



Department for
Business, Energy
& Industrial Strategy

HM LAND REGISTRY: MOVING OPERATIONS TO THE PRIVATE SECTOR

Consultation response

September 2018



OGL

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Introduction

HM Land Registry plays an important role in the property market, underpinning property ownership worth over £4 trillion across England and Wales including over £1 trillion of mortgages. Its principal function is to keep a register of ownership of, and interests in, freehold and leasehold land and charges throughout England and Wales, and to record changes to it. It also provides a state-backed guarantee to the information held on the register, and facilitates one of the most active property and mortgage markets in the world. Its functions and the data it holds are vital to the smooth functioning of the economy.

A consultation was launched on 24 March 2016 that sought views on moving operations of HM Land Registry into the private sector. Government has considered responses to this consultation, as well as views expressed through correspondence, through stakeholder engagement, and during debates in the House of Commons.

HM Land Registry delivers for customers and for the wider economy. It plays a critical role in supporting the government's housing and infrastructure objectives. Government has decided that HM Land Registry should focus on becoming a more digital data-driven registration business, and to do this will remain in the public sector. Modernisation will maximise the value of HM Land Registry to the economy, and should be completed without a need for significant Exchequer investment.

Consultation process

Government launched the consultation: '*HM Land Registry: moving operations to the private sector*' on 24 March 2016. The consultation was open for nine weeks and closed on 26 May 2016. The consultation sought views on the merits of options to move operations of HM Land Registry to the private sector, including suitable safeguards to protect HM Land Registry customers and taxpayers as a whole.

The consultation put forward a number of options to deliver the objectives of maximising a capital receipt for the Exchequer; classifying HM Land Registry into the private sector; and delivering a modern, digitally-based service.

The options included a privatisation with a contract between government and private operator; privatisation with independent economic regulation; and variants including an operating concession and a mutual joint venture. In addition, the consultation set out very clear areas where government would expect to maintain certain protections and safeguards for customers and the wider economy.

The consultation was one of a number of channels which the Department for Business, Energy and Industrial Strategy has used to inform and develop policy in this area. The response outlined in this document has also been shaped through engagement with a range of stakeholders including professionals within the property market; market testing with investors; and government stakeholders.

Response

This paper recaps the issues consulted upon and the proposals put forward, and provides a summary of respondents' views. The paper also sets out the additional stakeholder engagement undertaken during the consultation period.

Government is grateful for all the responses received and the time and effort that went into them.

Consultation responses

A total of 27,634 responses were received during the consultation period and in the week following the close of the consultation. The responses were a combination of submitted consultation response forms, emails and letters (making up 4% of the responses). The remaining 96% of total responses were received as a result of organised campaigns.

The campaign group '38 degrees' organised a petition entitled "Stop the privatisation of the Land Registry." This petition received 293, 656 signatures before it was handed to the then Department for Business, Innovation and Skills on 26 May 2016. In addition to the petition, the campaign group set up a 38 degrees-branded online survey that took a selection of the 10 substantive questions included in the original consultation document. The survey offered suggested points and comments for respondents to include. 82% of the total responses were received through this survey, the majority of which were against privatisation.

Further to this, 13% of the total responses were identical email templates referencing a "We Own It" study. These were opposed to privatisation.

Although these responses did not respond directly to all the consultation questions, and it cannot be guaranteed that respondents had read the proposals in the government consultation document, the messages have nonetheless been considered as part of the wider consultation.

In general, where respondents did not agree with the concept of privatisation, they often disagreed with the questions and therefore did not provide an answer to some, or all, of the questions posed.

Overall, a number of duplicated responses were also received, either identical responses submitted multiple times (such as the emails referencing 'We Own It') or multiple responses from one individual.

Who responded to the consultation?

Of the 4% of responses received outside of the two campaigns, 1,130 responses were from individuals - responses received via 38 degrees and We Own It did not specify whether they were individuals or not but have been assumed to be. Other responses were received from business representatives and trade organisations such as members of the Land Registry Advisory Council; trade unions; law firms, individual solicitors; businesses; academics; and other government departments.

