

Response to Consultation Document for the
Introduction of a Land Registry service delivery company

20 March 2014



Questions and Responses

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Name:

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Organisation (if applicable):

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We are representing the views of an organisation.

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

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input checked="" type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

Question 1

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

☒ Yes

☐ No

☐ Not sure

Comments:

Assuming the Government opts for one of the two private sector company models being considered, we believe the creation of a service delivery company ('SD Co'), focused solely on service delivery and operating at arm's length from Government, will better fulfil the Land Registry mandate. This model is familiar to Equiniti through its share registration business and it works well.

This approach will:

- Entrust policy development and oversight to the Office of the Chief Land Registrar (“OCLR”) and operations to the SD Co. This will allow each to concentrate on their respective responsibilities and:
 - Focus and develop the right approach and devote the right resources to fulfil their respective responsibilities
 - Clarify their respective roles with Government.
- Allow Government to retain the OCLR function:
 - Given its important role of translating statutory changes into policy and business rules (and ensuring these policies and rules are being properly adhered to by SD Co), the OCLR needs to be independent, and solely accountable to Government.
- Bring a commercial approach to SD Co:
 - Commercial involvement will provide SD Co with a full complement of resources including finance, HR, IT and processing expertise, giving it the capabilities it needs to introduce further transformational change on behalf of its customers.
 - For instance, the experience and capabilities Equiniti developed in its transformation of MyCSP are readily applicable to the change programme required within SD Co.

We believe the benefits to be attained include:

- For the customer:
 - Better service, including reduced processing times, better accessibility, and greater ease of use
 - Reduced risk of errors and fraud and greater confidence in the home-ownership process
 - Lower search costs
- For Government:
 - A more secure and accurate Register
 - A clear definition of the relationships and responsibilities between the OCLR, SD Co and Government
 - An ability to access and make accessible one of Government’s valuable data sets
 - A service delivery company with greater flexibility to operate through new approaches to compensation, talent development and marketing.

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:

We believe the OCLR should retain sole and exclusive responsibility for the functions detailed in paragraph 49 as these functions typify the responsibilities that we would expect to see for the OCLR i.e. ensuring the statutory requirements of the Land Registration Act are translated into policy and business rules and ensuring compliance.

Question 3

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

Comments:

We strongly believe that a well-constructed, independent OCLR is essential for a successful segregation of Land Registry into two component parts. Accordingly, we would advocate strengthening the OCLR role, making it responsible for:

- Translating statutory changes into Land Registry policy and business rules
- Monitoring the broader environment in which Land Registry operates and directing the necessary changes to business rules, performance standards, etc. such that Land Registry continues to meet its stated objectives
- Defining the nature, measure, target ranges and remediation protocols of each performance standard SD Co needs to meet (e.g. processing speeds, access, availability and security)
- Monitoring all aspects of service delivery performance such that SD Co:
 - Is held accountable to the requisite standard and
 - Remediates performance issues in keeping with the requisite standard
- Partnering with SD Co when rolling out major system and process changes to garner the support of stakeholder communities (e.g. The Law Society of England & Wales, The Conveyancing Association, The Council of Mortgage Lenders)
- Negotiating the impact of the above changes on the business model/service agreement of SD Co
- Performance reporting to Government
- Setting fees (through the Secretary of State) for statutory services
- Regulating Land Registry data:
 - Determining what statutory data can be made available, to whom, for what period, for what purpose (and with what restrictions), for what price and monitoring compliance.
- Monitoring the financial performance of SD Co to ensure it:
 - Remains financially capable of fulfilling its mandate
 - Makes the required expenditures
 - Remits the required amounts.

Question 4

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

Comments:

We believe the OCLR and SD Co should share the functions detailed in paragraphs 51 and are supportive of the nature of the criteria used in paragraph 50 to ascertain these shared functions.

We view the relationship between the OCLR and SD Co as mutually dependent. OCLR has a clear need to govern and regulate SD Co and OCLR will need to work closely with SD Co to undertake these shared functions. To promote integrity and accountability, while preserving collaboration, we believe that the relationship between the OCLR and SD Co would be enhanced through the introduction of:

- Clearly defined roles and responsibilities
- A comprehensive process of meetings and interactions between the OCLR and SD Co, structured to maintain alignment

- A dispute resolution mechanism that allows issues to be properly addressed, at the right level, on a timely basis.

Question 5

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

Comments:

We believe the approach suggested in paragraph 52 is the right approach. Clarifying both the sole and shared roles and responsibilities of the OCLR is the right starting point given its criticality to the statutory service delivery process. Once these OCLR roles and responsibilities have been separated from the broader Land Registry, the remainder should form the basis of SD Co roles and responsibilities.

Equiniti believes that a 'bottom up' process of identifying the complete set of roles and responsibilities currently undertaken by Land Registry and assigning them to one of three categories (OCLR, SD Co and Shared) will ensure:

- Completeness and that no roles and responsibilities are missed
- A customer centric approach
- Understanding and alignment.

