



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.

Name: Elgin Farewell
Organisation: Teranet Inc.
Address: 123 Front Street West, Suite 700
Toronto, Ontario M5J 2M2

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) |
| | Small business (10 to 49 staff) |
| | Trade union or staff association |
| X | Other (please describe) |

Teranet Inc. is a privately held company with operations in the Canadian provinces of Ontario and Manitoba. Teranet is headquartered in Toronto and has an office in Winnipeg, in addition to five satellite registry offices throughout Manitoba.

We have more than 20 years' experience in working with governments to successfully deliver mission-critical, statutory land registry services. We have delivered these services under a shared ownership (50/50) model and a concession model, both of which are very similar to the UK Government's proposal for HMLR.

We welcome the opportunity to respond to this consultation and believe our experience in Ontario, as well as our recent success in applying a similar model to the Canadian province of Manitoba, can contribute to the process.

An Introduction to Teranet and Borealis Infrastructure

Teranet is the exclusive provider of essential services in electronic land registration and writs of execution under a long-term service provider contract with the Province of Ontario. In its operations, Teranet serves more than 50,000 end users, more than 35 real estate boards and over 250 municipalities and institutions.

Working in partnership with the Ontario government, Teranet built and manages Ontario's Electronic Land Registration System (ELRS). To do this, Teranet:

- legally certified (giving effect to the guarantee of title) and automated more than 5 million titles;
- transferred more than 99 percent of all land registration activities to the online environment.

Ontario is one of the largest land registries in the Commonwealth. Ontario's world-leading system processes on average approximately 2 million registrations per year on 6 million parcels of land. Under our model, the Government continues to provide a guarantee of title. The Government also continues to own the land registration data as well as the rules that dictate the collection of data and the maintenance of title.

In 2010, the Government of Ontario extended its exclusive relationship with Teranet by 50 years to 2067, reflecting the confidence it has in the company's ability to fulfil statutory responsibilities on behalf of the Ministry of Government Services and the Ministry of the Attorney General.

Ontario's ELRS is a highly sophisticated registry that offers advanced technical capabilities including:

- Digital title/parcel and mapping information and a fully imaged inventory of historic paper registrations.
- Remote electronic creation of fully digitised documents. This entails using secure data sets that have been extracted from the database and auto-populated into a document being prepared for registration.
- PKI infrastructure (i.e. with digital signatures) for secure remote collaboration between end users. User identities are validated by the system and the Law Society of Upper Canada on a daily basis.
- Electronic submission and registration that automates both the receipt and the abstraction of documents for land registration.
- An efficient internal process that uses the digital data submitted to further automate its systems.
- Full electronic remote searches related to real property.

In addition to creating and managing Ontario's digital title register and electronic registration system, Teranet has worked with the Province to unlock added value from the registry. This has been accomplished by leveraging the data to enhance the effectiveness of the real property landscape. As a result, Teranet goes to market by repackaging and marketing data under a strict regime that gives government approval rights over all products. Teranet has created a comprehensive suite of value-added products and services. These include property information (real estate industry), collateral risk management (financial institutions), geospatial information (municipal governments and utilities) and enterprise solutions.

Teranet Inc. is wholly owned by Borealis, the infrastructure investment arm of the Ontario Municipal Employees Retirement System (OMERS), one of Canada's largest AAA-rated pension funds with C\$65 billion in net assets. Borealis was formed in 1998 to structure, finance and manage infrastructure assets on behalf of OMERS. Today, Borealis manages a portfolio of infrastructure investments with an equity value of C\$11 billion which it plans to grow to C\$20 billion in the next five years. The company is headquartered in Toronto and has offices in London, New York and Sydney. Borealis is a long-term investor with a buy and hold philosophy. The company has extensive

experience partnering effectively with governments and regulators in investments, including Teranet, LifeLabs, Bruce Power and Enersource in Canada; Scotia Gas, Associated British Ports and HS1 in the United Kingdom; Net4Gas in the Czech Republic; Oncor in the United States; and the recently acquired electricity distribution business of Fortum in Finland. Borealis is committed to making significant investments to grow Teranet in new jurisdictions as it continues to evolve as the world's premier land registration business.

Teranet recognises that land registry excellence starts with the employees who deliver the service and build/maintain the system. Teranet operates in both union and non-union environments and enjoys productive relationships with two unions in two provinces. We have more than 20 years of excellent labour relations, and have never experienced a strike or a service disruption due to labour issues. Through its portfolio of companies, Borealis also has productive relationships with a number of unions in Canada, the United States and the United Kingdom. OMERS – being a pension fund of union-based municipal employees – has a strong interest in maintaining constructive relationships with unions and has deeply ingrained this approach in its management philosophy.

The strength of the Teranet-Borealis business model was recently confirmed through a second, multi-decade service mandate with the Province of Manitoba. In February 2014, Teranet and the Province signed agreements for a 30-year exclusive concession for Teranet to operate both the provincial land and personal property registry services. These agreements include:

- end-to-end processing responsibilities in six land registry offices located throughout the province;
- a mandate to transform services through the delivery of electronic registration capabilities.

Similar to the proposed UK model, the Manitoba provincial government retains responsibility for all legislative changes and for providing oversight for registration services through the Office of the Registrar General. We have a framework with a clear set of governance processes to manage the transition and the transformation. This shapes a collaborative approach to stakeholder and change management, and for handling customer complaints. The framework is detailed in both our Ontario and Manitoba contracts and legislation, and we believe this approach is highly relevant and transferrable to the UK Land Registry.

Question 1

Do you agree that by creating a more delivery-focused organisation at arm's 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:

Based on our experience, the proposal to create a more delivery-focused organisation at arm's-length from Government can enable the Land Registry to offer better service to customers and achieve its strategic objectives.

Governments around the globe face similar challenges in their land registry operations. Many are exploring innovative solutions to deliver efficient and effective land registry services, while continuing to protect the public interest. The difficulties faced by governments include:

- Citizen expectations – the public expects delivery of government services to be consistent with what they enjoy from commercial entities, including online service channels.
- Modernisation challenges – attempts to update processes and systems in a timely and cost-effective manner have typically proved difficult.
- Increasing deficits – faced with bigger debt, governments need to consider new options, such as how to extract value from their existing assets.
- Workforce retirements – in the next five years, many government employees will retire, taking with them a lifetime of knowledge, experience and skills that are difficult to replace in a knowledge-based industry.
- Conflicting priorities – operating budgets are decreasing, systems are starved for investment, and the funding needed for system modernisation is being allocated to social priorities, such as healthcare and education.
- Financial Risk – ageing systems and employee attrition leads to greater financial risk for governments that provide a guarantee of title.

A secure and trusted land registry is critical to the health of the economy. But it often takes a back seat to other social priorities. This situation is both risky and unsustainable.

