

## **Introduction of a Land Registry service delivery company**

### **Response by the Council of Mortgage Lenders to the Department for Business, Innovation and Skills**

#### **Introduction**

1. The CML is the representative trade body for the first charge residential mortgage lending industry, which includes banks, building societies and specialist lenders. Our 112 members currently hold around 95% of the assets of the UK mortgage market. Our members rely on the Land Registry in England and Wales in the course of their everyday business, and have been consulted on this response.
2. We welcome the opportunity to comment on the proposals for the introduction of a Land Registry service delivery company.

#### **Proposal - separation of policy and delivery functions**

3. The consultation paper states in the executive summary, that in order to better to deliver Land Registry's business strategy, it would be beneficial to separate out the policy and service delivery functions.
4. This would be achieved by creating an Office of the Chief Land Registrar (OCLR), which would be responsible for regulatory and fee-setting functions. The delivery of the policy of the Land Registry, however, is often achieved through service delivery of responding to queries and taking a view on the position of the Land Registrar with regard to particular issues regarding to registration. It is therefore, not an entirely straightforward split of service delivery and policy. It may be that any of the functions which relate to changes to the Land Register should therefore remain in the remit of the OCLR as they will ultimately be responsible for errors in the Register.
5. The responsibility to monitor and implement fraud prevention controls should, in our view sit with the OCLR, along with other key responsibilities such as information management standards and obligations arising from the Critical National infrastructure status.
6. Without access to the business strategy, it is difficult to challenge or agree with the assumption that a separation of policy and delivery would better deliver the business strategy. Further, it is not clear, exactly, what the current lack of clarity is around the relationship with Government. We do not perceive there to be a lack of clarity about the Land Registry's Trading Fund status, nor its relationship with Government. For the reasons outlined above, we are not sure whether there is an easy distinction to make between the policy function and the delivery function.
7. It is clear that the Government feels there are benefits to be realised if the Land Registry's structure is changed to increase flexibility in how it operates. However, there is little evidence as to what these benefits might be. It is therefore difficult to weigh the advantages of a move towards a split of policy and delivery functions, against the potential disadvantages. We would like to understand for example, any expected efficiency gains envisaged, which may result in a better service.
8. We have also [responded](#) to the Land Registry's consultation on Wider Powers and Local Land Charges. It is not clear how these proposals are affected by that consultation and vice versa.

#### **Lender perspective**

9. Lenders rely on the state guarantee of title in order to confidently sell mortgages, based on the assurance that their security interest is protected through the process of land registration, and errors are compensated for. It is crucial to the functioning of the mortgage market, and more widely, the housing market. Lenders have confidence in the current structure of the Registry as a Government Trading Fund. They would not automatically have the same confidence if the Land

Registry were to split into an OCLR and a service delivery company, which, in practice, would have the day-to-day responsibility for managing changes to the register and therefore a crucial role in protecting the integrity of the Register.

10. If there is to be a change in model, then we would want to be assured that close oversight by the OCLR was in place. This is critical to ensure that there is early warning of either a poorer service and/or an increase in errors as this would severely compromise the existing confidence in the register. If the split of functions were to have a negative impact on the current level of service, such as longer processing times to register interests in land, to answer queries related to titles, or process indemnity claims, then we would expect that the OCLR would be sighted and intervene as appropriate under the terms of the proposed service contract. We welcome the assurance that the service contract would have provisions for Government to take back delivery responsibility should the company fail to fulfil the terms of the service contract.

11. Lenders would also be concerned if they felt that the Register had become more exposed to the activity of fraudsters, either through a relaxing of fraud prevention measures or a more general concern about the ability of the service delivery company, particularly if the company was to have private sector involvement/ownership. It is noted that some of the benefits of the business strategy are to have a more effective digital service which would reduce processing times and reduce the risk of error and fraud. We would welcome this and look forward to further detail as to how these benefits might be achieved in practice.

12. Lenders have, from time to time, raised concerns about the speed of the service from Land Registry. There is an assumption that the Land Registry would not see any deterioration in service levels by splitting the current structure into the OCLR and a service delivery company. We would welcome further clarity therefore, about the assumption that there would be little impact seen in service levels by users of the Land Registry. For example, it would be useful to understand whether it is expected that the existing set of employees would remain on, potentially in the employ of a private entity (and presumably it is envisaged that a private employer would re-employ existing staff in order to retain the specialist skill set). We would also welcome further information about any plans to manage the resource during the change-over.

13. The consultation mentions the potential to provide 'other services' under the new structure. It has been our experience that when the Land Registry has tried to go outside its core remit that it has had the least success, the 'chain matrix' concept for e-conveyancing being the most cited-example of recent times. We would urge that, if a service delivery company is created, that the initial focus is on the core business of the Land Registry.

