

E-conveyancing – a Target for Phishers?



Raymond Perry looks at some of the potential risks involved in the introduction of e-conveyancing

Lawyers are familiar with exhortations about the need to be ready for the e-conveyancing revolution. Part of the e-conveyancing revolution – electronic searching – has already arrived.

Computer literacy

The Land Registry has a good record with the deployment of technology but the e-conveyancing project is complex. Assuming the Land Registry finds a way through the technical and organisational minefields, e-conveyancing will inevitably require solicitors to become more computer literate. This may be hard to achieve in practice. E-conveyancing has some particularly complex aspects from a user's point of view – especially in relation to digital signatures. It also requires users to devote time and money to computer security.

However, one advantage of technology is that – in some respects – a sole practitioner in a provincial firm can derive as much benefit from it as a large City firm. For example, everyone obtains the same benefits from e-mail, although this becomes less so where the complexity of computer systems increases.

Large firms can afford dedicated teams of specialist IT support staff; smaller firms

cannot. Smaller firms must therefore be careful how they manage the transition when e-conveyancing is introduced.

Usability and security

Introducing e-conveyancing then becomes rather tricky from the government's point of view. The system's user base will be a large and diverse group – geographically widely distributed – but with only limited technical proficiency. This gives rise to a major difficulty with e-conveyancing. It is the need to strike the right balance between usability and security.

It is difficult to judge accurately in advance the true extent of transactional risk from fraud with e-conveyancing. Computer security is a 'weakest link' issue. As with Internet banking, the weakest link is on a user's network, beyond the control of the Land Registry or whoever operates the EFT system.

'Phishing'

An illustration of just how difficult it can be to achieve security in these circumstances is provided by the proliferation of 'phishing' attacks on customers of Internet banking systems.

Fake e-mails sent in 2004 targeting customers of the Halifax Internet banking service were sophisticated and certainly appeared to come from the Halifax. If the recipient clicked on a link in the e-mail they were directed to a bogus website in Russia. This opened a copy of the genuine Halifax website along with a separate window (not genuine) containing a request for the user to enter sensitive information, such as passwords and user names. If disclosed, this information would potentially allow the customer's account to be looted.

'Phishing' is relatively straightforward from a technical point of view and does not even require the attacker to take control of, or install a Trojan horse program on, the victim's computer. According to the Association for Payment Clearing Services, one of whose objectives is to protect and enhance the integrity of the payments industry, some 2,000 Internet banking customers have fallen victim to such attacks in the UK over the last 12 months.

Training

It seems reasonable to expect that the e-conveyancing system will also be targeted. The profession has been told that the e-conveyancing Network Access Agreements, to which conveyancers will have to sign up to use the system, will not be onerous. But at some level, the Land Registry will have to frame the terms of use to make conveyancers liable for losses caused by breaches of security on the part of the user – if only to avoid the moral hazard that would arise if lawyers were not responsible in such circumstances.

This means more training for conveyancers and more time spent on back-office tasks, such as security – all of which will cost money. Conveyancers will have to master more aspects of technology. Will this burden be offset by some new competitive advantage? Unfortunately, this seems improbable.

Competitive risk

There is no evidence that this advantage is sufficient to drive 'old-fashioned' conveyancers out of business. For paperless transactions and EFT to operate efficiently, they will have to be used by everyone, so after an introductory transitional stage it would be logical for the Land Registry to move to compulsory use.

For all the promises surrounding its introduction, e-conveyancing seems unlikely to change the structure of the conveyancing profession – or the process of buying and selling a house – to any great extent. On the positive side, from the point of view of existing conveyancers, e-conveyancing is unlikely to lead to new players – such as banks and supermarkets – entering the marketplace, given the slim profit margins which exist at present. The additional costs imposed by e-conveyancing are unlikely to improve these. •

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