It is imperative that governments ensure their registries are maintained to the highest standard possible. The private sector can be instrumental in achieving this objective by providing financial support, operational expertise and technological innovation. The strengths of the private sector combined with government oversight, local registry expertise, and collaborative input from stakeholders can lead to transformational results – a trusted, modern and efficient registry system that provides essential statutory services to citizens and other stakeholders.

Transformation can be achieved by separating the regulatory functions from the service delivery functions. This operating model has been proven through more than 20 years of success in Ontario. It has also been recently adopted by the Canadian provinces of Manitoba and Saskatchewan, and is currently being contemplated in Australia.

In this consultation, the proposed model affords the Government flexibility and more options to engage with the private sector. This will enable it to:

- Leverage experienced private partners to deliver high quality services, modernise the Land Registry and create operational efficiencies.
- Transfer the revenue risk and significant cost burden, including capital investment for systems and process upgrades, to the private sector.
- Unlock the economic value of the land registry asset through:
 - a significant upfront payment;
 - a potential ongoing revenue stream;
 - the potential to participate in any extraordinary profits and gains, thereby ensuring the Government does not undervalue the asset.
- Ensure ongoing investment in the land registry operation and the development of its people.

Teranet has discussed modernisation with HMLR since the early 2000s. We have openly shared our experiences and perspective with the Government because we passionately believe HMLR is well positioned for transformation through an alternative service delivery model. HMLR has a well-defined vision and has made significant progress in building an efficient and modern land registry. However, we believe there are opportunities for the Land Registry to further improve operational performance and drive internal and marketplace efficiencies by working in partnership with the private sector. This could be done through a concession model or a joint ownership model. As HMLR has operated as an executive agency and a trading fund for a number of years, we do not believe the option to privatise HMLR with the government retaining 100% ownership will accelerate the transformation. This issue will be addressed more fully in Question 16.

HMLR's future success is dependent on:

- modernising its technology;
- automating the workflow of its registration process both for end users and registry operations;
- investing in the skills and capability of its employees and training customers to adapt to the changes.

To do this will require investment and deep expertise, which can be delivered by the private sector. We believe the proposed structure outlined in this consultation creates opportunities and options to achieve this through:

- A delivery-focused organisation that can concentrate on efficiency and customer service delivery within the legislative and regulative boundary created by the Government and the Land Registrar. The contractual relationship between the Government and the service delivery company would be guided by clear performance standards and service level agreements. This allows the service delivery company to focus on efficiency and effectiveness without jeopardising the integrity of the land registry.
- More flexibility and options for the service delivery company to engage with the private sector to acquire operational expertise, technological innovation and funding to expedite the transformation.
- A non-government service delivery organisation that is less restricted in forming strategic relationships with private sector entities. This could lead to:
 - better collaboration with the stakeholder community;
 - increased responsibility in facilitating end-to-end conveyancing practices;
 - additional social and economic benefit.

- A private partner that treats land registry as a long-term social infrastructure investment. This long-term investment philosophy will ensure consistent funding and consistent service, in both good and bad economic times.

The table below demonstrates some of the performance results seen in Ontario through the transformation of the Land Registry:

| Item | 1991 | 2013 |
|---|--------------------|--------------------|
| Estimated number of properties | 3.8 million | 6.1 million |
| Number of properties automated | 254,000 | 6.1 million |
| Number of Land Registry Offices | 62 | 53 |
| Electronic creation and submission rate | n/a | 99.9% |
| Approximate Land Registry Office square footage | 1 million | 250,000 |
| Approximate number of Land Registry Office staff (Government and Teranet) | 1,400 | 400 |
| Annual registrations (average) | 1.3 million | 2 million |
| Processing backlog in high season | 2-3 months | 1-2 days |
| Archives | paper / microfiche | 200 million images |

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 outlined in paragraph 49 represent three areas of overall responsibility of the OCLR:

- Administering and exercising statutory authority;
- Changing statutory requirements and business rules;
- Oversight of the land registration services and the service delivery company.

The functions described are fair examples of those that currently are – and should continue to be – the responsibility of the OCLR. However, describing them as exclusive may limit the degree to which the OCLR can be effective in executing these functions in the proposed structure.

We will elaborate on each area of responsibility:

Administering and exercising statutory authority

- The OCLR should have the sole authority to require the production of documents to support a proceeding before the Chief Land Registrar (CLR).
- The service delivery company must have the authority to request the production of documents from users in support of title acceptance and maintenance processes (i.e. maintaining the title as required under the Land Registration Act).
- The service delivery company should be compelled to support the CLR by producing documents kept within the Land Registry and providing research and expertise that support any proceeding before the CLR. The terms and parameters of this support should be detailed in the service contract.
- As a quasi-judicial entity, the OCLR should be the only authority that can make an order regarding costs in relation to proceedings before the CLR.
- The OCLR should administer the Land Titles Assurance Fund and any claims against the fund. The service delivery company should be liable for any errors it makes, whether employee or system generated. Once the fund pays out, the OCLR should have recourse to the service provider company if it was liable.
- The OCLR should have the exclusive responsibility to appoint and determine the terms and conditions of appointments of OCLR staff.

This last point merits elaboration. Although it may be an unexpected opinion coming from a private sector service delivery company, we believe consideration should be given to extending the OCLR's approval rights to appoint certain senior level employees in the service delivery company.

The service delivery company must have the legislative authority to maintain title. A legislative framework should delegate this authority from the OCLR to the service delivery company. This allows employees to effect changes to title and enables the State Guarantee of title. As such, the OCLR needs to make these important

appointments with full confidence that candidates for senior title officer roles have the required credentials and capabilities.

The service delivery company is responsible for hiring decisions and for determining the terms of employment. For senior title officers, however, the OCLR should have approval rights over candidates once they have been evaluated and selected by the service delivery company. Furthermore, the OCLR should be able to revoke the delegated authority if needed. This scenario, however, should not arise if the service delivery company is proactive and diligent in ensuring performance is managed.

Changing statutory requirements and business rules

- The land registration data, the business rules that stipulate acceptance, and the title maintenance requirements and processes are owned – and should always be owned – by the Government. Any changes to the rules, legislation or regulations that affect land registration should also be the responsibility of Government. As such, the OCLR should be on the Rules Committee.
- The service delivery company should be compelled to implement rule changes to both processes and systems. The contract should provide the framework and funding to enable statutory changes made by the OCLR.
- We do not, however, believe the Rules Committee should be exclusive to the OCLR (please refer to Question 11 for further elaboration on this point).

Oversight of the land registration service

- The OCLR serves as both the regulator of land registration and the overseer of the service delivery company. As such, the OCLR should produce and publish an Annual Report to Government and the public. This report should be a channel to:
 - socialise government intentions on the business of land registry;
 - provide statistics and performance results;
 - share information on issues resolution and service improvements enabled by the service delivery company.
- The service delivery company should work closely with the OCLR in the production of the report, but should not be accountable for controlling or approving content.

