



## 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](http://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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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
<b>X</b>	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

Whilst the Land Registry has always been able to serve its law firm customers effectively, as is clear from its satisfaction surveys, we are certain that:

- a) the efficiency of the current operation could be improved still further by building upon the success of the ATP programme outside of the constraints of the public sector.
- b) the whole product development process (and in particular the development of greater insight into the needs of a market that is so important in adding innovative new products and services to the existing core) operates more effectively with the input of the private sector.

### Question 2

**Do you agree that the OCLR should retain exclusive responsibility for the functions set out in paragraph 49?**

☒ Yes      ☐ No      ☐ Not sure

We agree although we note the important functions in paragraphs 43 and 45 are also intended to be the exclusive responsibility of the OCLR and as such should be included in paragraph 49.

### Question 3

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

We believe that in the event that the Land Registry are awarded wider powers as proposed in the Land Registry consultation on the LLC1 and wider powers, then the OCLR should have the additional function of approving any new market initiative that uses these wider powers. Such approval should only be awarded if there are no material concerns around competition issues and suitable competitive processes are followed in any tender process.

We would also expect the OCLR to explicitly set out the detailed ground rules for the use of personal and non-personal data by the Service delivery company.

We further believe that the OCLR's responsibilities for oversight, operational design, liability and complaints under the shared functions (Paragraphs 50 and 51) should be captured here for the sake of clarity.

### Question 4

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

We believe that the proposed shared functions would benefit from a clearer distinction between oversight, operational design, liability and complaints on the one hand and operational performance on the other. We appreciate the distinctions as drawn in paragraphs 50 and 51, but would prefer to see a clearer delineation of responsibilities under OCLR functions and Service delivery company functions. We believe it is important that the OCLR should define the "what" is delivered and leave the "how" to the Service delivery company.

Such delineation would not change the intent of the drafting, but would, we believe, improve the clarity of operational performance.

Whilst considerable further detail is understandably not included, we would flag the need for early guidance on how the OCLR indemnity proposition would flow through to the Service delivery company – particularly with regard to liquidated damages.

### Question 5

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

We believe that the Service delivery company should control the delivery of the operational functions with which it is tasked. In the event that these operational functions include the exercise of as yet unknown wider powers, then we strongly believe these must be controlled in a fashion that supports healthy private sector competition and does nothing to stifle innovation and growth.

Our preferred operating model referenced in more detail as part of our answer to Question 17, would see the Service delivery company controlling the management of the dataset that is the Land Register but competing with other organisations on a level playing field maintained by the OCLR for the supply of access to it in support of core services.

### 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

We support the overall sentiment that any proposal for a Service delivery company must maintain the integrity of the Register and the Registration process. This must be viewed as a fundamental requirement.

The brief description of the checks and balances does not give us sufficient information to be clear whether or not this is the case. We are concerned that the detail around the division of responsibilities within shared functions is imprecise and therefore ambiguous and we are concerned to note the absence of any description of performance penalties or consequential remedies which will impact on our view.

### 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

Yes we would although given the sensitive nature of the process and the established risk of fraud; we would expect a commensurately significant level of vetting of staff such as IL3.

### 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.**

We have assumed that all existing escalation processes to the CLR are included in this proposal and that the OCLR will have unfettered access to all operational performance data, including complaints, as part of its oversight of the Service delivery company.

We would only add, in support of our answer to Q3, that in the event the Land Registry was awarded wider powers, the OCLR should receive any escalated objections to the exercise of those powers, including any unreasonable non-cooperation (without precluding the right of wider appeal to OFT etc).

### 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

Yes in so far as we understand it reflects the essential approach employed today.

### 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

### 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

Such a position would promote better operational decision making without upsetting the division of responsibilities.

### 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

We don't believe government should rely solely on the DPA to protect the integrity of the personal data held in such a fundamentally important Register. We believe that a suitable IL assessment will be required before any procurement process commences.

With regard to non-personal data, we believe this is a key asset that should be made widely available under suitable licence to support the objectives of the Information Economy.

### Question 13

**What are your views on the proposed system for safeguarding customer service issues and the continued role of the Independent Complaints Reviewer?**

We infer that arrangements for safeguarding customer service issues are substantially the same as in the 2012 / 2013 business plan although there does not appear to be any explicit detail in the consultation. It is not made clear what performance levels are proposed or what level of visibility will be available of complaints received by the Service delivery company and what threshold occasions an escalation. Both these points would need to be dealt with and at a level at least equal to current practice.

