



Department
for Business
Innovation & Skills

GOVERNMENT RESPONSE

Introduction of a Land Registry
service delivery company

JULY 2014

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Government Response: Introduction of a Land Registry service delivery company

Issued: July 2014

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This response is relevant to: Stakeholders of Land Registry, representative bodies, the devolved administration of Wales, as well as other interested bodies.

1. Foreword

Land Registry has recently celebrated its landmark 150th year and continues to be a cornerstone of property ownership in England and Wales. It undertakes a range of functions and responsibilities which are critical to the effective functioning of the property market.

Land Registry provides a number of services through digital channels. It is now looking to become a leader in digitising land and property services and the management and re-use of land and property data. I am committed to enabling Land Registry to achieve this in the best way possible.

I am grateful for the views expressed by interested stakeholders and we will use all the responses to help us shape the future of land registration services.

Michael Fallon

As Chief Land Registrar, I would like to thank all those who responded to the consultation that was launched in January 2014. Our strategy to create a more digital and modern Land Registry in the future was developed around our customers' needs and the changing face of the property market. I have confidence that by focussing on customers, we will continue to improve our service delivery and make the process of dealing in land and property more efficient and secure. Land Registry's customers, whether market professionals or property owners, are at the heart of what we do and we are therefore grateful for your help in making sure we are addressing your needs.

Ed Lester

2. Executive Summary

1. Land Registry is responsible for processing the registration of title to land under the Land Registration Act 2002. It has developed a business strategy for 2013 to 2018 to improve the ease with which land registration services are provided.
2. The Department for Business, Innovation and Skills (BIS) is considering measures to enable the business of land registration to be more delivery-focused and for Land Registry to have greater flexibility to operate.
3. A consultation was launched on 23 January 2014 that set out the Government's proposal to create a new company, to which responsibility for the performance of service delivery functions would be transferred (the service delivery company), and to have a separate Office of the Chief Land Registrar (OCLR) that would be retained in Government. The Land Registry service delivery company would be responsible for the processes relating to land registration, whereas the OCLR would primarily perform regulatory and fee-setting functions to ensure that customers' interests continue to be protected.
4. In the consultation, all proposals were considered against the option of Land Registry remaining as a Trading Fund.
5. A total of 304 formal responses were received to the consultation, as well as views expressed through correspondence to BIS and during the Westminster Hall Debate in Parliament on 25 February. A wide variety of views were shared and responses were received from interested members of the public, members of the legal profession, Land Registry employees and international companies. In all cases the responses were valuable and have informed the development of policy.
6. The single overwhelming theme was the acknowledgement of the valuable work of Land Registry and its staff, as well as the positive perception that respondents have of the service. This message was reflected within responses under three main themes:
 - A desire for a greater understanding of the rationale for change;
 - Concern over lack of acknowledgement of the Land Registry's profitability;
 - A desire for more information on the impact on staff.
7. Respondents also highlighted a number of specific concerns, under three main themes:
 - Uncertainty over the implications for data protection from a change in commercial model;
 - Concern over the impact of the profit motive on the operations and priorities of a service delivery company;
 - Uncertainty over the responsibilities of the OCLR.

8. This response seeks to address the themes raised by the consultation responses by providing a number of clarifications and further explanations of the policy.
9. Given the importance of the Land Registry to the effective operation of the UK property market, we have concluded that further consideration would be valuable. Therefore, at this time, no decision has been taken to change Land Registry's model.
10. However, Government continues to believe that there could be benefits in creating an arm's length service delivery company to transform and modernise the way in which land registration is carried out in the UK, as well as to support new opportunities for the business to play a wider role in the property market. Therefore, we will continue to develop policy and engage with stakeholders. This is consistent with Government policy continually to review publicly owned assets. If there were to be proposals to change Land Registry's commercial model, we will again consult.
11. The business has already started its digital transformation, which has resulted in the organisation shrinking by more than half over the last 20 yrs. This modernisation will continue irrespective of the need to consider further the Land Registry's commercial model. The Government's ambition for effective, digital-by-default data services remains an underlying policy objective.

