

Searching questions

Grania Langdon-Down examines the fast-changing property searches market and finds the needs of conveyancers are increasingly being met by quality-assured providers

Conveyancing search providers, faced with a housing market that is expected to be at best flat this coming year, are seeking to re-position themselves in a challenging market that could see the Land Registry (LR) take the next steps towards becoming a major player.

With competition fierce, providers are looking to find new ways to increase their market share – from making sure conveyancers stay compliant with lenders' search requirements, to flagging up changes in the way flood reports should be processed, and identifying potential development risks and opportunities.

The search market has also gone through a huge reversal in demand between official and personal searches since the days of home

commercial 'channels' and processes 58% of the local authority electronic market share, intends being more vocal about the value of the service it offers.

Shared interest

However, one thing which unites the industry is an intense interest – and a considerable degree of scepticism – in how far the LR will go in moving into the local land charges (LLC) register and Con29 enquiries market.

The LR, which celebrates its 150th anniversary this year, says its market research last year with government stakeholders and customers showed "significant support" for its proposals to develop that information. However, it also became clear that the feasibility of the

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information packs (HIPs), when personal searches were dominant. Now, the market has reverted back 70:30 in favour of official searches.

Mike Ockenden, head of secretariat at the Council of Property Search Organisations (CoPSO), explains: "After being spoon fed searches with HIPs, solicitors and licensed conveyancers have had to go back to ordering their own searches – and the first port of call has been the local authorities. The challenge now for the private sector is to win back business and the key to that will be the heightened protection our revised search code offers consumers and conveyancers."

Not to be outdone, the National Land and Property Information Service (NLIS), which links practitioners to data electronically via its





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various options needed to be explored further, so the LR will be holding talks with potential public and private sector partners before presenting any proposals to ministers.

While adding the LLC register to the LR's existing register may seem a natural step, the two options of either taking all of the data into the LR or doing it on a search-by-search basis remain on the table. Either would require legislation.

A lot hinges on the final decision. NLIS, which celebrated its 10th anniversary and 20 millionth e-conveyancing search last year, has a new channel ready to go live but it is waiting to see how to frame its offering depending on the LR's next move.

Jan Boothroyd, chief executive of NLIS's regulator, [Land Data](#), says: "If the LR doesn't take over all the data, they will come into the market as direct competitors. While they have an excellent reputation in the field of land registry searches, they don't have the ability to supply the range of searches that NLIS does.

"However, even if they decide not to pursue this market, once someone has lifted the stone it won't go back in the same place, as it creates a new appetite in the market. So it will be of no surprise that we have been looking at where we can reposition NLIS. Is it time to dust it down and say more about what we do? We haven't shouted a lot about the protections built in to NLIS or the dangers of using alternative data providers. But as more people want to imitate us, we need to do more to blow our own trumpet."

If the LR does not move into the local authority arena, Land Data plans to pursue ways of standardising local authority search outputs. Ms Boothroyd says: "Not only does the

style of reply vary from authority to authority but the content can also differ. The arrival of alternative business structures is likely to lead to conveyancers consolidating, whether into large firms or smaller specialist companies, so it is important that often-complicated data can be interpreted smoothly and quickly."

Consistency call

The market certainly needs more consistency, says Paul Albone, managing director of TM Group (UK), a former NLIS channel which set up its own independent hub supporting both official and personal searches two years ago. "But is the LR the correct [body] to do it, or does it just require legislation to force local authorities to provide uniformity? There are enough commercial organisations to deliver the service to the market and create competition rather than the monopolistic position the LR would create if it was the only custodian."

Richard Hinton, business development director of SearchFlow, a leading search company and NLIS channel, says they are "perplexed" by the LR's move. "They have two options – the first is to absorb all of the local authority land charge departments and have

them report to a central database, which would be ruinously expensive.

"The second is to become a retailer of other people's searches so they offer the market a one-stop shop for pre-completion due diligence searches. But this will create a conflict with the government's open data initiative, which will manifest itself in the concept of the Public Data Corporation. This would seem to trump the LR in terms of strategic importance."



The government's mantra, he says, is that it will release data as freely as it can and in return it will expect the market to innovate and generate business and hence tax returns. But he continues: "If you have the LR competing in that space, most commercial organisations like our own would view that as unfair competition and so wouldn't put our investment behind exploiting the data."

