Department for Business, Innovation & Skills

Introduction of a Land Registry service delivery company: Consultation response form

This consultation response form is available electronically on the consultation page: www.gov.uk/government/consultations/land-registry-new-service-delivery-company

Alternatively, this form can be submitted by email or by letter to:

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Shareholder Executive
Department of Business, Innovation and Skills
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London
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Email: bis.lr.consultation@bis.gsi.gov.uk

This closing date for this consultation is **20 March 2014.**

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

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Please tick the box from the list below that best describes you as a respondent. This allows views to be presented by group type.

	Business representative organisation/trade body
	Central government
	Charity or social enterprise
	Individual
x	Large business (over 250 staff)
	Legal representative

	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
	Small business (10 to 49 staff)
	Trade union or staff association
	Other (please describe)

Question 1

Do you agree that by creating a more delivery-focused organisation at arms length from Government, Land Registry will be able to carry out its operations more efficiently and effectively for its customers?

☐ Yes ☒ No ☐ Not sure

Comments:

At the moment there are few concerns about the effectiveness or efficiency of the Land Registry. The efficiency of the system is highlighted by the fact that recent fee cuts are entirely financed by the Land Registry and not the treasury. There are concerns that loss of experienced staff has resulted in more complex transactions being dealt with less quickly but it is not clear how these concerns would be dealt with by the proposed reforms.

The risk of creating a separate delivery arm is that the delivery and policy become disjointed making the Land Registry less responsive to change and reactive to problems rather than proactively looking for solutions.

If the problem is that the legislative framework restricts development of the service then could this be solved by introducing greater flexibility within the existing framework. A service delivery company would be governed by its articles of association and those would need to be tightly drawn to ensure that ancillary or new activities do not detract from the core functions of the Land Registry which are the cornerstone of confidence within the property market.

Question 2

Do you agree that the OCLR should retain exclusive responsibility for the functions set out in paragraph 49?

☒ Yes ☐ No ☐ Not sure

Comments:

Question 3

Are there additional functions that should be retained in the OCLR? Please explain what and why.

Comments:

No comment

Question 4

What are your views in respect of the proposals for shared functions set out in paragraphs 50-51?

Comments:

The production of practice notes and guides should also be a shared function. Whilst they provide practical advice they also give useful guidance on how the Land Registry Rules should be interpreted and implemented.

Question 5

What are your views on the proposed approach to service delivery company functions in paragraph 52?

Comments:

In our experience of the Land Registry, its functions are far more than simply "administrative" in nature. Many of the applications involve detailed legal and technical analysis. A fall in the number of highly skilled land registry staff who can deal with such applications will result in a fall in delivery levels.

Question 6

Do you agree that the overall design provides the right checks and balances to protect the integrity of the Register and safeguard the provision of indemnities and state title guarantee? If not, please state your reasons why not.

☐ Yes ☒ No ☐ Not sure

Comments:

Whilst the division of responsibility is largely appropriate it does not include sufficient detail to answer this question. The details of the contract with the service delivery company will be key to determining service levels which will safeguard the integrity of the Land Registry and the perceived value of the state title guarantee.

Any perceived dilution in the integrity of the Land Registry will have serious consequences for confidence of the property industry in the value of the registry and ultimately their ability to rely on the information it provides.

Question 7

Would you be comfortable with non-civil servants processing land registration information provided they do so within the framework set out by the OCLR through the service contract? If not, please explain your reasons why not.

☐ Yes ☒ No ☐ Not sure

Comments:

As the consultation paper makes clear the veracity of the state guarantee of title is a cornerstone of the property market in England and Wales. For the administration of this state guarantee to be removed from the civil service remit seems to undermine that guarantee because of a conflict of interest between the state and the owners of the service delivery company.

The Land Registry would still be a monopoly operating on behalf of the state and again any perceived conflict of interest could adversely impact on confidence in the service.

Question 8

Are there any situations, other than those set out in this consultation, in which you would want to see an escalation process to the OCLR? Please explain what and why.

Comments:

Any breach of data security should be escalated because confidence in the security of the data held by the Land Registry is fundamental to trust in the system.

Question 9

Do you agree with the proposed approach for handling complaints, as set out in paragraph 56? If not, please explain your reasons why not.

☒ Yes ☐ No ☐ Not sure

Comments:

None

Question 10

Do you agree with the escalation process set out for objections in paragraph 56? If not, please state your reasons why not.

☒ Yes ☐ No ☐ Not sure

Comments:

None.