3. The Consultation Process

Background

12. The *Introduction of a Land Registry service delivery company* consultation was published on 23rd January 2014 and ran for 8 weeks to 20th March 2014. It followed considerable initial policy development within Land Registry and BIS. The policy development was also informed by engagement with a range of stakeholders.
13. The consultation set out the Government's proposals to create a new service delivery company, to which responsibility for the performance of service delivery functions would be transferred, and to create a separate Office of the Chief Land Registrar that would be retained in Government.
14. In the consultation all proposals were considered against the option of Land Registry remaining as it is.
15. For ease of reference, the sections of the consultation that relate to the separation of functions between the OCLR and the service delivery company are set out below. Respondents were specifically asked for their views on the proposed separation.

OCLR functions (Paragraph 49 of consultation document)

16. The following functions are examples of activities which would be expected to remain the exclusive responsibility of the OCLR:
 - requiring a person to produce a document for the purposes of proceedings before the Chief Land Registrar (CLR) (section 75 Land Registration Act 2002 (LRA 2002));
 - making orders about costs in relation to proceedings before the CLR (section 76 LRA 2002);
 - producing and publishing annual reports on the business of the Land Registry (section 101 LRA 2002);
 - being a member of the Rule Committee (which provides advice and assistance to the Secretary of State in respect of making Land Registration Rules) (section 127 LRA 2002);
 - appointing staff and determining the terms and conditions of appointments (with the approval of the Minister for the Civil Service) (Schedule 7, paragraph 3 LRA 2002). This function would be the responsibility of the OCLR in respect of appointments to the OCLR only; the service delivery company would have its own powers to recruit staff.

Shared functions (paragraphs 50 and 51 of consultation document)

17. Certain functions would be shared between the service delivery company and the OCLR. This is because, they relate to activities which:

(a) both OCLR and the service delivery company would need to be able to exercise in order to operate effectively and efficiently;

(b) although the service delivery company would be primarily responsible for the performance of the activities, the OCLR would retain an oversight role (for example, by setting operational parameters which the service delivery company must adhere to); or

(c) it would be desirable to escalate to the OCLR e.g. for decision-making purposes.

18. The following are examples of activities which would be expected to be Shared Functions:

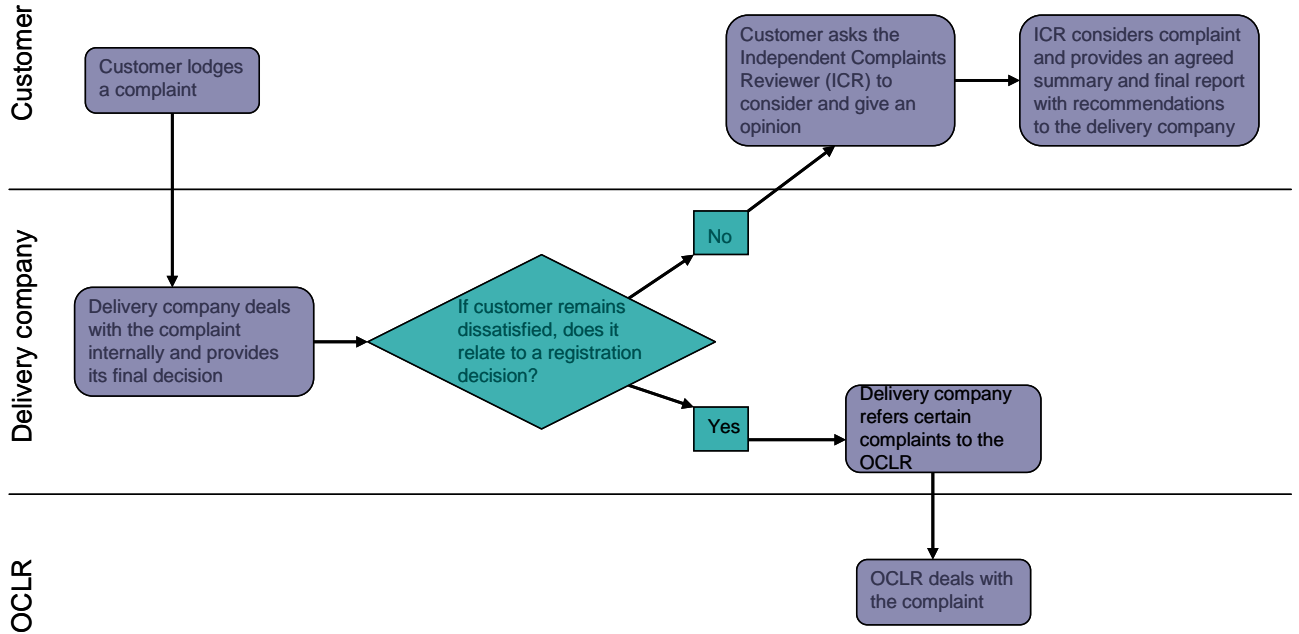
- activities which require registers to be kept in respect of land. For the purpose of the split between OCLR and the service delivery company, we would differentiate between keeping and maintaining the register. Keeping a register of title, and other registers connected or ancillary to the main register of title, would be the ultimate responsibility of the OCLR, but the maintenance of these registers on a daily basis would be the responsibility of the service delivery company. Accordingly, the following functions would effectively be shared by OCLR and the service delivery company:
 - keeping a register of title (section 1(1) LRA 2002);
 - keeping a register of cautions against first registration (section 19(1) LRA 2002);
 - keeping an index which allows for certain information in relation to any parcel of land to be ascertained (e.g. whether there are any registered estates in relation to that parcel of land) (section 68(1) LRA 2002);
 - retaining custody of records of title made under the Land Registry Act 1862 (section 122 LRA 2002);
 - keeping certain registers (land charges, pending actions, writs and orders affecting land, deeds of arrangement affecting land and annuities) and an index whereby all entries made in any of those registers can readily be traced (section 1(1) of the Land Charges Act 1972);
 - keeping a register of agricultural charges (section 9(2) of the Agricultural Credits Act 1928);
 - keeping an index of proprietors' names (Rule 11(1) of the Land Registration Rules 2003);