Question 3

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

Comments:

The Land Registry plays an essential role in the strength of the property market and the UK economy. It is critical that any strategy relating to Land Registry continues to protect the integrity of the Register and does not compromise the confidence of buyers, sellers and lenders in the property market. In order to maintain operational integrity and stakeholder confidence, the OCLR should retain responsibility for the following functions:

- General oversight of the land registry system;
- Oversight of the service delivery company and the contract/agreements;
- Ownership of all official data within the Register;
- Providing a guarantee of title;
- Administering the Assurance Fund, including determinations of liability with regard to the service delivery company;
- Setting fees for access to statutory Land Registry services;
- Establishing legislative and regulatory frameworks for the Land Registry;
- Defining and maintaining registration and validation processes, including those that the service delivery company must embed in systems, services and back-office processes;
- Determining how the service delivery company can use the official data maintained in the Register. This includes having approval rights over any commercialisation of official data by the service delivery company;
- Representing the Land Registry in matters related to other national or international government bodies.

Question 4

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

Comments:

We agree that the policy and delivery functions of Land Registry should be separated. This separation will help achieve the business objective of becoming a more efficient, customer-centric and data-driven organisation that plays a wider role in the property market. In fact, as the wider property market evolves, we believe a private sector service delivery company would be in the best position to:

- keep pace with the needs of customers and lead transformation;
- evolve the capabilities and offerings that will shape service in the future;
- integrate land registry data and capabilities into the end-to-end workflow of real property conveyancing (estate agents, lending, legal, local government planning and assessment).

We also agree that any functions related to Land Registry – aside from OCLR functions or shared functions as defined in the consultation document – should be delivered by the service delivery company.

We are in general agreement with the proposals for shared functions set out in paragraphs 50-51, with the following additional comments:

- The service contract should define the areas of operational interaction with sufficient precision to ensure clarity of roles for both the OCLR and the service delivery company.
- In the division of duties, the OCLR should:
 - perform general oversight over the land registry system;
 - establish and enforce the legislative and regulatory framework governing the system;
 - retain the necessary functions to protect the integrity of the Land Registry.
- In turn, the service delivery company should have responsibility for:
 - delivery and operational functions needed to operate the Land Registry in an effective and efficient manner;
 - functions that drive transformative change, as contemplated by the consultation document. These include the design and development of technologies as well as change and transition management;
 - operational service delivery and performance management aspects of the Land Registry;
 - capital investment decisions and funding to support the long-term viability of the service.
- The service contract should establish a comprehensive governance and oversight protocol that:
 - drives a collaborative approach between the OCLR, the service delivery company and other stakeholders to ensure broad acceptance of transformative change;
 - effects positive changes to services through detailed planning and implementation;
 - ensures privacy and public interests are protected with regard to the official data in the Register;

- ensures an avenue of recourse for clarification of roles and responsibilities.

The OCLR and the service delivery company should be jointly responsible for the development and delivery of communication plans on Land Registry transformation initiatives. This includes engaging and consulting with relevant stakeholders.

Question 5

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

Comments:

Through first-hand experience, we know a service delivery company can successfully assume operational responsibility to deliver statutory services related to land registration, with stipulated oversight from government.

The service delivery company should be accountable for making technology choices that will continue to enhance the system functionality delivered on behalf of the Government. These technology choices must meet the changing needs of both end users and the Government. In consultation with the OCLR, the service delivery company should define user functionality and translate the business rules into the land registry system, which would make the overall land registration process more efficient.

As part of the contractual or legislative terms, functional responsibilities should be defined upfront to the best extent possible. This helps to clarify roles and reduce ambiguity. We have taken this approach with our Government counterparts in the Canadian provinces of Ontario and Manitoba, and it has greatly contributed to our ability to make better decisions and foster stronger relationships. A similar approach appears to be under consideration in the UK with the presumption that by default all Land Registry functions belong to the service provider, and all functions of a statutory or oversight nature remain with Government.

Having a strong governance structure is crucial. Even when roles and responsibilities have been clearly laid out in contractual documents, a healthy, committed governance forum can provide guidance and oversight for unexpected situations that arise.

The service delivery company's success will be dependent on its ability to retain critical elements and core competency within a workforce with deep, jurisdiction-specific knowledge. This enables the service delivery company to focus on:

- leveraging its existing organisational and management capabilities;
- executing a plan to embed the knowledge in the IT systems;
- enhancing the land registration system to meet stakeholder needs.

The service delivery company must have the expertise and the necessary resources to meet its obligations, which include:

- maintaining the system so it is modern, user friendly and secure;
- meeting customer service requirements;
- maintaining system performance;
- addressing business continuity requirements;
- remediating system outages;
- managing the land registry processes and business rules.

The OCLR should hold the service delivery company accountable for:

- Meeting its obligations, as per pre-determined, detailed and specific performance standards. These performance standards should be supported by a robust remediation plan under a governance framework.
- Reporting regularly on its operational performance. This enables the Government to exercise an appropriate level of oversight, including any needed reviews or audits.

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 overall design suggests the appropriate checks and balances have been put in place to do this. Protecting the integrity of the Register and the State Guarantee is of crucial importance. We believe the government must retain responsibility for:

- a legislative and regulatory framework that is implemented in the system by way of business rules;
- ownership of the land and property data;
- statutory fee control to ensure ongoing protection of public interests;
- holding the service delivery company accountable to well-defined performance standards;
- maintaining the Assurance Fund.

A private sector model works best when there is strong governance that:

- Ensures the service delivery company is held accountable for meeting its obligations, which are defined through detailed and specific performance standards.
- Includes robust remediation plans for any unexpected issues that potentially impact performance.
- Requires the service delivery company to report regularly on its operational performance. This enables the Government to provide the appropriate level of oversight and perform audits as needed.
- Facilitates communication, stakeholder management, accountability and an escalation path should issues arise.
- Has clearly defined roles and responsibilities. As an example, the service delivery company would be responsible for enhancements to the system while the Government would ensure new features and functionality continue to meet statutory requirements.

The service delivery company must have deep expertise as well as the ability to fund system upgrades and ongoing improvements. Ideally, a service delivery company should have strong and proven internal processes around areas such as quality assurance, software development, change management and transition implementation. The service delivery company also needs to continuously strengthen the security of its systems and processes in order to minimise the risk of fraud. To do this requires both extensive system knowledge and access to funds. Finally, the strategic partner needs to deeply understand the importance of maintaining the integrity of the Register and must have an investment philosophy that values long-term benefits for the Land Registry and its stakeholders over short-term profits.

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:

Not only are we comfortable with this scenario, we believe it can lead to greater efficiencies and better customer service. For the past 20 years, the Province of Ontario has realised significant improvements in:

- market efficiency;
- cost savings for the government;
- security and fraud prevention;
- how the data can be leveraged;
- data integrity;
- system availability and access.