Additional information on sanctions would also be useful here in supporting confidence in the proposed changes.

### 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

We believe that a private sector company will create more opportunities for operational efficiency and growth. The private sector has a freedom to invest, a track record of market driven innovation, and an ability to act and manoeuvre in time with market opportunities.

The principal risks of a change to a private sector service delivery company is the management of the change in employment terms for existing Land Registry staff which would need to be carefully and sympathetically handled.

We would also again mention that the control and supervision of a service delivery company that was awarded wider powers would need to be more comprehensive than envisaged by this consultation. It would require competitive oversight to ensure the economic growth envisaged for the Information Economy is actually achieved.

### 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

We believe that private ownership is a stronger indicator of likely long term growth and success. Such growth and success can be achieved within a regulated framework that safeguards both the public mission of the Land Registry and, crucially, the competitive dynamic that incubates the widest possible economic growth.

## Question 16

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

We assume the business strategy referred to is the introduction of a Service delivery company as per this consultation as we don't believe the Land Registry's 2013 – 2018 strategy has been published.

We believe that a successful delivery is dependent on an engagement with the private sector. We do not believe that an arm's length government service delivery company will be successful as it would experience all of the operational upheaval with none of the commensurate benefits.

Therefore, to deliver, a private sector delivery company requires:

- considerable political will in order to address concerns about the security of the asset.
- attention to the welfare of current Land Registry staff.
- a model that generates an acceptable commercial return.
- a level competitive playing field that guarantees an engagement by the whole private sector market, not just a selected partner.

## Question 17

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

We support the thrust of the consultation towards a closer engagement with the private sector in order to realise the value of the Land Registry and unlock innovation and growth. And we trust our responses reflect that belief.

We have now taken the opportunity to set out below our view of the wider model that we believe is best suited to encouraging the private sector whilst also protecting the interests of customers and safeguarding the integrity of the Land Register.

We believe the Service delivery company should be tasked with:

- the development and maintenance of a secure and efficient Register of property title information.
- the development and maintenance of a secure and efficient process for the receipt and adoption of changes to the Register.
- supplying and managing an interface layer for approved third parties to access the Register.

- supplying a retail front end that enabled external parties to perform core searches of the Register and record changes to the Register.

We believe the OCLR should be tasked with:

- the management and enforcement of the Service Agreement with the Service delivery company.
- setting the retail pricing of statutory functions.
- establishing and managing pricing and licensing principles for data access including a volume-discounted wholesale pricing structure for approved Value Added Resellers.
- approving applications from Value Added Resellers for channel access licences.
- ensuring open and timely access to all non-personal data held by the Register on uniform terms.

We envisage that the private sector will respond by applying for channel access licences in order to offer the market:

- core search capabilities
- core lodgement capabilities
- added value services utilising non-personal data held on the Register
- other existing or new related services

We envisage that there would be strong demand from participants in the property market such as search companies, legal and estate agency case management vendors and lenders to be resellers and imagine that there would be a vibrant reseller market from industry at large.

Conversely, although the core function of holding and maintaining the land registry will rightly be held by a single entity, we believe that it would be extremely damaging if the Service company were to become the sole value added reseller of its data, or prevented integration by third parties so that it was the sole method available to update the register. This would stifle innovation and would therefore not be in the interests either of existing service providers to the property market.

Finally, we do not believe that the functions currently envisaged to be carried out by the Service delivery company should necessarily be grouped under a single new entity. We believe that further consideration could be given to a division of functions such that different entities were responsible for discrete elements such as hosting; archiving; digitisation; operations or publication.

Alternatively, government could dispense with the creation of a new entity altogether and more simply contract with an existing company to supply the required services (as the successful EPC Registers precedent demonstrates).



### 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.**

We are concerned that the juxtaposition of this consultation and that of the Land Registry around the LLC1 and Wider Powers has the potential to confuse. The operations of the Land Registry that this consultation has addressed could be markedly different depending on the outcome of that consultation and this must be a fact that BIS are aware of.

Similarly, the reference to the impact of these proposals is inadequate when the proposed wider powers are included. In such a scenario, the impact on the private search sector is pronounced and damaging.

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

☐ N

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