

Back to the Future

Registrars of Title Conference 2017

A look back to 1617 from 2017 and 2027

- What is the shape of conveyancing and registration practice?
- What have we learned?
- What have we still to do?

1617:

- Practice before the Sasine Register
- Benefits of a central Register
- Title and Possession
- Foundation of our current system of registration practice
- In its time, a radical change and a foundation for economic development

2017:

- A lot has happened in 400 years but the shape of a conveyancing transaction is still much the same
- ARTL – an innovative change which was ahead of its time
- Dramatic pace of change since 2004 in Scotland
- Like a tsunami to some, an opportunity to others
- Do we have all the necessary building blocks for the future in place?
- 2012 Act – a necessary reform: Voluntary Registration; KIR; and Digital Discharges

2017 Cont'd:

- Digital Transformation Programme by 2020
- Must remain bold and make transformational change
- Use the legislative base to create a new paradigm for title transfers and secured lending
- ScotLIS – a major new platform which will give access to title and non-title information. We should have had such a facility in the UK before now
- Radical changes have been introduced to date but more is required

2027:

- What does the registration process and the conveyancing system look like?
- Do solicitors still play a prominent role?
- How did we get here?
- Did solicitors get on board and join the direction of travel – or did they miss the boat?
- It is all about the data!

A way forward:

- Learn from the experiences of the past
- Do not stand still
- Solicitors need to embrace change or risk being overtaken by events
- Many innovative steps in the past 10 years but more is required
- What in the conveyancing system cannot be done in other ways? For example: legal infomatics; Blockchain technology; Fintech and Prop tech; automated lending models etc.
- It is not (yet) a driverless car

Opportunities for Registries:

- Registers of Scotland (and Land Registries generally) need to be pro-active and lead from the front
- Legislative backing should be sought if required e.g. make digital registration mandatory. The alternative is progress at the pace of the slowest
- Set out a change agenda
- Consult with stakeholders but set a definite date for digital transformation
- Be bold!

“It’s life Jim
but not as we knew it”



Opportunities for solicitors:

- Be more open to change and re-invent. We have no God-given right to be the keeper of the conveyancing process.
- What is it that we do that cannot be done in other ways and by others?
- Listen to what the consumer wants and innovate e.g. Denmark
- Work with others to deliver a system that our successors will be proud of; do not stagnate
- Be less focused on "*this is the way we have always done things*" and more focused on "*why can't this be done differently?*"

Opportunities for lenders:

- A simpler system of secured lending
- The CML Handbook was a necessary first step
- What is the future of mortgages?
- Individual IT systems are a block to comprehensive change – how can this be improved?

Opportunities for consumers:

- More transparency
- More certainty
- More efficient and quicker transaction times
- Cheaper transaction costs
- Commoditisation with security
- Less secrecy – *“Initiate and their Acolyte”*

What is required to make these opportunities a reality?

- A national e-Conveyancing Code?
- What can we learn from other jurisdictions e.g. Australia?
- A UK Property Information Portal – ScotLIS and Digital Street to be developed as one?
- Should conveyancing transactions be underwritten by a comprehensive insurance system rather than relying on a selection of individual insurances?
- Reform the current antiquated system of telegraphic transfer of funds and create a property exchange platform



What/where/who are the “blockers”?

- Available technology
- Attitudes to change
- Jurisdictional thinking
- The “*Not invented here*” or “*Empire*” syndrome
- Fear – both justified and unjustified

So how do we get to where we want to be in 2027?

- Property should be able to be bought, sold and secured in a much more efficient manner than is the case now
- Avoid a “bottom up” solution that simply seeks to replicate the existing paper-based systems
- Learn from past mistakes e.g. VEYO
- Avoid doing the minimum required and paying lip service to change
- How do we best connect the dots?
- Create a national collaborative approach – Scottish pilot?

“He who rejects change is the architect of decay. The only human institution which rejects progress is the cemetery.”

Harold Wilson