In addition to these improvements, we were able to provide significant financial returns to the Government. We are poised to do the same on an extended end-to-end basis in the Province of Manitoba.

In Ontario, Teranet systems enable the processing of approximately 2 million land registrations per year on behalf of the Government. Almost all – 99% – of documents are fully digital and submitted remotely, using a high degree of automated processing.

Teranet staff members, who are not civil servants, searched approximately 6 million titles in order to automate the records. In setting up Ontario's registry, they also converted roughly 2 million of those titles from a deeds system to a land titles system. Teranet is liable for any errors made during the automation project, regardless of whether they were made by humans or systems.

In Ontario, electronic document creation, submission and certification is enabled by electronic validations based on business rules that are set and owned by Government. Teranet also maintains the title parcel fabric in the Geographic Information System (GIS), on behalf of government. All land records are owned by Government and are maintained within Teranet databases.

In Manitoba, Teranet receives, checks and processes plans and land registry documents in support of maintaining title on behalf of the Government. This is done under the delegated authority of the Office of the Registrar General.

In order to gain comfort and confidence with non-civil servants processing land registration information, we recommend the following actions:

- Have a service delivery company that truly understands the importance of Land Registry services and records integrity to the UK's economy. The service delivery company must:
 - appreciate that Land Registry knowledge takes time and support to acquire;
 - appreciate that the current registry employees will be of crucial importance to business continuity during the transition and to future transformation;

- have a culture that puts records integrity, customer service and innovation first;
 - demonstrate a record of respect and mutual success in its experience with unions and collective agreements;
 - understand how to work with government and respect that the public interest is often not aligned with the bottom line.
- Ensure that the continued government guarantee of title and the Assurance Fund is supported by a service delivery company that stands by – and is liable for – the quality of its work.
 - Ensure that documented rules and procedures dictate how things are done and followed.
 - By embedding the rules and legislative requirements into the system, it becomes irrelevant whether processing happens by government or a service delivery company because ultimately it is the system that processes the records.
 - Set contractually determined performance standards that are measurable and reportable. These should include systems standards and processing turnaround times, as well as quality assurance standards.
 - Ensure knowledge is maintained within the service delivery company.
 - Maintain regular contact and collaboration with the OCLR through a prescribed and effective governance regime.
 - This should include a transparent approach to performance and contract management.
 - Ensure the OCLR delegates authority, but is engaged in cases with complex, precedent-setting title decisions.
 - This should be managed through an effective escalation process that ends with an authoritative decision by the OCLR if need be.
 - Make sure the service delivery company performs independent audits of processes, systems and services, the results of which are reported to the OCLR.
 - Grant OCLR approval rights over the use of data to ensure privacy and public interest is maintained.

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:

In our experience, having a robust contractual framework that clearly articulates the roles and responsibilities of both the regulator and the service delivery company is essential for effectively resolving any issues that arise.

An effective issue resolution strategy should include:

- a robust triage process within the service delivery company to determine the level at which each issue will be handled;
- a process for recording and reporting decisions;
- a communications policy around decisions.

Depending on the nature of the decision, it should be reported to and managed by the OCLR and/or by the service delivery company. In some cases, particularly when the Independent Complaints Reviewer (ICR) has been involved, the decision would be communicated more broadly, including outreach to the affected stakeholders.

Having a strong issues resolution strategy promotes standardisation and transparency, and gives stakeholders confidence in the business arrangement.

In addition to what has been set out in this consultation, we would recommend the following situations be escalated to the OCLR:

- Title-related matters that may set precedents or require new interpretation of statutes and policies. As these could affect the quality of title, an expedited escalation to the OCLR is necessary to preserve the accuracy and integrity of the official land registry data.
- Concerns or questions regarding new or proposed changes to statutes or policies that could result in an adverse impact on the service delivery company and/or the delivery of land registry services to the public.

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 principle, we agree with the proposed approach for handling complaints. However, to manage complaints effectively, we recommend the Government create a more comprehensive process that contains a defined escalation path within the service delivery company. This would ensure that issues are resolved at the appropriate level before being escalated to the Independent Complaints Reviewer (ICR). We would also recommend that the Government and service delivery company agree to categorise issues so that each complaint will fall into one of three categories:

1. Issues that remain the sole responsibility of the service delivery company to resolve without the involvement of the ICR or the OCLR.
2. Issues that ultimately escalate to the ICR for a recommended resolution. This recommendation would be considered by the service delivery company.
3. Issues that ultimately escalate to the OCLR, with resolutions that the service delivery company is required to follow.

Putting an effective triage process in place will ensure that issues are investigated by the right organisation. Establishing this agreement at the outset will help create a streamlined complaint resolution process that minimises duplication of efforts and promotes clear accountabilities. It is imperative that the service delivery company has the needed depth of experience and an established team that understands how to identify the correct complaint resolution path for a variety of issues. This will enable issues to be processed more efficiently, leading to a better customer experience.

Finally, we recommend that all complaints be recorded, tracked and shared between Government and the service delivery company. This encourages transparency and gives both parties the opportunity to identify trends and be proactive in reducing the number of complaints.

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:

As part of the overarching governance plan, the government and service delivery company should develop an escalation process that promotes fair and effective resolution of any issues that arise. Access to the Independent Complaints Reviewer (ICR) as part of the governance strategy also helps achieve this objective.

A priority for both the OCLR and the service delivery company is to create processes that minimise the number and nature of objections connected to the delivery of land registry services.

In principle, we agree with the proposed approach for handling objections. However, to manage the process effectively, we would suggest Government and the service delivery company create a more comprehensive escalation structure that includes regular and more detailed reviews, as well as a defined escalation path within the service delivery company itself. This would enable any objections to be fully assessed before they are brought to the ICR.

We would also recommend that Government establish clear categories of objections that are solely within the purview of the service delivery company and outside the scope of the ICR. This would promote efficiency and help avoid potential abuse of the escalation 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:

While the OCLR should be a member of the Rules Committee, consideration should also be given to extending membership to the service delivery company.

The service delivery company would be responsible for the practical application of land registration rules. While the OCLR would officially own the title record, the service delivery company would maintain and provide daily updates to the record based on the established rules. As such, the service delivery company would be in the best position to discern patterns, trends and emerging risks and opportunities to the land registration system and records. These in turn might be addressed through the addition, amendment or elimination of land registration rules.

In addition to being the primary contact with Land Registry customers, the service delivery company is responsible for processing all search and registration applications to amend title. This puts the service delivery company in the best position to assess the practicality of any potential rule changes, as well as to understand the impact they will have on customers, service levels and data integrity.

In summary, there should be a place on the Rules Committee – either formally or informally – for the service delivery company. The company's rich day-to-day experience and exposure will not only help identify opportunities the committee might consider, but may also mitigate risk by ensuring rule changes are fully evaluated before being confirmed.