### **Potential impacts and planned implementation**

14. The assumption is made by BIS that the split of functions and the potential involvement of a private service delivery company would have no impact on customers, and as we set out above, we would welcome further detail on this point to be reassured, for example, how staffing levels would be maintained, what skill sets it is envisaged would be retained. It is sensible to test the model via an internal split of functions. We would welcome, as a key stakeholder, findings from this pilot and any adjustments that are made as a result. We would like to understand how far the pilot mirrors the expected staffing level and skill sets of the envisaged structure.

15. As previously mentioned, having a wholly Government-owned service delivery company in this situation is preferable to private involvement, at least initially. It would give a degree of reassurance that the Land Registry remains impartial, to assist in preserving confidence in the Land Registry. It would also potentially allow for a smoother transition from the current structure. The involvement of a private company will inevitably involve some cultural change which might mean a higher turn-over of staff – which may have a knock on impact on the services provided to customers.

16. Linked to this, BIS will need to consider the timing of any changes carefully, if the proposal to restructure is taken forward, and it should take account of the wider patterns of activity in the housing market. We note there are no estimated timings given in the consultation for implementation. With an increase in government schemes designed to support the housing market over the recent months and years (such as NewBuy and Help to Buy), all of which have a limited life, there is potential for a rise in transaction levels both more generally as the economy recovers, and for spikes in activity as these

schemes come to an end, and/or other impacts drive activity. Should the level of service suffer during the period of implementation, this will have a resultant impact on the conveyancing process, and the wider housing market. This will be exacerbated if it coincides with a spike in activity.

## **Conclusion**

17. Clearly, it is vital that lenders and other users of the Land Registry have trust in those delivering the services which maintain the Register, as it is crucial to the functioning of the housing market. While the CML is not wholly rejecting the concept of a service delivery company as outlined, we are concerned that there is a lack of evidence to support the case for change. This is especially important as the Land Registry currently delivers well in its core function of holding and maintaining the Land Register and it has the confidence of stakeholders, including lenders.

18. We would therefore welcome further detail, as we have outlined above, on some of the assumptions made, which would assist in reassuring us that, notwithstanding the structural change; the integrity of the Register will be maintained. In particular we would welcome further detail around the benefits envisaged, particularly around improving speed of service, better protections against fraud and the assumptions that service levels would be unaffected by the change. If it is decided to move to a restructure as proposed, then we would prefer that the model of a 100% government-owned GovCo is used, at least initially, to assess how the structure works in practice, before contemplating private sector involvement.

## **Consultation Questions**

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

There is not enough evidence to show that this would be the case.

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

If there was to be a service delivery company, then the OCLR should retain the functions outlined.

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

See para 9 above.

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

See response to Q3 above.

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

See response to Q3 above.

*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.*

We would welcome more detail about the checks and balances to be sure that the Register's integrity would be intact and that the provision of indemnities and state title guarantee would be appropriately safeguarded.

*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.*

In theory, there is no reason why non-civil servants could not do this role. However, they must have the relevant skills to process information. The standard of service must be maintained, and there should be the perception that they are impartial and free of conflicts of interest.

*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.*

Without having a full list of the other functions not set out specifically in the consultation, it is difficult to comment in detail on this. We would expect that any functions connected with changing the Register would be capable of escalation to the OCLR.

*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.*

More detail is needed, with regard to what complaints would be dealt with at service delivery company level and which complaints would be escalated.

*10. Do you agree with the escalation process set out for objections in paragraph 56? If not, please state your reasons why not.*

See above answer to Q9. It needs to be clear what complaints would be referred and which would be dealt with by the delivery company.

*11. Do you think the Rule Committee should include a representative from the service delivery company? Please explain why or why not.*

Potentially, in an advisory role, e.g. to explain any potential impact of decisions of the Committee on delivery.

*12. The Data Protection Act would protect personal data that is provided to the service delivery company. Would you like to see any protections beyond this? If so please explain what and why?*

No comments

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

No comments

*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?*

Potentially, yes. A private sector company would not command the same level of trust and confidence as the Land Registry does in its existing form. The risk is that the private sector company does not perform well. This could destabilise the wider housing market.

*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.*

See answer to Q14 above. It may also create difficulties, internally, if there is dual ownership.

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

The Business Strategy is not a publically available document and we are therefore unable to comment on this.

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

There are no proposals on timing, if a decision is taken to move to a service delivery company.

*18. Do you have any other comments that might aid the consultation process as a whole?*

No.