

Pre-Contract Title Investigation

The Conveyancing Committee is considering moving towards making a recommendation that all title matters are investigated pre-contract instead of post-contract as has been the position until now. This will be a significant change in conveyancing practice if it is to proceed.

The rationale for the current practice is that solicitors do not want or need to spend too much time investigating all title matters pre-contract in case the transaction might not ultimately proceed to contract.

The downside of a move to a full investigation of all title matters pre-contract would include that the cost of title investigation is incurred before a binding contract is in place

The reasons a change is being considered include:

- There is a perceived disconnect between the traditional conveyancing theory as reflected in the standard contract for sale and what is occurring in practice in that extensive title enquiries are routinely being raised pre-contract.
- There is a view that this gives rise to time-consuming duplication of work.
- The increase in the number of pre-contract enquiries is due to the large amount of new legislation that affects conveyancing that is not covered by existing contractual warranties.
- Pre-contract enquiries protect purchasers.
- The move to eConveyancing will require all title matters to be addressed pre-contract and any move at this time to pre-contract title investigation would be an interim step.
- There is no uniformity of pre-contract enquiries.
- It is envisaged that if there is to be a recommendation to move to pre-contract investigation of all title matters it would be on the basis that a standard set of requisitions on title with replies would be issued by a vendor's solicitor along with the contract for sale and a purchaser's solicitor would be entitled to raise any additional matters pre-contract.

If you have a view on the above or related issues, the committee would like to hear from you. You can make your submission to the following dedicated email address set up to get feedback from the profession on this topic –

precontractenquiries@lawsociety.ie

Conveyancing Committee