- dealing with objections. In keeping with the principle that the service delivery company remains the primary point of contact for customers, it would be responsible for dealing with objections in the first instance. However, the OCLR would deal with unresolved objections and matters which need to be referred to the First-tier Tribunal (in accordance with section 73 LRA 2002). This is set out in more detail in the process maps below;
- preparing and publishing forms and directions as considered necessary or desirable for facilitating the conduct of the business of registration under the LRA 2002 (section 100(4) LRA 2002). To allow the OCLR and the service delivery company to operate effectively and efficiently, both would need powers to prepare and issue forms and directions which facilitate the land registration process;
- functions which relate to claims for, and payment of, indemnity. The responsibility for the day-to-day processing of indemnity claims would be with the service delivery company but the OCLR would remain ultimately responsible for the indemnity (Schedule 8 and paragraph 9 of Schedule 4 LRA 2002);
- responsibility for the consequences of complaints arising from alleged maladministration. The OCLR would be responsible for ensuring that the service delivery company takes appropriate action whenever maladministration is established, in order to prevent the recurrence of similar failures.

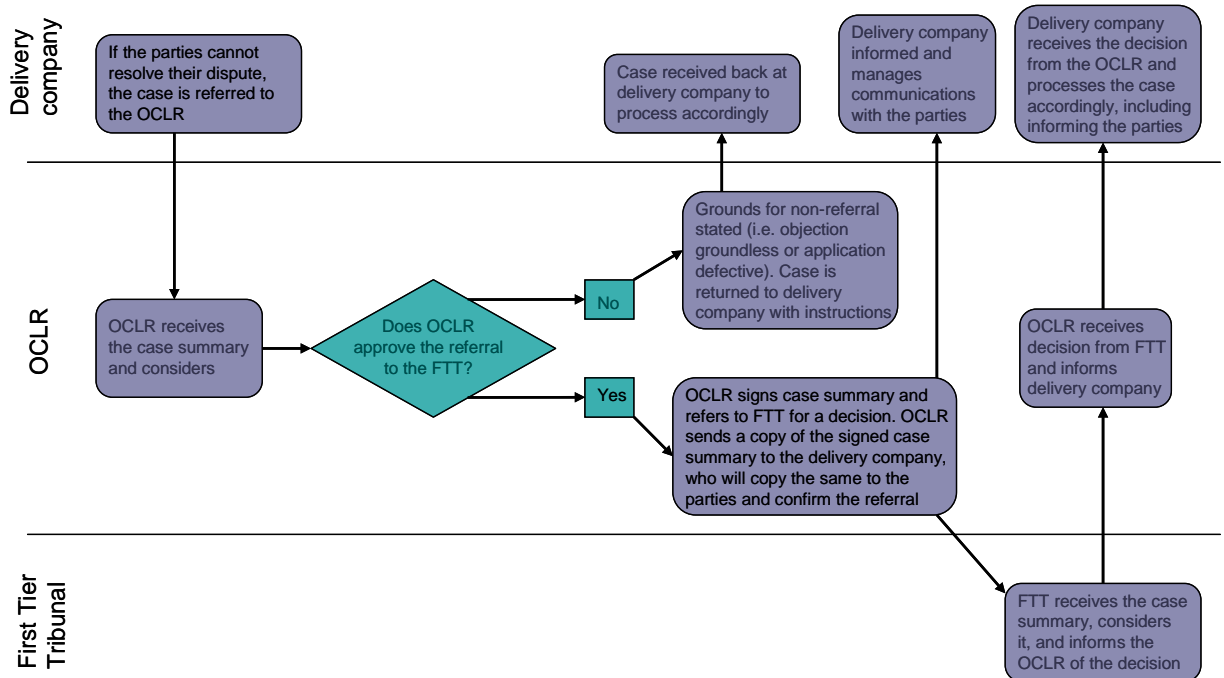
Service delivery company functions (paragraph 52 of consultation document)