Andrew Stenning, managing director of Searches UK, which offers a full range of both official and personal conveyancing searches, says the LR has been "very good" about involving search companies in their discussions. "If they go for the option of offering solicitors who log on to the title register the chance to order an official search as well, it will mean more competition," he acknowledges. "But solicitors and conveyancers tend to choose certain routes for searches and pretty much stick with them unless problems arise."

Positive noises

From practitioners' perspective, the prospect of the LR throwing its hat into the ring is welcome. Peter Ambrose, director of The Partnership, a Surrey-based legal services provider, says it has already proved itself with the successful implementation of the title search portal, adding: "We would certainly consider using them if they hook directly into local authorities."

John Jones, a Fellow of ILEX and senior property lawyer with Liverpool law firm Goldsmith Williams, agrees. "We make good use of the portal and the speed of return and the quality of the results are very good. If they move towards local land charge searches, it would be good for conveyancers and customers."

For Alex Clark, legal director and head of legal practice with Enact Conveyancing Limited, one of the major shortcomings in the conveyancing process is the time it takes to obtain all the title information, particularly leasehold information. "This makes leveraging technology to reduce risk, improve customer experience and reduce processing costs a lot

harder than it would be if all the information was available at the touch of a button in XML format from a central database," he says.

"Whilst the LR's new customer-focused approach is very encouraging," he continues, "taking over the processing of local authority searches in itself would not solve the problem of conveyancers having to go round the houses to obtain all the information, as search information only forms a small part of the information actually required."

"A central database containing all the information, not just searches, would be a major benefit, but without direct government intervention to make lodging of all conveyancing data in a prescribed standard format a statutory requirement, I cannot see the LR taking this forward."

Mr Ockenden agrees. "It would be fine if the LR had access to and managed data for local authorities, except as realists both we and the LR know that this is not going to happen."

"If they limit their plans to becoming an alternative provider of searches, it is an open market and competition is good for consumers – and, slightly tongue in cheek, I would hope they would join CoPSO and sign up to the search code."

Best practice

CoPSO's revised code is now in place, launched at the end of last year after the Localism Act 2011 revoked part 5 of the Housing Act 2004, meaning standards for searches no longer exist on the statute books.

So far 89 firms have subscribed to the code, which now has more robust application and renewal processes as well as physical inspections. The first company to be disciplined under the new regime was suspended just before Christmas for failing to meet the compliance requirements. CoPSO plans to carry out a benchmarking exercise this year to check standards.

"We wanted to make sure what we put in place was fit for purpose," says Mr Ockenden. "The telling statistic is the number of firms



coming up for renewal who have decided not to do so – nine since April. About a third have ceased to trade while the others have decided to trade without the code. We hear sob stories from some – particularly sole practitioners – that they can't afford to subscribe, but either you are in or you are out. If you are producing something with such tight margins that you can't subscribe, I would have concerns over the quality of the work."

Over 80% of lenders accept personal

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searches, with 20% stipulating they must carry the search code logo. "We want to increase that proportion significantly and will be talking to individual lenders about the value of the code," he says. "We will also be talking to those lenders who don't accept personal searches and encouraging them to do so where they carry the code logo."

Whilst Mr Ambrose believes most cowboy operators have been weeded out, he remains sceptical about the code as he does not believe the requirements are rigorous enough.

However, both Mr Jones and Mr Clark welcome it as a valuable quality mark. "It gives reasonable reassurance," says Mr Jones. "It is all about risk management. With the introduction of OFR, we would rightly be criticised if we were ordering searches from a firm which clearly

wasn't doing a good job."

SearchFlow is an executive member of CoPSO and a code subscriber. "We don't pretend we have reached nirvana yet," acknowledges Mr Hinton, "but we hope it will have credibility and will be a rallying point for us to work with local authorities."

Bewildering choice

So, faced with such a wide range of options, from the one-man-band working from home to the big corporate with sophisticated technology, how should conveyancers go about making the best decisions on searches for their clients?

"Searches are the bane of the conveyancers' and clients' life," says ILEX Fellow Allan Pilch, who runs his own conveyancing practice in Liverpool. "If I'm acting for someone in the north-west of England who is buying [a property] with a mortgage, I may have to carry out seven different searches to protect the lender, at considerable cost to the buyer.

"I must say that, in 30 plus years, I could count the number of adverse entries I have had on a local search on the fingers of one hand. I suppose that's why insurance for searches is so readily available and cheap."

