



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:

Kirun Patel
Shareholder Executive
Department of Business, Innovation and Skills
1 Victoria Street
London
SW1H 0ET
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)
X	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:

Please see reply to question 17 below

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:

We do not agree with the idea of setting up of a separate OCLR. Please see reply to question 17 below.

Question 3

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

Comments:

Please see reply to question 17 below

Question 4

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

Comments:

Please see reply to question 17 below

Question 5

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

Comments:

Please see reply to question 17 below

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:

Please see reply to question 17 below

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:

Please see reply to question 17 below

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:

Please see reply to question 17 below

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:

Please see reply to question 17 below

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:

Please see reply to question 17 below

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:

We do not agree with the concept of a service delivery company

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:

Please see reply to question 17 below

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:

Please see reply to question 17 below

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:

Please see reply to question 17 below

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:

Please see reply to question 17 below

Question 16

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

Comments:

Please see reply to question 17 below

Question 17

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

Comments:

We are a large sized firm of solicitors based in the City of London, with about 150 partners. Our real estate department comprises about 10 partners and 25 other lawyers and is predominantly concerned with commercial conveyancing. That means the sale, letting and financing of commercial property – shops, offices, factories, industrial premises, investment properties and so forth. We also do a small amount of residential conveyancing.

Our response to the consultation is set out below. We do not feel we have adequate information to answer the specific questions in the consultation, nor do we consider that those questions are capable of a simple yes/no answer.

For the reasons set out below, we object to the proposed separation of the functions of Land Registry ("LR") into a regulatory body and a separate service delivery organisation.

A separation of functions as envisaged by the consultation paper will automatically create inefficiencies.

The additional layer and the existence of what will inevitably require a very detailed service contract will lead to additional bureaucracy, costs and risks for the users of land registration services, and could have an adverse effect on the conveyancing system.

Placing the service delivery company in the private sector would present risks. The use of land registration "services" is not a matter of "consumer choice": the Land Registration Act 2002 requires registration. A private sector company with a monopoly on a mandatory service is unlikely, in the medium or longer term, to operate to the benefit of the user of those services; increased costs being just one likely outcome.

A private sector company would have a duty to maximise its shareholders' profits. Registration fees in other European jurisdictions are generally much higher than in the UK and one could envisage a private sector operator using that comparison to exert pressure and to seek to justify increasing its fee - without any corresponding benefit to the user. In addition, there is potential for conflict of interest.

We have seen a considerable increase in LR efficiency in recent years. In general, it operates with a high degree of efficiency. The internal client teams within the LR work well and respond well to customer feedback. The introduction of the Land Registry Portal has led to information being available much more quickly than in the past. We do not understand why it is believed that the new structure being proposed would of itself lead to further improvements. The

consultation paper omits any data or projections to back this up. Indeed, at several points the consultation paper states that the proposals would have "a very limited impact on customers". This simply begs the question why these changes are needed at all.

The legal and technical skills of many LR staff have been built up over many years: these skills are extremely important and are highly valued by users of LR services. In cases where complex work is carried out by less (or non-) qualified staff, often apparently working simply to checklists and procedures (perhaps in order to render the work "administrative in nature"), we encounter errors, inaccuracies and delays. In a profit-motivated private sector service company, there will be increasing pressure to convert complex legal and technical work to a mechanical ("administrative") exercise. That would be detrimental both to users and to the state guarantee of title.

The private operator's focus would be on reducing costs, leading to redundancies among senior legal and technical staff that would lead to deterioration in the service that our clients experience.

We are also concerned about the state guarantee of title. This is of fundamental and crucial importance to land ownership and funding in England and Wales. The consultation paper has little to say about it. In particular it is not clear how the proposals on shared functions – which include the very keeping of the register – would operate so as to ensure that there was no adverse impact on the state guarantee of title.

The separation of functions will blur even further the adequate provision of indemnities. This needs to be addressed first, before any sub-division or split of responsibilities is considered.

The consultation's claim that the services of LR "underpin the property market" is incorrect. The market is primarily governed by economic factors such as supply and demand.

The consultation seems to take the view that LR is a fundamental driver of key importance to property transactions. This is simply not the case. Property transactions are negotiated on the basis of title information – obtained from LR - and a great deal of other information. Transactions are progressed by negotiation – which can be very detailed – and by financing arrangements. Only after the transaction has actually been completed does LR become involved in processing the already completed transaction. Certainly LR has a vital role to play, in allowing users to access information, searching to check there has been no change in the register, and securing priority for registration. But without the buyers and sellers and lenders in the market place, LR would not even have a role in the market.

The assumption that LR's functions are "administrative" is flawed. LR practice (as set out in its excellent Practice Guides) covers very complicated issues of law and practice. Whilst many transactions and information services are purely administrative in nature, there is significant requirement for technical expertise in dealing with a very wide range of property law and title issues.

As soon as the private sector becomes involved in the service performance, rules for confidentiality, fraud prevention, and public service are eroded, if not destroyed.

Complaints handling would be difficult, as each side would blame the other; and then pursue input providers (lawyers in most cases). A rash of litigation would be stimulated.

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

No

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 x ☐

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

x ☐ No

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BIS/14/510RF