19. Other than the functions set out in the 'OCLR Functions' and 'Shared Functions' sections above, and other functions which are of a similar nature to these functions, all remaining activities of Land Registry and the CLR which are set out in legislation would be delivered by the service delivery company.

Customer complaints process (paragraph 56 of consultation document)



Objections process (paragraph 56 of consultation document)



Questions

20. As well as welcoming comments in general, the consultation also sought views on 16 questions:

1. *Do you agree that by creating a more delivery-focused organisation at arm's length from Government, Land Registry will be able to carry out its operations more efficiently and effectively for its customers?*
2. *Do you agree that the OCLR should retain exclusive responsibility for the functions set out in paragraph 49?*
3. *Are there additional functions that should be retained in the OCLR? Please explain what and why*
4. *What are your views in respect of the proposals for shared functions set out in paragraphs 50-51?*
5. *What are your views on the proposed approach to service delivery company functions in paragraph 52?*
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.*
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.*
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.*
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.*
10. *Do you agree with the escalation process set out for objections in paragraph 56? If not, please state your reasons why not.*
11. *Do you think the Rule Committee should include a representative from the service delivery company? Please explain why or why not*
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?*
13. *What are your views on the proposed system for safeguarding customer service issues and the continued role of the Independent Complaints Reviewer?*

- 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?*
- 15. What do you think are the constraints and dependencies for Land Registry's successful delivery of the business strategy?*
- 16. Do you have any other comments on the proposals contained in this consultation?*
21. All responses were carefully considered and enabled our assessment of the dominant themes and key concerns. Given the nature of the questions, however, a statistical breakdown of responses is only provided for questions where an objective response was requested.

Wider stakeholder engagement

22. The policy development was also undertaken alongside engagement with a range of stakeholders and some market soundings. Engagement also continued with interested parties in particular through the Westminster Hall debate (of 25 February 2014), meetings with MPs and through over 60 pieces of correspondence, which included a mixture of MP letters raising their own and constituents' views and members of the public writing to BIS or Government directly e.g. through the 10 Downing Street website.

Government response

23. This paper recaps the issues that were consulted upon, provides a summary of respondents' views with the Government's analysis, and sets out the Government's response to each of the major themes.
24. We received 304 formal responses to the consultation, of which 264 responses were received directly in response to the consultation questions. Of those, almost half of respondents identified themselves as individuals.
25. Alongside the Government response to the consultation, we are publishing 105 consultation responses. We have decided to publish all responses received excluding those which were explicitly marked as from individuals or those we believe are a personal response. All responses from organisations, representative bodies and trade unions are therefore being published.
26. The Government is grateful for all the responses received and the time and effort that went into them.

4. Overview and statistical breakdown of responses

27. In total 304 responses were received to the consultation, of which 264 directly responded to the consultation questions. Statistics for the direct responses to the consultation questions are presented below.

Who responded to the consultation?