The key is to get the best-quality searches you can to protect your client – don't be driven by price, says Mr Ambrose. "If you don't get the right information, it will come back and bite your client and they will turn on you. For instance, we now do HS2 searches because local authority searches weren't turning up details on the new high speed rail network."

He is a "big fan" of searches being routed through a single pipe but says it is still a "sticking plaster" solution. "We need local authorities to standardise the way they produce searches, their pricing and their delivery," he says. "But the only way that will happen is if it is imposed on them because they get by on shoe-string budgets. The service is not bad at the moment – although one London authority has a 23 working days turnaround – but that is because we are in a low-volume environment."

So, what else is on the agenda for search



providers? Mr Ockenden wants to see a level

playing field with local authorities. "The private sector has to raise VAT on the search services it offers but local authorities don't," he says. "We are challenging the Treasury and authorities why they aren't – it is a commercial service, so they should be."

Managing risk

For NLIS's Ms Boothroyd, a key concern is "second-hand" data being used in products which have been compiled using a range of different sources or internal databases. "The trouble is that when you look at these products, you don't know the source of the information, its age or accuracy," she says. "As we raise the profile of data corruption, we think the market will have to come up with solutions such as an indelible audit trail so people know they are getting uncontaminated and up-to-date data."

The key for conveyancers is risk assessment, she says. "If you use personal search firms or data warehouse firms, you have to know their limitations. We are supplying local authorities with a range of marketing materials which they can send out to conveyancers that will highlight concerns about risk."

Government policy changes on the planning front in favour of development have prompted new searches to come on the market. Searches

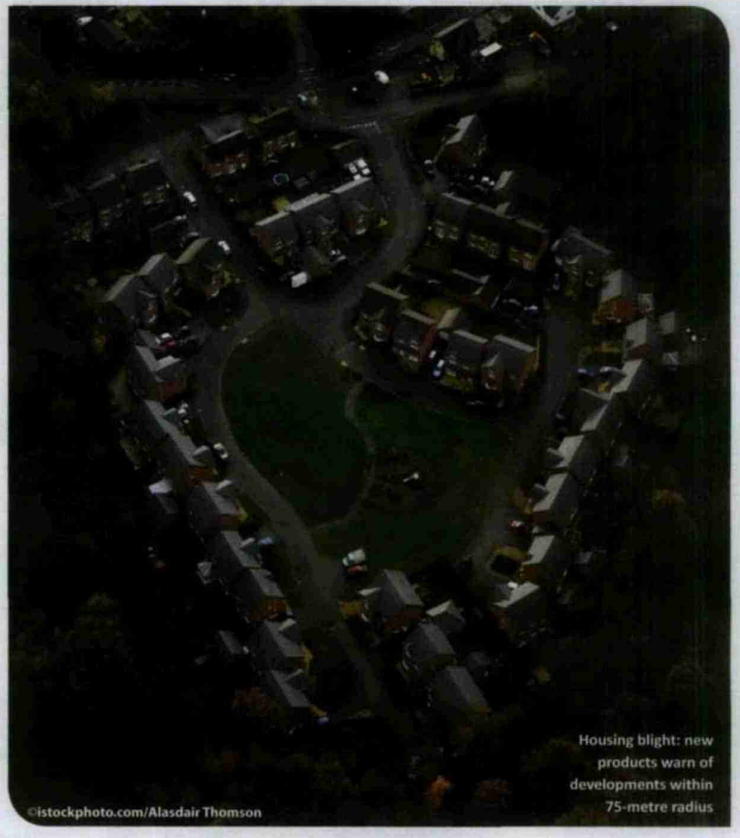
UK recently launched DevCheck & DevAssess, which investigate future development risks within a 75-metre radius of any property in the UK.

"The market will be tough in 2012," says Mr Stenning. "There is work out there – it's down to us to get it. We have always marketed ourselves on the basis that we provide personal searches, but we also do official searches. But just over half of the solicitors and conveyancers coming to us now want official searches so we are switching our marketing message around. You have to move with what the market is dictating."

Philip Natusch is managing director of ETSOS

which he describes as a "free to use, Amazon-style online supermarket for searches and related conveyancing products". He says that for many years there has been a "stark division" between searches produced by private search companies and local authorities.

But he says: "The distinctions are now more blurred than ever, with private search companies able to access all the information they need to produce a search equivalent to what is still called an 'official' search. Having the public and private sectors competing in this way is an anachronism and it will be interesting to see how this plays out over the coming years."



Housing blight: new products warn of developments within 75-metre radius

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