Recognition that there is not always the time required to undertake a complete 'bottom up' process and in the spirit of advancing the project, an alternative is a 'top down' approach with an agreed mechanism to manage the resulting risk.

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:

We agree that the overall design detailed in the consultation document provides the right checks and balances to protect the on-going integrity of the Register and to safeguard the provisions of indemnities and state title guarantee.

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:

We have no reservations about non-civil servants processing land registration information within the framework. The checks and balances coupled with the independent and far-reaching role of the OCLR provide full confidence that land registration activities will be conducted with the utmost care and integrity.

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:

The consultation document describes two situations (customer complaints and objections) to illustrate how an escalation process might work within the contractual framework between OCLR and SD Co. Depending on what final form the contract takes, we could envision several other scenarios which might benefit from an escalation process including:

Performance Issues

Recognising the unexpected nature and timing of service delivery performance issues, and the corresponding uncertainty of the nature and time requirements of 'the fix', it would be useful to have an escalation process (driven by the severity of the issue, the level of performance degradation and the elapsed time of performance) that keeps all parties informed and congruent as to expectations and requirements.

Contract Variables

Depending on the term of the contract, it may be impractical or impossible to define every aspect of the business relationship. For instance, what are the right system performance measures and targets ten years from now? Instead, the best means of addressing this might be some form of exploration and renegotiation process, with a built in escalation process that can be employed in the event issues arise.

Having these escalation processes defined from the outset provides both parties with clarity as to how outstanding issues will be resolved and, as a consequence, encourages both parties to resolve issues through the normal course of business. Equiniti encourages issue identification and resolution at the lowest levels of the organisation, such that the escalation processes see little use. We accomplish this by:

- Creating and maintaining goal congruency within Equiniti and with the customer
- Establishing guiding principles that can be referenced by work teams as they tackle complex or challenging issues
- Creating a culture where colleagues take ownership of these matters.

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:

We are in agreement with the process set out in paragraph 56 for handling complaints. In particular, we believe that continued customer access to the Independent Complaint Reviewer offers a safety net for customers and another means by which SD Co can have its performance assessed.

Equiniti provides extensive complaint handling services to a range of clients in a 'Business to Business/Government to Customer' environment and we would apply this experience to enhance and improve the Land Registry complaints handling process.

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:

We are in agreement with the escalation process set out in paragraph 56 for both complaints and objections. We see great value in customers having continued access to an arm's length resource like the Independent Complaint Reviewer. It is also appropriate to have unresolved disputes between parties referred to the OCLR, which, where appropriate, would refer the dispute to the First-tier Tribunal for their resolution.

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:

We believe that the Rule Committee would be strengthened by the addition of a representative from SD Co. The current Rule Committee membership includes the Chief Land Registrar, who represents all aspects of the Land Registry including policy and operations. Post segregation, the Chief Land Registrar will have a more limited focus (i.e. policy), which might deprive the Rule Committee of the operational perspective they have enjoyed in the past. Including a representative from SD Co would rectify this.

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:

We believe the Data Protection Act affords a strong layer of protection for the personal data held by SD Co. The integrity, security, and confidentiality of personal data will be preserved and, we believe, enhanced by:

- The segregation of functions, bringing a much stronger operational focus
- The strong oversight role and powers of the OCLR
- The continuing role of the Rule Committee.

One additional means of preserving the integrity of the public data is for the Government to retain ownership and control of this data. The consultation document was not explicit as to data ownership but we strongly believe that the Government should:

- Own the Land Registry data
- Continue to set the business rules as to what data is collected and used
- Exercise control as to future dissemination and use of the statutory data for non-statutory purposes.

We believe Government is in the best position to evaluate and strike the right balance between accessibility and confidentiality.

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 believe that the consultation document surfaces the key elements required to safeguard customer service issues, namely:

- A reduction in the number of customer service issues
 - The segregation brings more focus on creating improved, citizen centric services, and reducing the sources of customer complaints, like errors and fraud.
- Clear accountabilities and performance standards
 - SD Co will have primary responsibility for customer service delivery, with clear definitions and metrics for performance negotiated with the OCLR
 - SD Co will be the primary point of contact for customers and will receive and resolve customer complaints.

In the event a timely resolution of a customer service matter was not possible, or the interaction was unsatisfactory for the customer, they would have continued access to the Independent Complaints Reviewer.

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:

We strongly believe there is an appreciable difference in opportunities and risks with operational control of SD Co entrusted to a private sector company.

While HMLR has made progress with its change programmes, there is scope for further efficiency, which could be realised through the injection of skills and expertise of a private sector company such as Equiniti. Transferring operational control to a private sector company would allow Government to harness the very best of what private sector companies have to offer, including:

- Executive leadership capable of engaging and coordinating all facets of the business to drive immediate and lasting change
- Extensive change in designing and executing transformational change programmes in complex, mission-critical environments
- A real sense of focus and urgency.

At the same time, a transfer of operational control to a private sector company does not leave the Government exposed or without decision rights:

- As a shareholder, Government will have commensurate Board representation and thus appropriate control over SD Co
- As overseer, the OCLR will have far-reaching powers to ensure that operational decisions and outcomes are aligned with the contract
- As continuing owner of the data, the Government will have the final say in the use and integrity of the land registry data.