Type of respondent	Number of responses	Percentage of responses (%)
Business representative organisation/trade body	20	7.6
Central government	1	0.4
Charity or social enterprise	4	1.5
Individual	124	47.0
Large business (over 250 staff)	12	4.5
Legal representative	22	8.3
Local Government	5	1.9
Medium business (50 to 250 staff)	4	1.5
Micro business (up to 9 staff)	33	12.5
Small business (10 to 49 staff)	17	6.4
Trade Union or staff association	3	1.1
Other	10	3.8
Not stated	9	3.4

28. In addition over 60 pieces of correspondence were sent to BIS regarding the Government consultation and proposals to introduce a land registry service delivery company.

How did people respond to the consultation?

29. Statistics for the objective questions are presented below. In viewing these figures, it is important to note that:

- A number of respondents were strongly opposed to the underlying proposals. We therefore received a number of responses that did not agree with the questions. They felt a service delivery company should not be introduced and that Land Registry should remain as a Trading Fund.
- We also received a number of duplicated organisation responses: one in particular was received over 40 times from different respondents, but expressing identical views and comments.

30. Responses to objective questions asked in the consultation:

- 91% of respondents did not agree that creating a more delivery-focused organisation at arm's length from Government would enable Land Registry to carry out its operations more efficiently and effectively. 5% agreed and 4% were not sure.
- 37% agreed that the OCLR should retain exclusive responsibility for the functions set out in paragraph 49 of the consultation document. 56% did not agree and 7% were not sure.
- 88% of respondents did not 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. 4% agreed and 8% were not sure.
- 89% stated they would not be comfortable with non-civil servants processing land registration information, even if they did this within a framework set out by the OCLR in a service contract. 8% stated they would be comfortable, with 4% not sure.
- 7% agreed with the proposed approach to handling complaints, as set out in paragraph 56 of the consultation document. 85% did not agree, with a further 9% unsure.
- 82% did not agree with the escalation process set out for objections in paragraph 56 of the consultation document. 8% agreed with the process, with 10% of respondents unsure.
- 15% of respondents believed the Rule Committee should include a representative from the service delivery company, with 71% stating the service delivery company should not be represented on the Rule Committee. 14% of respondents were not sure.
- We asked respondents about protection of personal data that is provided to the service delivery company. 39% of respondents were satisfied with the protections

offered under the Data Protection Act 1998, with 46% stating they would want to see further protections. 15% of respondents were not sure.

- 65% of respondents thought there was 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. 27% of respondents felt there would not be a difference, with 8% not sure.

Overall trends

31. The vast majority of responses were from individuals, accounting for almost half of the responses that directly responded to the consultation questions. This included a considerable number of responses from individual legal firms, many of whom were customers of Land Registry.
32. The majority of responses stressed the importance of the Land Registry to the property market and the need for any change to ensure public confidence and trust is maintained in the Register and the services provided.
33. The majority of responses expressed concern about the proposal to separate the functions of the Land Registry. The primary drivers of this caution stemmed from:
 - Uncertainty over the implications for data protection from a change in commercial model;
 - Concern over the impact of the profit motive on the operations and priorities of the service delivery company;
 - Uncertainty over the responsibilities of the OCLR.
34. There was a general appetite for greater information among many respondents, particularly in relation to the rationale for change and the impact on staff under each of the proposed options.

5. Government response to the issues raised in the public consultation (by theme)

On the overall proposals

35. As set out above, there has been considerable stakeholder engagement in relation to the proposals that the Government has put forward for the Land Registry. These proposals should be seen in the context of an on-going process to build on the existing expertise of the Land Registry and transform it into a leader in digitising land and property services and the management and re-use of land and property data. These proposals relate to the possibility of separating the policy and delivery functions of Land Registry. This would require legislation.
36. We recognise that the Land Registry is vital for the effective operation of the UK property market and as a result we have concluded that further consideration would be valuable. Therefore, at this time, no decision has been taken to change Land Registry's model.
37. However, Government continues to believe that there could be benefits of creating an arm's length service delivery company to transform and modernise the way in which land registration is carried out in the UK, as well as to support new opportunities for the business to play a wider role in the property market. Therefore, we will continue to develop the policy and engage with stakeholders.
38. In this response we have sought to address the themes raised by the consultation responses and in particular provide a number of clarifications.