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:

The Data Protection Act protects the individual whose personal information has been collected. However, the Government should consider imposing additional obligations on the service delivery company that would provide protections in favour of the Government itself, as well as further encourage industry-leading behaviour on the part of the services delivery company. This could include items such as:

- The Government defining a privacy policy that supplements less prescriptive areas of the Data Protection Act, such as in relation to data retention timelines. The service delivery company would be required to comply with the policy.
- The Government retaining full ownership of all property data, and limiting the use of personal data by the service delivery company to those uses set out in a contract or subsequently approved by the Government / OCLR. The Government could also retain the right to approve the use of property data by the service delivery company.
- Establishing technical and organisational security measures to be applied by the service delivery company in relation to the protection, destruction, alteration, disclosure and access of personal data. In establishing these measures, consideration would need to be given to applicable data protection laws, the state of technology and the costs of implementation.
- Working in conjunction with the service delivery company to establish a joint privacy committee that would include setting out multiple layers of governance structure and processes to effectively oversee and manage any personal data issues.
- Defining the Government's ability to audit the data protection practices and processes within the service delivery company.

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:

We share the Government's view that it is crucial for customers and members of the public to have confidence in the land registration system. We also agree that when customers are not satisfied with the service they receive, there must be a clear and fair path for them to seek resolution.

The Government's proposed system is similar to what we have implemented in Ontario. Working with our Government partner, we created a clearly defined issue resolution process that enables a complainant to see the progress and ultimate resolution of his or her concern. The goal is to effectively resolve issues and complaints within the company and prevent unnecessary escalations to Government partners.

To date, we have been successful in managing issues and bringing them to resolution without escalation. It is, however, only realistic to assume that some complaints will not be resolved within the service delivery company. In these cases, it is vital that the complainant has a path to pursue concerns through a fair and objective body. In Ontario, this path is through an appointed Commissioner, as specified in the contract. For the UK's Land Registry, this body is the Independent Complaints Reviewer (ICR).

The ICR, being a neutral body, can investigate in an unbiased, confidential and impartial manner, thereby ensuring the procedure is reasonable to all parties. This impartiality goes a long way in fostering confidence in how public interests are protected in matters outside of legislative decisions related to land. As you have already established, the ICR must be separate from government and the service delivery company so that it can act independently and reach a decision objectively. The ICR would then provide a recommendation back to the service delivery company and the Government.

Another crucial component of the system should be clearly establishing and communicating which areas fall under the ICR's authority. This will help ensure complainants are not further frustrated by attempts to address issues through improper channels.

Finally, the OCLR should continue to publish Annual Reports to provide public insight into how well the service delivery company is maintaining its performance in regard to customer service.

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:

By separating regulatory functions from service delivery functions, the Government can leverage the strengths of both the public and private sectors without compromising the integrity and performance of the Land Registry.

This division of functions creates clear accountabilities that significantly reduce the risk of entrusting operational control to a private sector company. As a government function, the OCLR safeguards the integrity of the Land Register and ensures that public interests are protected through legislation, regulations and rules. The service contract between the OCLR and the service delivery company provides clear performance standards and service level agreements. As a result of these contractual stipulations, the service delivery company must be focused on the efficiency and effectiveness of its day-to-day operations in order to meet its commitments. Performance standards also come with stipulated consequences for non-compliance, which help safeguard the integrity of the Register.

In this scenario, with divided regulatory and service delivery functions, there are many advantages to granting operational control to a private sector operator. These benefits could include a private sector entity that:

- Provides management oversight and brings appropriate expertise as required.
- Introduces an organisational culture that focuses on customer experience, service delivery, operational efficiency and value creation.
- Expands the scope of the arrangement so the private operator has control of the entire service delivery operations in addition to being accountable for its technology. This integration of IT with the business drives effective transformation and far greater efficiencies.
- Drives efficiency by bringing operational expertise and best practices from land registries in other jurisdictions and adapting them to the practices of the UK.
- Expedites the transformation by introducing the private sector entity's existing IP, technologies and assets.
- Responds quickly to meet customer needs and adapt to changes in market conditions.

Allowing a private sector entity to have operational control over the service delivery company ensures clear responsibility and reduces complexity in the decision making process.

In terms of potential opportunities, the private sector entity could create even more value for Government and the public by expanding the value proposition to develop offerings beyond statutory registry services. In Ontario, Teranet leverages its exclusive access to land registry data to offer value-added solutions to solicitors, real estate agents, utilities and local authorities through mapping, property valuation, tax collection

and risk assessment products. These value-added solutions create significant social and economic value to society, in addition to tangible profits for the company and the Government.

When granting operational control to the private sector, the Government needs to consider a few key issues to avoid potential risks:

Protecting the assets of the land registry operation

While every land registry shares a common purpose in society, each jurisdiction has unique real property laws and administration systems. The key assets of the existing land registration operations include systems, knowledge, expertise and talent. We believe these should be preserved within the UK under private operational control.

When defining the service contract, we recommend the government dictate which services and assets are to remain in the UK, taking into consideration the technological and operational synergies that an experienced private sector operator could share across registry jurisdictions.

Preserve the domain expertise and local talent

We understand land registration organisations and we know it takes a significant amount of time to build the required knowledge and competency within them. We also understand that each jurisdiction is unique and has its own laws, regulations, practices and processes. For this reason, the service delivery company should be led by local talent who have deep connections to the local stakeholder community. It is also important that the service delivery company appreciates the uniqueness of the UK's land registration practices, and understands the policies and record-keeping processes.

A service delivery company operated by local talent will also allow the government to retain jobs in the UK and maintain harmonious relations with the unions. This will help in avoiding unnecessary disruptions to the land registry operation during the transition.

Technology and process transformation leads to greater efficiency, but it is also important to embed knowledge into the IT systems before there is a loss of human competency. Employee demographics are both a risk and an opportunity in today's workplace. We believe it is possible to take advantage of attrition in a manner that creates value. This approach has allowed Teranet to sustain positive union and labour relations in the Canadian provinces of Ontario and Manitoba.

Controlling the fees to consumer

We recommend the Government maintain control over statutory fee increases to ensure consumers are not unfairly exploited. As a self-funded organisation, one main revenue source for the service delivery company could be transaction fees for statutory search and registration services. Without proper checks and balances, it is conceivable that a profit-focused service delivery company could transfer a profit loss to consumers through fee increases. We believe the Government should maintain fee predictability and control through a pre-determined fee schedule or fee-setting mechanism that ensures public interests are well protected. These terms should be defined in the service contract between the OCLR and the service delivery company.

Controlling the use of land registry data

We recommend the Government maintain ownership of the land registry data as well as control its public and commercial use by the service delivery company. This practice protects the public interest and ensures the service delivery company is compliant with data protection policies and privacy regulations. In Ontario, public access to land registration information is controlled through the functionality of the Electronic Land Registration System (ELRS), which is dictated by the business rules set by Government.

