*

“With DLT, the network can function without a central administrator. It allows accounts and documents to only be visible to those that need to see specific records, rather than every item held within the ledger.

“Take for example a mortgage provider, estate agent and conveyancer involved in a transaction. DLT would make it possible for mortgage provider and conveyancer to have shared ownership of two documents that the estate agent isn’t privy to, while the conveyancer and estate agent can view and edit three others the mortgage provider can’t. All of them would also be able to have their own data points only they can see. This way, the conveyancer has overview of the process without being dependent on the other parties.” Where blockchain may help, Mike Harlow of the Land Registry suggests, is delivering *“the single source of truth for all parties rather than everyone shuffling the information around each other and somebody missing something.”*

With the development of chain views as well, there is an increasing focus on collaboration in the home buying and selling process, but there are concerns that smaller law firms will not adopt the technology required to drive this – through inertia, unwillingness (because they do not do enough work to justify the investment) or being unable to afford it.

Issues identified by the CLC for discussion:

The centrality of data to the future raises big issues that are already live in other sectors. If the data becomes the single source of truth, then what needs to change to ensure all parties can trust the data? Who will validate the information and who becomes responsible if that data is incorrect or something goes wrong?

To enable data to flow across the system and to allow interoperability, there needs to be agreed standards for the data itself. Should the standards be developed by consensus or is there a role for Government or others?

As providers begin to develop different standards and seek to impose their approach, is there a risk that they effectively become non-statutory regulators mandating change without any oversight and imposing additional burdens on businesses? There are already many similar pressures on conveyancers from other players who set rules for engagement in the process.

Can insurance play a role in providing a backstop if things go wrong for consumers or is the potential detriment such that we need different safeguards?

Improving the UK’s standing in the World Bank’s Ease of Doing Business index² has previously been of concern to Government. A low ranking on the ease of property transfer drags down our overall rating. Would changes such as BASPI and the other work of the Home Buying and Selling Group have a material impact on how easy it is to move and so increase our performance against competitor nations?

² https://www.doingbusiness.org/en/data/exploreconomies/united-kingdom#DB_rp

Future 4

The conveyancer's role is going to change



Beth Rudolf of the Conveyancing Association agrees that the future is *“all about the data.”* But while machine learning, artificial intelligence and blockchain should remove much of the grunt work from the process, *“fundamentally the consumer will still need to receive advice as to what the data means to them.”*

She continues: *“We will see a digitally supported transaction that is controlled by the consumer. Perhaps they will have an app on their smartphone, and once all the data is collated automatically, the consumer will then be able to speak to a conveyancer in whatever way they wish. I say ‘speak’ – it might be chatbots, it might be phone calls or video calls or face to face – but the conveyancer can then explain to them the impact of that information on their intended use and enjoyment of the property and the suitability of that property for their needs.”*

Mark Montgomery, chief strategy officer at Simplify, owner of conveyancing giant Premier Property Lawyers and three other top-ten conveyancing firms (APL, DC Law & JS Law), agrees that the counselling aspect of a lawyer's role will become more important as e-conveyancing takes over. *“The more you take online the less comfortable some consumers will be,”* he points out. *“Even for digital natives, it's human nature to want some personal professional reassurance.”*

As much of the administrative side of the role becomes automated, the focus will be on advisory work where the quality of service – as rated by external quality indicators along with comparison or feedback websites – will be decisive in where instructions go.

Mike Harlow stresses the importance of consumer protection. *“We have to recognise that, however much you might want to put on a white sheet of paper a really simple system, ultimately people have conflicts of interest in the process and they need to be separately represented. So that gives you a design problem, which is if you're trying to design out the number of contact points, you cannot reduce the number of parties down beyond a certain number. Somebody somewhere has to protect the consumer on either side.”*

Mark Montgomery says: *“The conveyancing market is just so fragmented. You've got six lenders accounting for 70% of all lending and then only about 60 others – whereas there are over 4,000 active conveyancing firms most years. Amongst those, there are probably only 200 or so that are specialist conveyancers with the scale and ambition to invest in technology and commit to changing the way that they work. Collectively those 200 firms only account for about 40% - the top six account for less than 10% of the market.”*

“So we've got this massive tail that the industry needs to somehow engage in whatever process and collaboration we can come up with, because without that we can all be doing the best we can with all the technology but if we're part of chains, we have to go at the pace of the slowest.”