Question 11

Do you think the Rule Committee should include a representative from the service delivery company? Please explain why or why not.

☐ Yes ☒ No ☐ Not sure

Comments:

It is preferable for those who are implementing the rules to have a representative on the Rules Committee as it is the service delivery company which has day to day contact with the customers and so understand their needs. However to have a body which is (or is perceived to be) outside Government involved in policy decisions would be seen as incompatible with the state guarantee which underpins the property industry in England and Wales. In this case the need to preserve the integrity of the guarantee should be paramount.

Question 12

The Data Protection Act will protect personal data that is provided to the service delivery company. Would you like to see any protections beyond this, and if so please explain what and why?

☒ Yes ☐ No ☐ Not sure

Comments:

As mentioned above data security is fundamental to trust in the Land Registry. If a private sector company is brought into the service delivery company there must be safe guards in place that they can not use the data they obtain via the Land Registry for any other purpose. Even a perception that a private company is obtaining an advantage from access to the Land Registry data will diminish trust in the Land Registry.

Question 13

What are your views on the proposed system for safeguarding customer service issues and the continued role of the Independent Complaints Reviewer?

Comments:

No further comments

Question 14

Do you think there is a difference between the opportunities and risks depending on whether operational control over the service delivery company is entrusted to Government or a private sector company? If yes, what?

☒ Yes ☐ No ☐ Not sure

Comments:

If operational control is given to a private sector company then the service contract will need to be carefully drafted to guarantee the efficacy of the service. Clear wording will need to be

included so that the state guarantee of title can be relied upon. Any suggestion that the state would look to a private company to "pay out" will undermine the state guarantee.

If operational control is with a private company then there is a disconnect between those who are in day to day contact with the customer, and so best able to respond to their needs, and those in the Rule Committee who are making policy and giving direction. This seems at odds with the fundamental reasons for reform.

Question 15

Do you think there is a difference between the opportunities or risks depending on whether the service delivery company is owned by the Government or a private sector company or both? If yes, please explain your reasons.

☒ Yes ☐ No ☐ Not sure

Comments:

At the moment the Land Registry is self funding with savings being passed to the customer in the form of reduced fees or back to the treasury. If these savings "leave" the public sector as profits then good will towards the Land Registry will diminish.

The concern will be that the need to make a profit would outweigh the need to deliver a service. This could put experienced (and therefore costly) staff at risk and that without these staff members there is a greater risk of mistake which again dilutes confidence in the Land Registry brand which is so fundamental to how the property industry in England and Wales operates.

Question 16

What do you think are the constraints and dependencies for Land Registry's successful delivery of the business strategy?

Comments:

Historically IT issues have stopped the Land Registry delivering its business strategy and this is where input from the private sector could help. However the recent roll out of the new map search facility has been exemplary with a new intuitive tool being provided which fulfils an industry need.

Going forward the key issue will be to have the correct people at the correct level. Dealing with complex applications accurately and in a timely fashion is fundamental to the needs of the property industry. To have this function within the private sector will always raise the spectre of profit being but before the needs of the customer.

The Land Registry is a state backed monopoly and this consultation does not propose that this changes. Therefore there is no inherent incentive for the service delivery company to improve or enhance it service above the minimum delivery levels imposed in the service contract particularly if this is at the expense of profit. This seems to be at odds with the aims of the reforms.

Question 17

Do you have any other comments on the proposals contained in this consultation?

Comments:

If either ownership or operation control of the service delivery company is passed to a private company there will need to be significant controls put in place to ensure that they can not harm the trust which the Land Registry has built up over the years or dilute the value of the state guarantee of title. To do this the articles of association of the company would need to be tightly drawn and the risk is that the company is no more able to delivery change than the current Land Registry subject to statutory control.

If ownership and operational control of the service delivery company remain with the government then it is difficult to see what benefits the separation of functions will achieve. The risk is that it introduces a layer of bureaucracy which is costly but does not deliver improvement.

Review of the current system is in order but it is important to recognise what the Land Registry does well. If reform can take place within the current framework by

- relaxation of legislative constraints
- encouraging fees to be put back into service delivery and resourcing innovation

then this should be considered in conjunction with the current proposals.

Question 18

Do you have any other comments that might aid the consultation process as a whole? Please use this space for any general comments you may have. Comments on the layout of this consultation would also be welcome.

Comments

None

Thank you for your views on this consultation. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☐

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☒ Yes ☐ No

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