The partnership and licence agreements between Teranet and the Province of Ontario were structured in a way that allows Teranet to leverage the land registry data to create new efficiencies for governments and the financial, legal and real estate industries. This is done through the delivery of bulk data and the creation of value-add products and services. The ability for Teranet, as a private company, to access and use land registration data in this way opens doors to new markets through data sharing and innovative product development. It does, however, also create the potential for risk. Given the private nature of information entered into the land registry system, value-add data can create privacy and liability issues or be used for fraudulent purposes. As such, strict oversight controls were structured into the agreements to ensure both the value-add products and their customers were appropriately scrutinised to protect citizens and government interests.

Teranet must seek approval from the Government if it wishes to use the data for a new product or distribute the data to a third party. Approval is a function of criteria that has been clearly set out in the contract and is administered under a Joint Governance Committee. The criteria include privacy, scope of the data set, stale dating, and aggregation provisions. The committee follows formal processes and procedures that define what information the government needs in order to evaluate a request. While there have been instances where the government did not approve a request for data, there have not been any situations where Teranet was unable to accommodate a request for data by a third party (once approved by government) at an acceptable price.

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:

We believe the opportunities or risks are different, depending on whether the service delivery company is owned by the Government or a private sector company or a combination of both.

Under paragraph 58, the Government has listed three potential ownership models:

1. A service delivery company which is 100% owned by Government (for clarity, we interpret this to mean that the day-to-day operations would also be the responsibility of the Government in order to differentiate this model from the third option below).
2. A service delivery company which is jointly owned by both Government and a private sector company.
3. A service delivery company which is 100% owned by Government, but day-to-day operations would be the responsibility of a private sector company on the Government's behalf.

Regardless of the model, we believe there are significant opportunities that the Government should consider when assessing potential ownership of the service delivery company.

Unlocking the economic value of the service delivery company

With the proposed structure, the independent service delivery company becomes an asset that can be monetised as a regular business entity. The company could be self-funded through the collection of service fees for registrations and searches. These fees would provide revenue to support the company's ongoing operations, capital investments and profit for its owner(s). The Government could receive a substantial upfront payment if it decided to sell a portion of the equity interest of the service delivery company or to sell a long-term concession to investors. This upfront payment could allow the Government to fund other initiatives or reduce the national debt. The size of the upfront payment would be driven by the stability and size of future revenue and profit stream, as well as the portion of the interest that is for sale.

Transferring the business risk of the service delivery company

As an independent business entity, the service delivery company faces typical business risks. Many factors driving business risk – such as market conditions – are outside of the control of Government. The major economic downturn of the past years created significant financial impact to the Land Registry. As a result, HMLR realised significant losses and had to go through an Accelerated Transformation Programme to downsize its operation. Allowing a private sector entity to own the financial interest of the service delivery company – either through an equity interest or a concession – would allow the Government to share the business risk with the private sector. This also creates flexibility and opportunities for future capital injections when required.

Ensuring greater accountability of the operator to the service delivery company

Ownership of equity interest would enable a private operator to share in the financial interests of the service delivery company. This would naturally create a higher level of accountability than a scenario where the private operator mainly had to meet its contractual obligations to avoid financial penalties. In addition, if the service delivery company was privately owned, the ownership of the financial interest would create additional incentives for the company to manage the business effectively and work towards creating greater value.

Private ownership of the service delivery company, combined with a longer investment horizon, would also ensure the private operator makes decisions that benefit the long-term viability of the company over short-term profit.

Teranet was founded as a public-private partnership with the Ontario Government, where the Government and the private equity partners each owned a 50% equity interest. This ownership structure proved successful because the equity partners were aligned with the Government on business outcomes and on the exit strategy for the investment. The private equity partners had the opportunity to purchase government shares, based on predefined conditions. The Government also retained approval rights in the event a private partner wanted to sell an equity interest to another party. In addition, the Government had great clarity on the circumstances (e.g. performance failure and insolvency) in which the assets would be transferred back to Government. The arrangement ensured a common understanding and alignment on outcomes and business objectives. This compelled both Government and the private sector to remain engaged in making decisions that supported long-term success.

We believe a long-term concession model, where the private sector owns and operates the service delivery company for a period of time (such as 20 or 30 years) is a better alternative than simple equity ownership. An equity owner can choose to sell a part of the equity stake at any time. A long-term concession, however, creates a definitive and predictable financial interest. This in turn creates greater incentives and more accountability for the private sector to deliver an efficient and sustainable land registry operation.

In evaluating any ownership model, the Government should also consider some potential risks:

Misalignment between the Government and the private investor

In terms of land registry, the Government's top priority is to have a stable, reliable, secure and sustainable operation. There could, however, be a risk that a private investor could have a different agenda and investment horizon. As a result, the service delivery company could be forced to make decisions that are detrimental to the long-term benefit of the registry. For example, focusing on short-term returns instead of investing in infrastructure and technology to ensure the IT systems remains modern. The situation could be further aggravated if the private investor and the operator of the service delivery company are not the same party. In this case, the primary objective of the operator is to meet the contractual obligations, whereas the primary objective of the private investor could be short-term profit and short-term value creation. There is also a risk that an owner may transfer its ownership interest to a new party whose interests are misaligned with those of the Government. The Government can protect against this risk by retaining approval rights to any equity transfers based on predetermined criteria.

Transferring the financial loss to consumers

For a self-funded service organisation, the primary revenue source would be transaction fees for statutory search and registration services. Without proper checks and balances, a potential risk could be the pressure to transfer any profit loss to consumers in the form of higher service fees. We strongly believe the government should maintain control through a predetermined fee schedule or fee-setting mechanism to ensure public interests are well protected. These terms should be clearly defined in the service contract between the OCLR and the service delivery company.

In comparing the three proposed models:

- The first model, where the Government maintains 100% of the service delivery company and the day-to-day operations, significantly limits the potential benefits of the proposed structure. It also limits the potential of the service delivery company to create additional value. HMLR has operated on a quasi-independent basis as a share entity, but has not completed the transformation after many years of effort. Maintaining the entity ownership by Government is not likely to change this.
- The second model could allow the Government to unlock the economic value of the service delivery company and share the business risk with the private sector. In this scenario, however, the Government needs to manage any potential misalignment with the private investor or ensure it has a long-term investment horizon. A long-term concession model would better protect the Government's interest than an outright ownership transfer. The Government could also transfer 100% of the business and participate in the upside through a gain sharing mechanism.
- Under the third model, the Government would have total control of the service delivery company through 100% Government ownership. However, with a strict outsourcing contract arrangement, the Government would not be able to unlock any economic value in the service delivery company; transfer business risk to the private sector; or create greater accountability with a private operator that manages the day-to-day operations of the service delivery company. As such, we believe this model is only viable if the Government retains ownership of the data and rules, but a third party is brought in to purchase the remaining assets of HMLR and is then granted a long-term concession to operate the Land Registry. This model will transfer the operational risk; facilitate the operational flexibility needed to improve the system; and create incentives for the concessionaire to improve the service.