But Mike Harlow stresses that this is *“an inherently conservative sector of the economy”*. He talks about partners he knows in commercial property law firms that file emails, do not have a case management system and don't even know what electronic signatures are. *“They are a long way off and they have the money to invest. They just don't see the need.”*

Issues identified by the CLC for discussion:

What are the new skills conveyancers may need to succeed in this new world? Will the curriculum for trainees need to change and can ongoing training support those who are already working in conveyancing? Will it be the role of regulators to set competences in this area?

How do we ensure users of systems understand why they have to do something rather than just what they have to do?

Do regulators have a role in facilitating the use of new technology within regulated businesses?



There should be less waiting for information, less reliance on reading and interpretation, and more time for fee-earners to focus on delivering excellent customer experience to clients.

Future 5 The shape of the conveyancing market will change



To go back to Bill Gates, if you look back at the legal market in October 2011 – when the CLC licensed the first ABS – things have changed a lot since then.

Law firms have floated, accepted private equity, combined with other professionals – all of the Big Four accountants have legal services ABSs – been created by membership organisations and much more besides. There are now more than 1,000 ABSs. It may not have been the ‘big bang’ of Tesco Law, yet slowly but surely, the legal market is transforming. By 2030, supported by technology opening up new ways of providing services, this is likely to have accelerated.

Will it be the big brands though? There is some doubt now. David Jabbari, the head of conveyancing firm Muve, tried to bring ABSs into the retail mainstream for several years. But he says his thinking has changed, because the entry of big brands into legal services – about which he was once “evangelical” – has not materialised and would not now happen.

He says legal services do not provide enough financial benefit to those companies with strong brands and high lifetime customer value to risk a slow conveyancing transaction damaging their long-term relationship with a customer.

A bigger picture question is whether conveyancing will survive as a service delivered by separate providers or become part of what an estate agent offers. Consumer expert Mark McLaren, who sits on both the Legal Services Consumer Panel and the board of the Property Ombudsman, says his experience is that “consumers basically don’t understand the conveyancing process.” And, as previous CLC research has found, they don’t really care. What the consumer wants is for the transaction to happen speedily and with minimum fuss.

Mark Montgomery says the reason why large estate agencies have yet to enter conveyancing in a major way “is because it’s quite difficult, and because the market is very cyclical – it’s proven easier, in the past to flex estate agency staff in branches than it is to flex conveyancing professionals.”

Eddie Goldsmith of the Conveyancing Association, agrees with this and suggests it might also be that lenders feel more comfortable with an arm’s-length panel lawyer who can be sued.

Another consideration for the corporate estate agents is whether the figures stack up better with the current system where they receive referral fees from independent conveyancers or with having control of the whole process.

But as the conveyancer’s role becomes more focused on the advisory, consolidation will occur – and the figures on active firms in the market indicates that it already is – and estate agencies will find it easier to provide legal services using ABSs.

“The interesting question is how,” says Mark Montgomery, “because if you are a large estate agency and you want to buy a big conveyancing firm, that firm’s already got some value which would be destroyed by you getting rid of all of their natural other business. If the other alternative is to buy a small conveyancing firm, they then have to learn how to build that into a big firm. At the moment, it’s actually easier for those different parts of the market to collaborate effectively.”

Indeed, he speculates that the technology may actually move some lawyers in the opposite direction: “With the right support, I could see an army of experienced sole contractor conveyancers working from home, dipping in and doing that expert conveyancing work through some third-party platform, not needing to be part of a law firm and commute for an hour to get there.