Theme: Concern that there was insufficient rationale for change

The issue:

39. A recurrent theme from respondents was a lack of information and analysis to support the need for a change to the current structure, with many respondents pointing to the impressive customer satisfaction rating for the Land Registry.
40. The Council of Mortgage Lenders commented on their desire for greater information in their response:

“We would therefore welcome further detail... on some of the assumptions made, which would assist in reassuring us that, notwithstanding the structural change; the integrity of the Register will be maintained. In particular we would welcome further detail around the benefits envisaged, particularly around improving speed of service, better protections against fraud and the assumptions that service levels would be unaffected by the change.”

41. Others noted that documentation referred to in the consultation such as the Business Strategy was not publicly available, making it difficult to judge the merits of what was proposed. Some respondents also felt that the consultation contained assumptions that were not supported by evidence, with the FDA stating that the proposal was based on four assertions that “were simply not correct”.

42. Others suggested that the proposal included a misunderstanding of the role of the Land Registry with the Law Society stating:

“Whilst there may be a case for saying that some of the functions of the Land Registry are ‘administrative’ in nature such as providing responses to searches, supplying copy documents or other information that is already registered, much of the work has a quasi-judicial nature that relates to establishing and registering title.”

43. Overall, across virtually all respondents, it was suggested that a case for change had not been made.

Government’s response:

44. The Government acknowledges the high performance of the Land Registry including both the significant achievements of Land Registry to date in beginning to digitise its operation and the strong credibility it has built with its customers. Nevertheless the organisation is embracing a very significant digital transformation through its Business Strategy and the Government is determined to see it delivered as effectively and efficiently as possible.

45. The large scale of the challenge of the Business Strategy means that it is a step change from what Land Registry has previously delivered. It would seek to address the following issues:

- 50% of applications to change the register are still received via post;
- Although half of substantive applications are received electronically, many of those are received as PDFs.
- Customers have to enter the same information multiple times as a transaction progresses, and each time it must be verified by Land Registry;
- How to increase the opportunity for customers to self-serve for title information;
- Processing paper applications limits organisational flexibility in distributing work quickly and efficiently.

46. The benefits of successfully delivering the changes would be substantial:

- **Customers** expect to see considerably reduced fees for services. It has been estimated that a change to digital delivery could, once initial investment costs had been met, result in a decrease in fees of 40% compared to current levels.
 - The **property market** would benefit from reduced processing times and reduced risk of error and fraud. For example, there will be a reduced need for multiple manual data input which should reduce errors and there should be a greater ability to use digital alerts to reduce fraud.
 - The **wider economy** would benefit from improved access to the Land Registry's data. Land Registry has already made great steps in releasing data sets as open data, such as their price paid data sets. Increasing digitisation of services should facilitate greater future access to public sector information.
47. However, for the Business Strategy to be delivered successfully it will require:
- Designing, procuring and integrating a suite of new IT software and hardware;
 - Implementing a radical change in operational and commercial management;
 - Maximising the opportunity to use the technology to play a wider role in the property market; and
 - Significant capital investment.

48. After discussions with Land Registry, the Government believes, that in order to address these challenges, the Land Registry needs to have the right capabilities, capacity and culture, appropriate incentives and a clear operating framework with sufficient freedoms to move with pace and react to challenges or new opportunities. It was for this reason that Government sought to consult on potential changes to the existing model.

Theme: Concern that Government was changing a profitable organisation

The issue:

49. Many of the respondents made reference to the dividend paid by Land Registry and expressed concern that Government could risk or undervalue the profitability of the organisation. As Sian James, MP for Swansea East stated in the Westminster Hall Debate of 25 February:

“Have the Government failed to notice that the Land Registry has a customer satisfaction rating of 98%—a rating that many large-scale, international and well known organisations would love to have—that it operates at no cost to the taxpayer and that it made £98.8 million last year for the Treasury?”

50. The Association of Independent Property Search Agents (IPSA) wrote:

“IPSA has genuine concerns regarding Governments over all approach to HMLR; a trading fund which delivers millions to The Treasury, enjoys a market satisfactory rating of 98% and costs the taxpayer nothing – why change a winning formula.”