In summary, we believe that allowing private investor participation through an ownership interest creates significant benefits for the Government. Our experience has shown that the perceived risks related to private ownership can be effectively mitigated, while tangible benefits can be realised. We believe a long-term concession model or a joint equity ownership model could both be successful. In either case, the private sector should be responsible for service delivery over a long period of time, such as 20 or 30 years.

Teranet deeply understands a range of ownership models, having evolved through various scenarios over the past 20 years:

- In 1991, Teranet was founded as a public-private partnership with the Ontario Government where the Government and the private equity partners each owned 50% of the equity interest.

- By 2003, Teranet had delivered on most of its partnership objectives, leading the Government to sell its interest in Teranet for C\$370 million.
- In 2006, the private equity partners that had purchased the Government's interest in Teranet took the company public as an Income Trust. Through this deal, the Province of Ontario again monetised its investment in Teranet through a gain sharing mechanism that resulted in a payment of C\$573 million as a result of the incremental valuation of Teranet at that time.
- In 2008, Borealis acquired Teranet through the tender of all income trust units in the open market and made it a privately owned business entity.

Having experienced various forms of ownership, Teranet and Borealis have created a concession-based ownership model that would enable governments to maximise the opportunities and minimise the risks. This model is an extension to the proven concession model in Ontario and is now an accepted model in Manitoba.

Teranet's concession model provides a guaranteed source of funding that governments can use to reduce their debts and deficits. This funding comes in the form of an upfront capital investment, a royalty stream, and the assumption of all operating and capital expenses. Specifically, Teranet provides:

- An upfront payment for the assets and the exclusive, long-term (multi-decade) concession/licence to operate the service delivery company as it provides statutory and (optionally) value-added services.
- A comprehensive plan that is agreed to by the government and Teranet to ensure an orderly transition of operations back to government at the end of the concession, should the government decide to not renew or to award the concession to another party.
- An annual royalty back to government. This royalty varies with activity rates thus mitigating some of the volume risk and lowering the cost of capital.
- Annual funding to update services and systems in order to enable legislative and policy changes.
- The sharing of unexpected profits made by Teranet through a sale or exceptional business performance.

In return, Teranet receives a fee for service delivery that is set and controlled by government, thereby ensuring fee stability and predictability.

Teranet is held accountable for delivering services that meet pre-determined and negotiated performance standards. In addition, Teranet assumes the business risk for the duration of the concession. As a result, we become a trusted partner to government in delivering a reliable, long-term solution that is based on more than 20 years' experience in designing, developing and operating electronic registration systems.

In 2012, the Manitoba Government and Teranet entered into an agreement to make Teranet the province's exclusive provider of essential land registration services and personal property registry services. This is a direct application of the Teranet/Borealis model. The agreement will have the following benefits for Manitoba:

- Improved citizen-centric services, resulting from significant investments by Teranet to establish and maintain superior customer service over a 30-year term.
- Confidence that Teranet's experience, intellectual property and record of success with major systems projects will result in a modern and efficient land registry.

- Funding, with proceeds of over C\$500 million comprised of:
 - an upfront payment of C\$75 million;
 - estimated annual royalty payments of approximately C\$11 million, increasing to an estimated C\$24 million by the end of the concession term.
- The potential to share any excess returns made by Teranet through a sale or through exceptional business performance.
- A detailed transition plan for the Manitoba land registry with no layoffs or changes to employee salaries, pensions or benefits, but with meaningful savings realised over time as the workforce is reduced by attrition.
- Fee predictability through a fee-setting mechanism controlled by government.
- The establishment of Teranet Manitoba, with the management team resident in Winnipeg and operations maintained across six provincial offices.
- A contractual relationship with a public sector pension fund that is focused on long-term results and has a proven ability to partner effectively with governments.

Question 16

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

Comments:

Teranet is a recognised expert in the modernisation of land registration and has deep knowledge on trends and issues facing jurisdictions around the globe. We believe HMLR faces a few constraints and dependencies concerning a successful delivery of the Land Registry business strategy.

Productivity level not scalable to changing market conditions

We have examined the past financial reports of HMLR. It would appear that HMLR's productivity, measured as unit cost, remains similar to 2008 levels prior to the Accelerated Transformation Programme, in both nominal and real terms. Our analysis suggests that any productivity improvements since 2009 are largely due to organisational restructuring rather than to a full technology transformation. At this productivity level, we believe HMLR would likely need to significantly increase the number of staff (and the associated operational expenses) when market activities return to 2007 and 2008 levels if it hopes to maintain its current performance. To maintain profitability of HMLR in its current form, management would need to divert considerable focus and effort in order to respond to changing market conditions.

Effective engagement of employees and the labour union

As a knowledge-based operation, the Land Registry must maintain productive relations with the labour union to ensure it can retain the needed skills and expertise, and provide uninterrupted service to customers. There is a risk of employee disengagement due to concerns around job reductions resulting from productivity improvements. Innovative solutions and careful planning are required to effectively transform the land registry operation while maintaining a constructive and collaborative relationship with the union.

Incomplete modernisation plan

Our preliminary review of HMLR's modernisation initiative (as reported in HMLR's financial statements) leads us to believe that HMLR has not completed its plan to modernise its systems. Over a six-year period since 2006, HMLR has invested £41 million to deliver its e-conveyancing initiative. It appears that only a portion of a suite of e-services – including Portal, e-Security and Business Gateway – were successfully delivered, representing around £22 million of the total investment. Our understanding is that this resulted in a significant write-off of the capital invested in the e-conveyancing project because the implementation of electronic charges, signatures and transfers was not successful.

In addition, it is our view that HMLR needs to further automate its internal business processes to improve productivity and build a scalable cost structure that can respond well to changing market conditions.

We believe the top priority for HMLR is to modernise its technology and then leverage that technology to drive transformational changes in the land registration practice. A modern land registry would have:

- Service delivery that keeps pace with the rising expectations of the public for high-quality and cost-effective services delivered across multiple channels.

- A fully automated and registered title database, built on modern, secure and reliable technology.
- A fully automated electronic search and registration system that creates efficiencies and enhances fraud prevention in the marketplace.
- A registry operation with reduced processing time and high-quality registration processes that support the Government's guarantee of title.
- A system that transfers the domain knowledge of its land registry professionals and builds it into the land registration systems as business and validation rules. This approach significantly reduces manual, labour-intensive processing time. It also mitigates the risk of intellectual capital loss from an ageing labour force that is typical in many land registration operations around the globe.
- The ability to respond to fluctuations in the market while ensuring that processing times, staffing levels, and operational costs and services are not negatively impacted during peak periods.
- Effective use of land registry data to benefit the general marketplace and economy.