“The challenge will be around whether individual conveyancers want to take on the personal risk of running their own business or do the same thing as a home-based employee of an existing firm, supported by technology for remote working.”

And as new ways of practising arise, such as the SRA’s freelance solicitors, this becomes ever more feasible.

Eddie Goldsmith warns that “if we don’t think our world is changing, then we’re deluded”. He continues: “If you’re an optimist here, it gives you the opportunity to be that person that you actually qualified to be – which is giving advice. We didn’t qualify to push paper around and if you look at a standard transaction, 80% of it is admin.

"The greatest threat to all conveyancers is a third-party disruptor coming in and saying we can offer something better than that – digital conveyancing is where they will see the opportunity," he asserts.

He predicts that, in 10 years' time, there will be no more than 1,000 active conveyancing firms as a result of huge consolidation. *"If I was a young, resourced conveyancing firm now, I'd be looking to merge or acquire,"* he says. This will be against the background of clients having greater control of the process, in turn reducing the conveyancer's role.

He envisages several potential futures for conveyancing firms, from the consolidator and aggregator, to the niche firm specialising in "non-standard" matters and dedicated lender firms.

Mr Goldsmith stresses that there will still be plenty of non-standard work and clients who want a face-to-face service, but that will cost consumers more money.

Longer term, though, he can see the rise of what he calls the 'iConveyancer' – software programmes that allow the client to control the process with little or no involvement of a lawyer. This will require sophisticated AI that is not available at the moment, as well as have digital end-to-end conveyancing, but it is a viable prospect.

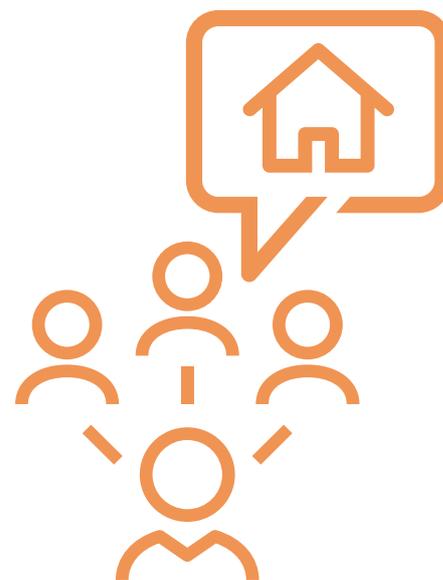
So technology is, of course, a threat as well as an opportunity. As Alan Ainsworth from the Open Banking Implementation Entity puts it, if the collection of data is automated, *"you'll find that the business model changes as the current model is disrupted by tech firms that come in and automate the whole process, meaning the only reason you would need a lawyer is for more expert, added-value or complex aspects of the transaction."*

Issues identified by the CLC for discussion:

Conveyancing businesses are exposed to many factors out of their control, including the overall condition of the economy, the state of the housing market, and changes in attitudes and demographics. As we discussed earlier, CLC practices recovered from the credit crunch better than others, but how do we ensure that firms are able to prepare themselves for future disruption?

Will new business models need to emerge and will the existing predominate model of the practice survive? How may legal businesses need to structure to ensure they can compete and will this entail different forms of entity and different funding models?

Disruption in many sectors has been driven by consumers availing themselves of the new technology and so driving change. But given that home purchases are a rare occurrence for most, consumer influence may be less powerful and less effective in driving change. So, where will the power and influence to drive change reside?



I could see an army of experienced sole contractor conveyancers working from home, dipping in and doing that expert conveyancing work through some third-party platform, not needing to be part of a law firm.

Future 6

Regulators will need to be flexible to keep up



One of the major challenges facing regulators such as the CLC is understanding the underlying systems that will be developed over the next decade, often by third-party providers.