Government’s response:

51. The Government notes the concerns of respondents, but considers that such views may be based on a misunderstanding of how Land Registry operates.
52. At present Land Registry returns a dividend to the exchequer based upon an agreed rate. Where Land Registry has also made special dividends, it reflects the cash produced by a mismatch between statutory fee rates and costs. By statute, Land Registry is required to ensure that its income from fees covers its expenditure under normal operating conditions. It is not currently permitted to generate a profit from statutory services and so fees are regularly re-set to bring them in line with expected costs.
53. The fact that Land Registry’s income from fees has substantially exceeded its expenditure in recent years, does not represent profit from cost-efficiency or out-performance against targets; rather it reflects under-estimation of the volume of transactions in the housing market, which is the key driver of its income. This surplus does not represent profit but arises from difficulties in accurately predicting a volatile housing market. The ambition for Land Registry is to improve forecasting and reduce fees.

Theme: Concerns that insufficient detail was provided on the impact of changes on staff

The issue:

54. A common theme throughout the responses was praise for Land Registry staff. Linked to this was concern that the consultation was not clear about the impact of potential changes on staff roles, numbers and offices. This point was also repeatedly made throughout the Westminster Hall debate held on 25 February. A comment by John McDonnell, MP for Hayes and Harlington was typical:

“There is real anxiety among the professional, highly competent, dedicated and committed staff.”

55. Iain Wright, MP for Hartlepool echoed these concerns:

“More than 4,000 people spread across the country provide a prompt, professional and efficient service. We have heard a number of hon. Members talk about the great work that their constituents do for the Land Registry... What will happen to those staff?”

56. Similarly many individuals highlighted concerns over the potential changes to pay and conditions and changes in civil service status that the consultation implied. The biggest union within the Land Registry workforce, PCS, drew this out in its response:

“...if we are to take seriously the proposition that varying pay is a means to achieving the Business Strategy, then it is intended that the ultimate commercial model would not be a government company but a private company, for a commercial company would, unlike a government company, be able to vary pay.”

Government’s response:

57. As Michael Fallon, the Minister responsible for Land Registry, made clear during the Westminster Hall debate, the Government recognises the value of Land Registry staff and it is a credit to their expertise that so many responses acknowledged this as well. It is acknowledged that limited information regarding potential changes to staff was supplied with the consultation. The reason for this was twofold.
58. Firstly, the only forecasts for potential impacts on staff numbers were derived from the Land Registry’s Target Operating Model (TOM). This was initial planning done by Land Registry’s management and was dependent on a single option for the service delivery company - a Government owned company. As Government wished to consult on alternative options, and as the impact of these options on staff would be variable, it was decided that it would be misleading to release the figures within the TOM.
59. Secondly, the key determining factor for the impact on staff was the Business Strategy and the associated digitisation of Land Registry services. However, as digitisation and the Business Strategy were not the subject of the consultation, it was deemed inappropriate to include it as part of the consultation.
60. The Government has always intended the Business Strategy to go ahead under all options as it should deliver significant benefits for customers including faster, lower cost and more reliable public services. The Business Strategy will have an impact on Land Registry staff and it is envisaged that over the course of the transformation, that digitisation and automation of service delivery will trigger staff reductions and consequential office closures. Land Registry will engage with staff as plans develop.
61. Changes of this nature are part of a long term trend, with staff numbers halving over the last 10 years. It is currently envisaged that the impact on a considerable number of staff will be realised over the next five years and we expect that some of this will be absorbed by natural attrition.
62. All changes will occur in compliance with existing legal safeguards and with appropriate communication and engagement with trade unions.

Theme: Uncertainty over the implications for data protection with a change in commercial model

The issue:

63. Respondents stated that they would like to see protections, beyond the Data Protection Act 1998, to safeguard data that is provided to the service delivery company. This seemed to be particularly important if the service delivery company was privately

owned, with many respondents concerned that a profit motive could incentivise the exploitation or misuse of personal data.

64. An individual wrote:

“Evidence from everywhere else with this sort of privatisation shows that the Government lose control of the data, its use, and its integrity, and that the individuals this data belongs or pertains to are then disenfranchised. Within a very short space of time the public will have companies knowing their private LR information, and using it to leverage sales and other private activities that the public do not want.”

