



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
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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
	Large business (over 250 staff)
	Legal representative
	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
X	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:

In the structures described, we believe that the proposal if put into practice is far more likely to focus on the “success” of the service company, rather than the “service” given to its customers. As it stands the Land Registry provides an excellent service, is self funding and renders a good financial yield to the Treasury from its surplus income, notwithstanding its constitution as a trading fund.

On page 19 of the consultation document, paragraph 55 states that the customer will see “*little or no change*”. On page 21 paragraph 61 states that “*the proposals outlined in this document would have a very limited impact on customers*”.

By contrast on page 12 at paragraph 26 the benefits are summarised as a reduction of processing times, reduction in the risk of error and fraud, reduced costs, a centralised access point and greater access to a richer data set. There is no evidence of how a change in structure from trading fund to service company would actually have that effect.

The introduction and foreword identify the object of the exercise – achieving sufficient flexibility to digitise the Land Registry’s services. The inference is that the trading fund structure does not achieve this. There is no apparent evidence to back up this position. The existing structure has successfully converted some services that were formerly paper-based to online delivery.

If there is a subtext that outside investment from the private sector will facilitate digital delivery, then it would be better if that were openly discussed in the consultation. All that is put forward by way of proposed structure for the “service company” is a high level indication of possible options at paragraph 58.

The reasons for the change of status are given at paragraph 57; first, “*where there is no longer a strong policy reason for continued public ownership*” and second, “*where there is potential for an asset to operate more sensibly and efficiently in the private sector*”. Again, we can find no evidence of either criterion in the consultation.

This leads to the conclusion (in the absence of supporting evidence) that the proposal is politically motivated, offers no clear benefits to the taxpayer or consumer, may result in a different set of ethics (business over service) becoming predominant and there would be a long term loss to the public purse in exchange for a short term gain, although private enterprise might stand to gain from taking over the operation, while industry stakeholders and other users will find that the principles under which the “new” registry operated favoured profit over reputation.

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:

The functions reserved to the OCLR are not particularly onerous nor do they give the impression that the OCLR will wield much power or control over the service company. The impression given by this paragraph (and the following paragraph 50) is that the OCLR would be a small and limited organisation, with perfunctory powers that may be overridden by central government or the commercial objectives of the service company.

This (and the following questions 3, 4 and 5) is not an easy question to answer if the motivation for the change remains obscure.

Question 3

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

Comments:

There should be a more “hands-on” role for the OCLR in order to maintain and improve performance standards, steer policy towards service over profit (although it is not clear what the actions are hoping to achieve by way of policy), provision of a complaints process that is clearly separated from the service company and can be viewed as a transparent and independent facility. We believe that those should be the policies of any organisation that becomes involved in property information; if they are not, the property information industry will see a rapid decline in standards.

A major difficulty will be the dividing line between maintaining a particular government or business policy and maintaining separation and independence.

Question 4

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

Comments:

If (as it appears) the large majority of functions are to be shared, what is the point of separation?

As mentioned in the previous paragraph, if the “new” operation is to remain credible then its complaints process must be transparent and independent. A shared responsibility for complaints, particularly regarding maladministration will give rise to suspicions of collusion.

Question 5

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

Comments:

It would have been useful for these functions to have been described in greater detail in the consultation paper; however, the presumption is that this paragraph is referring to the “mechanics” of delivering the new “equivalent or better service”, which (subject to OCLR supervision) are properly the function of a service company.

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:

The proposal to restructure the Land Registry is unique and it is therefore very difficult to anticipate how the register would function and where any safeguards would exist. An example is the separate consultation based on the proposal that the Land Registry will take over and centralise the Local Land

Charges Register. In the information for that consultation it is stated that the Local Authorities will retain liability for data inaccuracies, but fails to explain how consumers will be protected in the event that a Local Authority contests its liability (which is likely if the Land Registry is empowered to amend the central register). This is further complicated if the OCLR has a responsibility to regulate the service company's administration of the register and fails to ensure that it is done properly. The consumer (and legal representatives, insurers and lenders) would not easily be able to identify the party with liability, so may be compelled to take action against all, which would inevitably be complex, time consuming, very expensive and above all a far worse position than the *status quo*.