Teranet has dialogued with HMLR on modernisation since early 2000. Given the current state and progress, we believe HMLR would require deep expertise to manage and expedite a large scale technology modernisation and drive operational efficiency. In addition, significant capital investment would be required to support the proposed initiatives. HMLR's systems and processes must be based on the legislation and practices that govern the UK Land Registry. Moreover, the UK can – and should – leverage the experiences and innovations from other jurisdictions with a goal to becoming a pre-eminent future innovator.

Question 17

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

Comments:

In principle, we believe the proposal to create a more delivery-focused organisation at arm's length from Government will enable the Land Registry to achieve its strategic objectives. This concept has been proven around the globe as an innovative approach that gives governments the flexibility to engage with the private sector and take advantage of new opportunities. Ultimately, this would enable the UK Government to:

- Engage with experienced strategic private partners and leverage their resources and technical abilities.
- Deliver a modern land registry system with operational efficiencies and high quality services for customers.
- Transfer the revenue risk and significant cost burden of systems and process upgrades to the private sector.
- Unlock the economic value of the Land Registry asset, while receiving a significant upfront payment and a potential ongoing revenue stream.

Notwithstanding the scope of this consultation, we would like to suggest some additional issues for the Government's consideration:

Expanding the role of the service delivery company

The Land Registry currently plays an important role in boosting the efficiency and performance of the property market and the wider economy. There is, however, an opportunity for the Land Registry to further participate and integrate into the real estate transaction cycle.

We believe there is great social and economic benefit in integrating land registration services and data into the real estate cycle. The Land Registry is the originator of data at the beginning of a transaction and is ultimately the benefactor at the end, once data has been updated through the conveyancing process. A unified service with real estate agents, financial institutions, lawyers/conveyancers, local governments and the Land Registry all participating efficiently through an integrated, secure, technical solution provides benefits to everyone involved. These benefits include:

- shorter processing times;
- less redundant paperwork;
- lower rates of error;
- fewer system security issues;
- improved fraud prevention.

We believe the service delivery company could develop and facilitate the implementation of an integrated electronic conveyancing solution. This solution could also include the service delivery company implementing secure fund transfer in collaboration with financial institutions.

Considering a data policy

We believe the role of any Public Data Authority should be to set policy and regulate the use of public data. We also believe the day-to-day creation and delivery of data is best left to a private sector service delivery organisation under a robust governance structure.

Separating the right to commercialise the data from the operation of the Land Registry would facilitate a number of options to create value, once the scope and policies have been set by Government. These options, which could be part of the initial transaction or implemented at a later date, could include:

- Selling the exclusive right to market the data to the owner/operator of the service delivery company.
- Making the non-exclusive right to commercialise the data available to a variety of parties and have the service delivery company flow the data to these parties on behalf of the Government.
- Making the data more freely available through a Public Data Authority, again with the service delivery company flowing the data to the authority.

Leveraging external expertise to implement the proposed model

Teranet has collaborated with both the Ontario and Manitoba governments in defining detailed operating models and crafting service contracts. As a result of these experiences, we deeply appreciate the complexity of implementing the Government's proposal. We also understand the value of leveraging our work from our existing contracts. Teranet has built templates and processes that could guide the Government in defining the governance framework, service contracts and legislative changes. In defining our Manitoba contract, we leveraged our Ontario experience, processes and templates, which significantly reduced the time and effort needed for the contract negotiations. We believe the UK Government could similarly leverage Teranet's experience to lessen the effort required to implement the proposal.

Separating the roles and responsibilities of the current Land Registry into the OCLR and the service delivery company is a complex endeavour. Strong experience, advanced detailed planning and meticulous execution are required to minimise operational risk and avoid disruption to land registry services, both during and after the implementation.

Creating a seamless transition is best achieved by retaining a workforce with deep jurisdiction-specific knowledge while leveraging the existing organisational and management capabilities of the service delivery company. This needs to be undertaken with a partner who brings sufficient capital and real-life expertise in transforming land registration systems. The partner must also have a commitment to:

- accelerate the transition;
- make improvements to the systems, technologies and workflows;
- the ongoing development of staff.

These actions will go a long way in ensuring the continuity and long-term success of the Land Registry business strategy.

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

Teranet believes consultation is of crucial importance when considering change that will have an impact on stakeholders. Effective consultation in both the design and implementation of a land registry business model will ensure the interests of all stakeholders are identified, addressed and supported. Moreover, effective consultation will ensure that those interests are protected in the short and long term through the nature of the contractual agreements and the governance model.

Our experience has shown that initial negative reactions from stakeholders are often from a lack of understanding about the model. Continued stakeholder engagement and education is required to ensure public support.

Messages that reinforce the true nature of the proposal could include:

“The property rights are not at risk.”

The Government will continue to be responsible for the accuracy of land titles and will maintain the Assurance Fund to pay compensation in the event of an error.

“The property information of citizens will not be abused by the private company.”

The Government will own the data. The Government will also decide if and how the service delivery company could publish or commercialise the data. The service delivery company will also need to conform to the Data Protection Act and privacy legislation.

“There will be accountability and transparency for private operators. The private operator will be liable for mistakes made by its systems or employees.”

The service delivery company will be held accountable for delivering services that meet predetermined, detailed and specific performance standards. These standards will be supported by robust remediation requirements and penalties for non-performance. The service delivery company will also assume liability for any errors made by its systems or employees.

“The Government will continue to control fees.”

The government will maintain control of fees, preferably through a defined fee schedule or fee-setting mechanism in the service contract.

“There will not be massive layoffs.”

An experienced operator that deeply understands the unique attributes of land registry will be able to define an effective transition plan. This plan will leverage employee demographics to achieve a technology-based transformation without massive layoffs.

“There will be collaborative relations with the union.”

A private operator who understands the needs of labour unions and has experience in fostering productive labour relations will be able to build a constructive and

collaborative relationship with the union. The operator of the service delivery company will commit to working effectively with the union.

“The government will not undervalue the Land Registry.”

An open and transparent procurement process in conjunction with a collaborative negotiation will ensure efficient market pricing of the asset. In addition, a gain sharing mechanism could enable the Government to participate in any extraordinary profit and gains.

Having collaborated with HMLR since early 2000, and having observed its progress in the last decade, we believe that HMLR could benefit from an innovative approach like the one proposed in this consultation. We are delighted to participate in the consultation and we are ready to offer any help during or after the process.

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

© Crown copyright 2014

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. Visit www.nationalarchives.gov.uk/doc/open-government-licence, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email psi@nationalarchives.gsi.gov.uk.

This publication is also available on our website at <https://www.gov.uk/bis>

Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

If you require this publication in an alternative format, email enquiries@bis.gsi.gov.uk, or call 020 7215 5000.

BIS/14/510RF