Type of respondent	Number of responses
Business representative organisation/trade body	26
Central government	10
Charity or social enterprise	13
Individual ¹	27,426
Large business	18
Legal representative	46
Local Government	15
Medium business (50-250 staff)	7
Micro business (up to 9 staff)	27
Small business (10-49 staff)	12
Trade union or staff association	3
Other	22
Not stated	9

¹ Responses received via campaign groups have been assumed to be from individuals

In addition to consultation responses received directly by officials, over 160 pieces of correspondence were received by the then Department for Business, Innovation and Skills (BIS) Ministers from MPs on behalf of constituents regarding options to move operations of HM Land Registry to the private sector during the same period. A Backbench Business Committee Debate was held in the House of Commons on 30 June 2016.

Further to this, government actively engaged with a number of stakeholders on this subject. Activities include holding round table meetings and webinars with external stakeholders and bilateral conversations with both internal and external stakeholders. A full list of businesses and stakeholders consulted is available at [Annex B](#).

Consultation background

Consultation objectives

The consultation identified objectives for a change of ownership, but these were set on the basis that any change would need to meet two preconditions. First, a changed HM Land Registry would need to ensure continuity of an appropriate level of service to support the property market and government's commitment to build one million more homes by 2020 and increase home ownership. Any future ownership model would need to improve the services offered to the customer, while including the right protections to ensure, at a minimum, customers continued to receive a high level of service. Second, any change would need to be deliverable in the short term (from 2017) to reduce uncertainty for the workforce and fatigue in the market.

The consultation was clear that subject to meeting these preconditions, and delivering value for money, any change would be assessed against the objectives to:

1. Maximise upfront proceeds for the Exchequer. An upfront capital receipt from a sale of part or all of HM Land Registry operations would provide proceeds to the Exchequer which would help reduce the national debt or could be invested elsewhere for the benefit of the taxpayer.
2. Allow classification of the new service delivery organisation to the private sector. This would allow certain freedoms and incentives appropriate to a private sector organisation to help transform the service.
3. Deliver a modern, digitally-based service that benefits HM Land Registry customers as well as taxpayers as a whole.

The government is committed to ensuring that public bodies involved in the creation, maintenance and supply of data and information relating to property, land and housing, work together to support the government's housing and infrastructure objectives. The response to this consultation takes into account this commitment as well as consultation responses received.

Consultation proposed models

The consultation put forward the following models for consideration: a privatisation with a contract between government and a private sector operator, with variations including an operating concession and a mutual joint venture; and privatisation with an independent regulator. Options of outsourcing, a government owned company and the status quo were considered but not put forward as potential options in the consultation on the basis that they would not meet government objectives.

The consultation stated that government was committed to retaining the Land Register and statutory data under Crown ownership in all proposed models. In addition, a number of further areas were identified as critical protections for customers and the wider taxpayer. These included service quality; the state backed guarantee of ownership; customer fees; disputes and complaints handling; ICT security; data protection; access to data; and commercial protections.

Response themes and breakdown

There were a number of recurring themes and concerns raised through the responses. A breakdown of the key themes emerging from responses is provided below. The arguments put forward by organised campaign groups echoed the themes set out below.

Theme: proposed models

A large proportion of respondents were opposed on principle to a privatisation of HM Land Registry and as a result gave no view on the proposed models. Of those that did provide a view, some expressed concerns over who would benefit from a privatised model, and that it might not be in the interest of the public. Among individuals who wrote letters and emails, as well as those who returned the response form, there was a belief that HM Land Registry carries out a public function, belongs to the public and therefore should not be privatised. Responses received via the organised campaigns took this as a starting position.

In these cases, respondents often stated that their preferred alternative model would be to retain the status quo and see no change to HM Land Registry. For this reason, they choose not to opine on the models put forward in the consultation document.

It should be noted that government believes that HM Land Registry needs to modernise to meet the needs of customers and align with wider government priorities. Government announced in the Autumn Statement 2016 that HM Land Registry should focus on becoming a more digital data-driven registration business, and to do this it will remain in the public sector.

Theme: data

The consultation asked a number of questions in relation to HM Land Registry data. Whilst the response rate was not 100% on these questions, the comments that were received have been considered. Responses differed on the appropriate levels of HM Land Registry data that should be available. A number of individuals felt that the current offering from HM Land Registry was sufficient and that additional open data products were not necessary. This was often coupled with concern regarding data privacy (addressed below). However, many stakeholders believed that making additional data open would be of benefit to the economy.

