



LAW SOCIETY
OF IRELAND

OPENING STATEMENT TO THE JOINT OIREACHTAS COMMITTEE ON JUSTICE

SELLERS' LEGAL PACK FOR PROPERTY BUYERS BILL 2021

2 JULY 2024

Introduction

Good afternoon, I would like to thank the Chair, and members of the Committee, for the invitation to meet with you today.

My name is Mark Garrett, Director General of the Law Society of Ireland, and I am joined by colleague, Eleanor McKiernan, Chair of the Law Society's Conveyancing Committee.

The Law Society has consistently, over many years, highlighted the antiquated, overly complicated, and the lengthy nature of the conveyancing system. It is crystal clear to solicitors that the current conveyancing system is long overdue systemic reform – to reduce delays, to reduce costs and to reduce stress on house buyers and sellers.

The conveyancing system involves up to 15 interdependent parties, ranging from lenders, estates agents, solicitors, local authorities, Tailte Éireann, Revenue, Uisce Éireann, valuers, to surveyors. This means a delay by any one of those parties has a significant knock-on impact on all parties, most notably for the people who wish to sell or purchase a house.

It is also important to note that many of the parties in the process (for example, financial lenders or local authorities) operate to their own processes and protocols, which can result in misalignment of objectives and deadlines.

The experience of legal practitioners is that delays can be weeks, months and in the worst cases sometimes last for up to 5 years (or 260 weeks). The process can only be described as dysfunctional and, at times, chaotic.

We welcome the opportunity to discuss this Bill, but more importantly the reforms needed with the processes for buying and selling property in this country.

In recent submissions to the Government's Housing for All Working Group, the Department of Justice, the Department of Finance and the Department of Housing we have outlined a number of key reforms that could be undertaken to help reduce delays in the conveyancing process.

Two simple examples are:

- Every local authority in the county has a different system for requesting and issuing confirmation of what roads, lanes and services are within their charge. There are different means of requesting confirmation, different fees, and different timelines.
- When it comes to planning, a solicitor, on the buyer's behalf, must investigate the planning history over 60 years to determine whether or not there is unauthorised development even in circumstances where no planning enforcement can be taken (mostly that's seven years). This increases costs, time and risk for a buyer or seller. If there is unauthorised development the buyer may not be able to get a mortgage to buy the property. That's a big waste of time and cost for something that can be easily rectified by a change in the law.

As a part of Law Society's submissions to multiple Departments we have outlined six necessary actions to consider in order to reduce delays in the conveyancing process. They are:

Six Necessary Actions to improve & speed up the conveyancing process

1. Adherence to the Certificate of Title system's agreed terms and timelines by all banks and financial institutions operating in the Republic of Ireland
2. Adoption by all Local Authorities of digitalised and standardised forms of request/reply and reasonable fees and turnaround times for 'in charge' letters.
3. A roll-out of a central document management system at the Property Registration Authority (PRA), now part of Tailte Éireann.
4. End historical and unnecessary review of unenforceable planning decisions through the recognition of "established non-conforming developments".
5. Modernisation and digitalisation of Statutory Declarations and Statements of Truth.
6. Review of the regulatory burden and delay that arises from associated public policy issues (especially the collection of taxes) on the conveyancing process.

The Bill

The Law Society agrees with the broad objectives of the Sellers' Legal Pack Bill.

There is an imperative that the processing time of property transactions is reduced and the many inefficiencies in the conveyancing system are addressed.

However well-intentioned the Bill may be, the Law Society is concerned that the operation of this Bill in practice will have unintended consequences, which will promote inefficiency at the individual transaction level and increase costs for consumers.

The Law Society's Conveyancing Committee has conducted an expert review of the Bill and highlighted some concerns in our submission. The most significant of which are additional costs and delays in an already complex system.

For example, significant time would be required to obtain all information needed, especially as some documentation is not currently compulsory for the completion of a property sale. As the Pack would be supplied to all potential buyers, rather than just the final sale agreed buyer, then it is likely to increase the number of parties, including solicitors, in the process leading to more questions, more documents, more time and more costs. Not in every case but in a substantial number.

Moving forward

The Law Society has long advocated that the current conveyancing system is well overdue systemic reform, and unequivocally supports reviews in the conveyancing process.

In addition, the Law Society calls for a renewed impetus to the collaborative effort to implement e-Conveyancing, a digital process to speed up and secure property transactions. Meaningful reform in these areas will have an important and positive impact on the system to the benefit of sellers, buyers, and the overall housing market.

We welcome any questions you may have. Thank you.



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