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 strongly believe that there is a significant and substantial difference in both opportunities and risks with SD Co jointly owned by Government and a private sector company.

For all the reasons set out in our response to Question 14, we believe that a private sector company should have operational control of SD Co and, this being the case, will deliver the fastest, and best outcomes with the least exposure to risk.

We think that the probability and magnitude of successful outcomes can be further heightened through a greater alignment of interests between Government and the private sector company, and believe a good way to achieve this heightened alignment is through a sizeable equity investment in SD Co by the private sector company. As a joint owner, with material capital at risk, the private sector company would:

- Share the Government's economic interests and therefore have a vested interest in driving a comprehensive change agenda
- Have more at risk than a contract service provider, who could walk away from a contractual relationship with little to no loss of capital
- Have a longer-time horizon regarding the permanence and continuing impact of changes being made.

Perhaps more importantly, Equiniti believes the best way to ensure success is for the two parties to gain alignment from the outset and have a strong process in place that brings the parties back into alignment when necessary.

Question 16

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

Comments:

Constraints	
Inefficient systems and processes	<p>Many are tightly intertwined and will make transformation complex, especially given their mission-critical requirement to deliver statutory services.</p> <p>We believe that the right commercial solution will need to bring extensive expertise and a successful track record in:</p> <ul style="list-style-type: none"> • Working collaboratively with Government to effectively deliver their services • Re-engineering processes and systems while keeping the 'lights on'
Lack of expertise in Change Management	<p>Will threaten the change agenda, especially combined with low employee morale.</p> <p>We believe that the right commercial solution will need to bring extensive expertise and a successful track record, such as Equiniti has applied in the MyCSP change programme, where we have designed and executed a cultural change programme in a complex operating environment with multiple stakeholders.</p>
Transaction volume fluctuations	<p>Will make predicting cash flow for investment and distributions challenging.</p>
Low employee engagement	<p>Signals deep cultural issues, which will make it more difficult to secure buy-in and support from the workforce. This is likely to be exacerbated by the absence of a high-performance culture, given the high expectations accompanying the change programme.</p> <p>We believe that the right commercial solution will focus on rebuilding trust and credibility with employees by:</p> <ul style="list-style-type: none"> • Promoting clarity and openness in communications • Illustrating the journey ahead and its opportunities for employees • Offering a programme of personal development that readies the employees to make a meaningful contribution to the organisation and its customers.
High turnover of Executive Leadership	<p>Over the past decade has left the organisation without continuity in direction and priorities.</p> <p>We believe that the right commercial solution will see the Executive (and other critical positions of leadership) populated with credible leaders who can set and direct a clear path forward.</p>
Splintered stakeholder community support	<p>Could hinder the change programme given the diversity and potentially competing interests of key stakeholder groups.</p> <p>We believe that the right commercial solution will need to bring demonstrable experience in engaging and collaborating with key stakeholder communities to secure their support and investment for change.</p>
Unions	<p>May also introduce constraints given the exodus of more than 4,000 employees from the civil service.</p> <p>We believe the right commercial solution will need to bring relevant experience in managing unionised workforces through a period of change.</p>
The outcome of the Local Land Charge consultation	<p>The responsibilities that may ultimately be assumed by SD Co. (which represents both an opportunity and a distraction).</p>

Dependencies	
Alignment	This is the single most important dependency in our view. A shared view (Government, the OCLR and the private sector company) of what constitutes a successful outcome (for both the OCLR and the SD CO) and strong, lasting relationship and mutual desire to achieve this outcome is a pre-requisite for success. Ideally, alignment will be further reinforced through joint equity ownership.
A strong relationship between the OCLR and SD Co that is:	<ul style="list-style-type: none"> • Respectful, recognising the need for OCLR to provide oversight and governance • Collaborative, recognising how intertwined the interests of the two organisations are • Highly communicative, allowing both parties to remain current and complete in their information and thus better aligned.
Statutory changes	Enabling the segregation of the OCLR and SD Co, and the commercial functioning of the resulting entities.
Continuation of the exclusive rights	To provide land registry services.
Mandatory adoption of e-conveyancing	For cost savings.
Private sector company equity participation and operational control	The modernisation of the SD Co will be a large, complex undertaking, hindered by the above-noted constraints. Understanding the capabilities required to successfully transform SD Co, identifying the right private sector company possessing these capabilities, and then incentivising and aligning the private sector company through a sizeable equity investment are all key dependencies.
Predictable fees	Provides the necessary stability for Government, customers and SD Co.
Continuation of State Guarantee	Greatly valued by customers and intermediaries.
Capital	Wisely invested to drive citizen-centric land registry solutions.
A long time horizon	As the transformation itself is extensive and time-consuming, with the resulting returns generated over the long-term.

Question 17

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

Comments:

No. We have provided all of our comments above within the framework and questions provided.

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:

We have provided our comments within the framework you have provided and the questions above.

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

Contact details supplied below:

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