HM Land Registry currently offers a number of data products to the public for free. Many government departments are key customers of HM Land Registry data and use HM Land Registry data in various forms, both free of charge and paid for data. These include Transaction Data, Price Paid Data, House Price Index, INSPIRE Index Polygons and the 1862 Act Register.

Following the consultation, government has considered the role of HM Land Registry data in the delivery of public services and the wider economy. Enhancing the accessibility and usability of data where appropriate can support this delivery and the wider economy. Increasing access to land data is important to support land development, and drive innovation that supports citizens, local and central government and developers. As a result, HM Land Registry has said in its Business Strategy for 2017-2022 that it will publish a wide variety of data in high quality and accessible formats to enable it to be used by anyone with an interest in

land registration information, supporting the growing digital economy and adding to the nation's land and property geospatial intelligence. HM Land Registry released, for free, its commercial and corporate ownership data set and the overseas ownership data set in November 2017.

The Geospatial Commission, set up to maximise the value of all UK government data linked to location, works closely with HM Land Registry as one of its partner organisations.

Theme: safeguards and protections

Overall, where respondents reflected on the safeguards, they were in agreement with the areas put forward in the consultation. It should be noted that those respondents who opposed the concept of privatisation largely stated that the 'only appropriate safeguard' was to retain HM Land Registry in the public sector.

Government has considered the necessary safeguards for a safe, effective and trustworthy register. As stated above, government will progress a modernisation of HM Land Registry in the public sector. Government will ensure that customers retain the existing level of protections and the integrity of the Register is maintained through HM Land Registry's transformation to become the world's leading land registry for speed, simplicity and an open approach to data.

Theme: HM Land Registry is already a high performing organisation

In their responses, many individuals commented on HM Land Registry's high customer satisfaction rates. In some cases personal anecdotes were given demonstrating the care for individuals' provided by HM Land Registry staff.

Government acknowledges that many individual customers are satisfied with the service from HM Land Registry and that it has a history of high customer satisfaction ratings. Government believes that, over time, modernising and fully digitising HM Land Registry systems will support customer satisfaction.

The transformation initiatives set out in HM Land Registry's Business Strategy are all expected to increase HM Land Registry performance to better serve customers and stakeholders.

Government remains committed to upholding appropriate performance and quality standards levels as the transformation is implemented.

Theme: there is no need for change

Some respondents were of the view that in an organisation with such high customer satisfaction ratings, there is no reason to change HM Land Registry – the "if it ain't broke, don't fix it" argument. Some responses from the anti-privatisation campaigns commented that customers were satisfied with the service as it stands and that retaining the status quo would be optimal. However, it was noted in analysis that there were some stakeholders who believed improvements could be made, not least with regards to delays in processing applications.

Government recognises that people increasingly expect to be able to engage with government and receive services digitally. This trend is expected to accelerate in coming years. HM Land Registry therefore will need to continue to evolve to meet these expectations. To do this, it is focusing on transforming into a more modern, digital data driven organisation, and is remaining in the public sector to do so.

Theme: Government is changing a profitable organisation

Many respondents made reference to the dividend paid by HM Land Registry to the Exchequer in previous financial years and the monies that have been paid to government by HM Land Registry in recent years. There was concern that government could risk losing a profitable organisation, and one that is not currently funded by the tax payer. Responses frequently voiced concerns that the long term value of HM Land Registry would be lost through a sale and that economically this option would not make sense. In some cases respondents suggested that only shareholders will profit, or certain individuals, rather than the wider taxpayer and UK economy.

HM Land Registry is a trading fund and as a result is subject to government rules set out in Managing Public Money². These rules stipulate that fees must be set at a level that recovers the cost of the services to government – which for HM Land Registry, would mean covering the indemnity and a small amount paid through a dividend to HM Treasury to reflect the cost of capital to central government. HM Land Registry must ensure that its income from fees covers its expenditure under normal operating conditions.