Government’s response:

65. The Government recognises the concerns around data security given the increasing challenges of cyber security and concerns around the protection of personal information. Some of the responses, however, raised issues that may have flowed from a misunderstanding of the existing data protection regime. The Government would, therefore, like to clarify the following issues:

Freedom of Information

- The Freedom of Information Act 2000 (the FOI Act) applies to all public authorities and Land Registry is therefore currently subject to the FOI Act. Any service delivery company, at least in the performance of Land Registry functions, would also be subject to the FOI Act and would need to provide information in response to Freedom of Information Requests.

Data

- Any data collected by a service delivery company in carrying out a statutory function of Land Registry will be owned by Government.

Reuse of Data

- Land Registry complies with its obligations under the Data Protection Act 1998 in order to protect customers’ personal data. Any service delivery company would be a data processor and would be required to comply with the Data Protection Act 1998.
- All data controllers are accountable to the Information Commissioner who has powers to enforce data protection law and impose sanctions.
- Any data collected by a service delivery company in carrying out a statutory function of Land Registry would be classified as public sector information for the purposes of the Public Sector Information Directive.

- Land Registry makes a range of core reference datasets available for free, in line with the Transparency agenda, and intends to continue to do so.

Theme: Concern over the impact of the profit motive on the operations and priorities of the service delivery company

The issue:

66. Many of the responses to the consultation referred to a potential conflict of interest if a service delivery company were to be privately owned. They suggested that a private company, whose main focus was profit, could lead to a reduction in the quality of staff and the level of customer service offered.

Government's response:

67. The Government acknowledges that service quality is important to customers and that a key objective of any change to how the Land Registry operates must protect both customers and the integrity of the register.

68. Nevertheless, Government does not accept that a sufficient case has been made that these protections could not be maintained by an arm's length company, irrespective of ownership. A service contract could be designed with contractual commitments on the service delivery company to meet certain thresholds in terms of quality of service and give Government continued oversight through appropriate monitoring and audit rights.

69. We also want to reiterate that under any changes the OCLR would still have ultimate financial responsibility for claims against the state-backed indemnity and that therefore the public would continue to benefit from existing protections.

Theme: Uncertainty over the responsibilities of the OCLR

The issue:

70. A number of responses requested greater clarity on the role of the OCLR, particularly with regard to how shared functions would operate in practice to avoid duplication and double-handling. Respondents also sought reassurance that the OCLR would have sufficient powers and resource to allow it to effectively carry out its function and duties and its role in supporting the indemnity.

71. The FDA commented in their submission to BIS:

“Division of the organisation between delivery and policy branches will create double-handling. The delivery arm of the organisation will not have the authority to deliver confident timely key decisions on casework. Based on what we know of the proposed set up, they will be constantly looking over their shoulder at the OCLR who will not have adequate resource to respond in a timely fashion. This will be to the detriment of customers, whose day-to-day dealings will not be with those empowered to make the ultimate administrative decision.”

Government's response:

72. The Government agrees that it is vital that there are clear lines of accountability to Parliament, through the OCLR and the Minister, given the important role that Land Registry plays in preserving the integrity of the UK property market.
73. The policy development process has further reinforced the benefits of having to clearly define roles, responsibilities and interdependencies between policy and delivery. It became apparent that this would actually help streamline the current structure and create a clearer operating framework for both the policy and the delivery arms of the business. The Government remains of the view that an important potential advantage of a separation of functions and the creation of an arm's length service delivery company would be the need for a service contract that would clearly specify roles and relationships and create a clear operating framework for the delivery of services.
74. However, Government does recognise that any such separation and service contract would require careful consideration and it would need to clearly define the role of the service delivery company in delivering services on behalf of the Chief Land Registrar, so as to offer sufficient reassurance to the public that the integrity of the register would be preserved.

8. What happens next?

75. As set out above, the Government continues to believe that there are significant benefits in creating an arm's length service delivery company to transform and modernise the way in which land registration is carried out in the UK, as well as to support new opportunities for the business to play a wider role in the property market. Therefore, we will continue to develop the policy and engage with stakeholders.
76. However, given the importance of the Land Registry to the effective operation of the UK property market, we have concluded that further consideration would be valuable. Therefore, at this time, no decision has been taken to change Land Registry's model.
77. If there were policy proposals to change Land Registry's commercial model, we will then consult again.

Annex A: Consultation Principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

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