Stephen Ward, the CLC's director of strategy and external affairs, says the regulator's role will likely be to set the standards against which licensed conveyancers can judge such systems. *"I don't think that we would ever get into regulating the tool but what we would be doing is setting and policing those standards, perhaps doing some kind of check from time to time."*

He points to the CLC's work on third-party managed accounts.

One risk to consider is the impact of disaggregation and whether, in making everything as efficient as it can be, you lose the whole point of what you are supposed to be doing. Does the person pressing the button to send a document to the Land Registry understand the implications?

This is the risk with disaggregating process. The danger of making everything as efficient as it possibly can be is that *"you lose the whole point of what you're supposed to be doing"*, Mr Harlow cautions.

Stephen Ward stresses that the CLC will continue to see the principals in firms as accountable and responsible. *"Where we see problems arising today with the current technology is that problems arise when the principals in a firm think that by, for example, outsourcing their accounting, they no longer need to understand what goes on in the accounting 'black box'. That's misconceived because the managers of the law firm are the people who we will strike off if anything goes wrong – not the parties providing the accounting system."*

Concurrent with the development of this Discussion Paper, Professor Stephen Mayson of UCL Centre for Ethics and Law has been carrying out the Independent Review of Legal Services Regulation. While that review's remit is far wider than the regulation of property lawyers, his interim report identified a mismatch between consumer expectations of regulation and protection, and the current structure as established by the 2007 Legal Services Act.

The interim report saw all legal services being regulated, but providers subject to different requirements depending on the work they do. It suggested that, among other benefits, it would enable the regulation of lawtech. The report added: *"The ability to treat lawtech as offered by a 'provider of legal services' could bring all forms of legal technology into the regulatory framework, whether or not it is provided by an individual or entity already subject to regulation."*



I don't think that we would ever get into regulating the tool but what we would be doing is setting and policing those standards, perhaps doing some kind of check from time to time."

Issues identified by the CLC for discussion:

Will new technology require changes in the way we regulate to ensure public protection? Is an outcomes-focused structure where responsibility ultimately resides in the principals of regulated businesses still the best way to deliver protection?

As the AI 'black box' begins to guide legal decisions, will legal regulators need to widen their remit to cover the technology firms developing the systems used by conveyancing practices?

Does the potential for regulators to have access to the technology being used in firms allow for more rapid real-time intelligence and compliance monitoring? What should the relationship be between regulators and the technology developers and does this mean that regulators need to become more involved in the development of technology specifications?

As Professor Mayson argues, does the current regulatory structure provide an incomplete and limited framework for legal services regulation that will struggle in the near term and beyond to meet the demands and expectations placed on it? If so, how does the regulatory system need to adapt to ensure it is ready for future changes?



In summary – Moving home in 2030

“People are always looking for the single magic bullet that will totally change everything. There is no single magic bullet.”

Temple Grandin

The role of the conveyancer is undoubtedly going to change as much of the administrative side of the role becomes automated. The focus will be on advisory work where the quality of service – as rated by external comparison or feedback websites – will be decisive in where instructions go.

Technology will radically improve transparency for consumers about what they are buying and the progress of their transaction. Because of the Internet of Things, properties will maintain up-to-date logbooks with little human intervention.

It might not be clear yet exactly when the real impact of the next wave of tech will hit, but look at the speed with which smart phones went from an oddity to being ubiquitous. Not only that, but the voice-calling element is less and less important as people adopt messaging apps and use the phone as a platform for navigation, shopping, social media and so much more. The challenge for all of us is to be ready to benefit from those innovations when they come.

Conveyancers will bank both time and cost savings, to be reinvested in improving the quality of service, upgrading technology and ensuring cyber security.

The number of active conveyancing law firms will continue to fall as consolidators continue to grow, estate agents offer a combined service, and the investment needed for the technology prices some small firms out.

As the role changes, conveyancers will need to invest in training and skills acquisition for themselves and their staff. Soft skills such as communication skills, listening skills, and empathy will become ever more important as the ability to build relationships becomes even more central.

