



Department for Business, Innovation & Skills

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

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

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

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

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

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

Name: **Nabarro LLP**
Organisation (if applicable): **Solicitors**
Address: **Lacon House, Theobalds Road, London WC1 X 8RW**

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

	Business representative organisation/trade body
	Central government
	Charity or social enterprise
	Individual
x	Large business (over 250 staff)
	Legal representative
	Local Government
	Medium business (50 to 250 staff)

	Micro business (up to 9 staff)
	Small business (10 to 49 staff)
	Trade union or staff association
	Other (please describe)

Question 1

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

☐ Yes

☐ No

☒ Not sure

Comments: **See reply to Q17 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: **See reply to Q17 below.**

Question 3

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

Comments: **See reply to Q17 below.**

Question 4

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

Comments: **If these functions are to be shared, there would need to be a very clear demarcation of who is responsible for what. Otherwise, there is the potential for confusion and an adverse effect on the user of Land Registry services: the Register which is "kept" is the one which has been "maintained". In the context of these services, the user is not a "consumer" in the sense of exercising choice; the user is, effectively, obliged, by virtue of the LRA 2002, to use the registration services which result in the maintenance and keeping of the Register.**

In particular, how would the state guarantee of title relate to, and operate within the context of, these shared functions?

And see reply to Q17.

Question 5

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

Comments: **See reply to Q17 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: **See reply to Q17 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: **This would depend on the terms (from time to time) of the service contract and how effectively it was enforced. And see reply to Q17 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: **See reply to Q17 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: **If the decision is taken to create a service delivery company within the private sector, the complaint procedure outlined in paragraph 56 is probably inevitable. However, there is clear potential for substantial delays (and resulting costs), neither of which would be in the interests of those who are required to use land registration services.**

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: **See reply to Q9 above.**

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: **This would have the potential to lead to conflict of interest. And see reply to Q17 below.**

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: **See reply to Q17 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: **See reply to Q17 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: **It is not clear what is meant by "opportunities and risks". And see reply to Q17**

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: **It is not clear what is meant by "opportunities and risks". And see reply to Q17.**

Question 16

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

Comments: **See reply to Q17 below.**

Question 17

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

Comments: **The consultation paper lacks the detail to allow us to respond in any meaningful way on those matters which are essentially the internal workings of the Land Registry. In general we would comment as follows.**

A separation of functions as envisaged by the consultation paper may or may not lead to greater operational efficiencies. However, the additional layer and the existence of what will inevitably be a detailed service contract may simply lead to additional bureaucracy, costs and risks for the user of land registration services.

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 LRA 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 and in general it operates with a high degree of efficiency. The internal client teams within the LR work well. The introduction of the Land Registry Portal has led to information being available much more quickly than previously. We query 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 you consider that these changes are needed at all.

The legal and technical skills of many Land Registry staff have been built up over many years: these skills are extremely important and we believe are highly valued by users of Land Registry 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 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.

Our final point is as to 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.

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

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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