Theme: Concerns around the profit motive of a new owner/potential for foreign ownership

Many respondents raised concerns of the potential for a foreign bidder to take control of HM Land Registry possibly resulting in a detrimental impact on HM Land Registry and the UK more broadly. Some suggested that a new owner could be solely focused on profits rather than quality of service. A number of respondents also suggested that as a monopoly provider, a private sector HM Land Registry would not have the correct incentives to improve services. Some respondents suggested that a conflict of interests could emerge if a private operator held significant property interests. There were views that a private sector-run HM Land Registry would no longer be transparent, and would be subject to corruption and abuse. Additional concerns raised included a private sector HM Land Registry would no longer be accountable, and would lose its impartiality and that staff in the private sector would be less trustworthy than civil servants.

First, government is clear that there is no suggestion that private sector staff are inherently less trustworthy than civil servants. In addition, government does not accept that, with appropriate mechanisms in place, a private sector HM Land Registry would automatically have been exposed to an increase in corruption and fraud.

As transformation is taken forward in the public sector, government will continue to include suitable protections to ensure that HM Land Registry remains accountable, impartial and delivers effectively for customers. Further to this, government will look to improve transparency

² www.gov.uk/government/publications/managing-public-money

of land use, control and ownership through improvements to the HM Land Registry as set out above.

One of the safeguards put forward in the consultation was to retain the Land Register and statutory data under Crown ownership. In almost every response where it was addressed, respondents agreed with this approach. Where respondents disagreed, it was clear from the remainder of their responses that this was either a misunderstanding of the question or because they believed that in principle, the whole HM Land Registry should remain under Crown ownership.

Local Land Charges

Many local councils asked for detail on the impact of a transaction on the Local Land Charges programme. HM Land Registry launched its new Local Land Charges service in July 2018.

Conclusion

Government remains committed to delivering an effective, trustworthy and up to date service for customers and the taxpayer. It therefore announced in the Autumn Statement 2016 that HM Land Registry should focus on becoming a more digital data-driven registration business, and to do this it will remain in the public sector. Digitisation and increased transparency is enabling HM Land Registry to provide a quicker, more efficient service to customers, and maximise its value to the economy. HM Land Registry digitisation is part of a wider government agenda to help improve and speed up the process of home buying. The government is pursuing a number of initiatives that will consider how HM Land Registry can achieve these aims, which were detailed in the Housing White Paper³, published on 7 February 2017.

³ www.gov.uk/government/publications/fixing-our-broken-housing-market

Annex A: Consultation questions

- Q1: Do you agree that ownership of the Registers should remain in government?
- Q2: What steps should government take and what safeguards should be in place to ensure continued and improved access to high-quality and reliable Land Registry data?
- Q3. How could government use this opportunity to improve the quality and accessibility of data produced by Land Registry for all sectors of the economy?
- Q4. On what basis should government manage the relationship with a privately owned Land Registry to ensure Land Registry meets, as far as is reasonable, the data quality and availability requirements of all stakeholders?
- Q5. Do you think the suggested safeguards should be included in any model?
- Q6. Are there other safeguards that you think should be included?
- Q7. Do you agree with the preferred option?
- Q8. What are your reasons for your answer to question 7?
- Q9. Do you think an alternative model would be better and why?
- Q10. Are there any other key costs and benefits that you think we have missed?

Annex B: Stakeholders consulted during the consultation period

Land Registry Advisory Council

Building Societies Association;
Council for Licensed Conveyancers;
Council of Mortgage Lenders;
The Conveyancing Association;
Chartered Institute of Legal Executives;
The Law Society for England and Wales;
National Federation of Property Professionals (which includes the National Association of Estate Agents);
Royal Institution of Chartered Surveyors;
Society of Licensed Conveyancers;
Local Government Association; and
Council of Property Search Organisations.
The Law Society of England and Wales (bilateral)

Law Society of Bristol (round table)

Law Society of Birmingham (round table)

Council for Licensed Conveyancers (webinar)

Law Commission

Competition and Markets Authority

Office for National Statistics

First Tier Tribunal of the Property Chamber

HM Courts and Tribunal Service

Ministry of Justice

Department for Communities and Local Government

HM Revenue and Customs

Cabinet Office

Government Digital Service

Department for Rural Affairs

Department for Business, Innovation and Skills

Wales Office

Welsh Government

The National Archives

Home Office

Bernard Jenkin (Chair of the Public Administration and Constitutional Affairs Select Committee)

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