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:

If, as stated in paragraph 49, the OCLR has no say in recruitment of staff for the service company, the relationship and hence regulation (if it exists) of staff behaviours, employment criteria and training are no better than indirect (via the service contract) which may be difficult to enforce where there is a separation between the two functions of service delivery company and OCLR.

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:

It is not possible to comment where there is so little description (and supporting evidence) of how the mature model will function.

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:

In the proposed structure all users direct and indirect (thus legal professionals, insurers, lenders and consumers) should have access to an independent resolution service and not one that is linked to the structure, or to central government. This is particularly so if there is any possibility of further expansion or diversification by the Land Registry.

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:

Escalation to OCLR appears to be in the discretion of the service company. This may give an impression of a difficult path to progress complaints. It may give too much of an impression of “self regulation” – as with (for example) police complaints, which have a reputation (deserved or not) of suppression of complaints by complexity of process.

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:

As front line provider of the services, it is logical that the entity with “hands on” experience should have some input into the rules by which it has to operate.

However, this again raises a question about why separation is a good thing.

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:

This question infers that there may be some inadequacy in the current DPA, a clearer or more focused question would enable us to give an answer.

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:

It is not clear which body will draft the service contract; in theory it should be the OCLR as a government entity, but it should be recognised that if a private undertaking were to be involved in the service company, there would be an expected degree of negotiation on terms. There may be a conflict arising between OCLR and the service company if the service levels clash with profitability. There is then the potential for long term disputes, which can not be anything other than detrimental to service users.

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:

See previous comments, although it might depend on which political party is in power for the priorities of the operation if in Government control. If a private company it is more likely that the object of the exercise will be to make money.

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:

Again this is probably dependent on the political orientation of the Government in any of the situations involving them. Owners of a private company will be very unlikely to prioritise good service, improvements and investment ahead of the potential dividends that can be earned.

Question 16

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

Comments:

Conversely, given that the Land Registry is trading at a large profit (paid to the Treasury) with an extremely high satisfaction rating, why does it make any sense to impose an untried new structure that inevitably results in different priorities, will cost a vast amount to implement, will necessarily alienate a large number of skilled employees and management; may reduce the service achievements and hands the impressive potential for income to a non-governmental organisation?

This is not taking into account the likely disruption that could be caused by the transition, the possible detriment and cost to the business community and any consequent adverse effect on the property market.

Question 17

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

Comments:

This consultation should have been linked to the concurrent consultation from HMLR regarding the assumption of the Local Land Charges Register, as it appears that both are complementary elements of a larger plan.

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

There is a question about the amount of time allowed for this response; it appears brief, which may have the effect of restricting the breadth of engagement with stakeholders and distorting the eventual consultation result. The same can be said for the Land Registry's own consultation which ended on 9th March 2014; we are aware of several concerns that it was conducted with inappropriate haste and which may lead to challenges when the conclusions are reached.

We would add in summary that the information supplied with this (and the Land Registry's) consultation is incomplete and makes a reasoned response very difficult. There is an overriding presumption that the proposed changes will be of benefit, which is not backed with evidence either from pilot schemes or even from "expert" opinion.

The conjoining of the BIS and Land Registry consultations (see above response to Q17) would put both consultations in context and allow respondents to consider the bigger picture; the possibility of local HM Land Registry offices closing to be replaced by a single site Govco may result in loss of operational jobs in each area where there is a Land Registry local office; the resultant effect on the locally based Local Land Charges Registers would probably involve a reduction in local government employment, with the benefits of local knowledge lost as experienced public servants are made redundant or put in a position where their employment required them to relocate.

Similarly, businesses based around the supply of information into the property industry (as is the case with our network, which employs many and makes substantial contributions to the local and national economies) may be pushed out of business by the creation of a large central monopoly and the potential for an extremely anti-competitive and distorted marketplace.

We would encourage genuine engagement with the existing stakeholders (including local authorities and private businesses) instead of the perceived mere lip service that has been paid to genuine experts and market leaders. There should be a further period of consultation on that basis, before a decision is made which would degrade the information system, replace a fully functioning service industry with an untried (and as yet undecided) business model, chance the diminution of the reputation of the Land Registry in its current format and bring down service levels to consumers and professionals.

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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