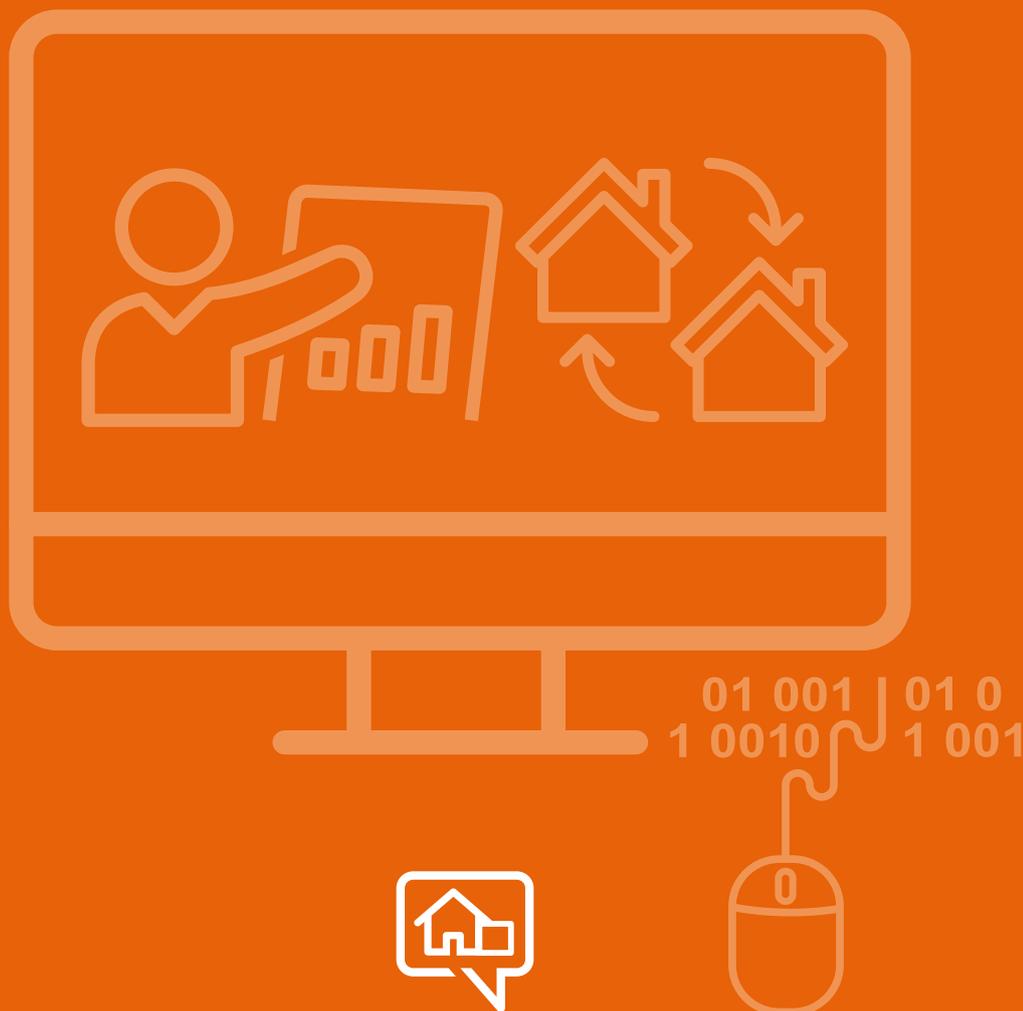
We finish where we began, with Bill Gates' quote:

“We always overestimate the change that will occur in the next two years and underestimate the change that will occur in the next ten.”

He then went on to say:

“Don't let yourself be lulled into inaction.”





The greatest threat to all conveyancers is a third-party disruptor coming in and saying we can offer something better than that – digital conveyancing is where they will see the opportunity.



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