

## **CONSULTATION ON MOVING LAND REGISTRY OPERATIONS TO THE PRIVATE SECTOR**

### **RESPONSE FROM THE COUNCIL FOR LICENSED CONVEYANCERS**

The Council for Licensed Conveyancers has considered the arguments put forward in the government consultation document on moving Land Registry operations to the private sector. The CLC does not consider it should express a view as to whether Land Registry operations should be privatised or should remain in the public sector. It is concerned that recent improvements in performance and provision of information by the Land Registry should be maintained and furthered in any future arrangements.

### **ANSWERS TO CONSULTATION QUESTIONS**

#### **1. Do you agree that the ownership of the Registers should remain in government?**

The Council for Licensed Conveyancers considers that it is absolutely vital that the Registers should remain in government ownership. The UK property market, and thereby a large part of the UK economy, depends on the integrity and reliability of the land registers and public trust and confidence in them. The Registers must therefore be considered a strategic asset and protected as such.

Government ownership is also essential to ensure that there is continued clear accountability to the public and users of the registers through Parliament. It will be important to ensure that other public accountability mechanisms are in place too, direct to key stakeholders and partners in the property transfer field to ensure their needs continue to be taken into account.

#### **2. What steps should government take and what safeguards should it put in place to ensure continued and improved access to high-quality and reliable Land Registry data?**

The Land Registry operates an Advisory Council that brings together a range of key stakeholders. This has proved a very useful, open and transparent forum for the Chief Executive of the Land Registry to share information with stakeholders, discuss our needs and report on delivery of the Land Registry's plans. It would be very useful for a similarly open forum to continue after any new arrangements have come into effect. Consideration will also need to be given to requirements for the Land Registry to provide information on a non-commercial basis to regulators to support their work of consumer protection and fostering growth and innovation in the conveyancing market.

Services can become fossilised when they are set in a contract and in the case of the Land Registry an inability or unwillingness on the part of NewCo to innovate in service delivery (both paid-for and free) risks harming the UK property market. Any contract with a new provider will need to contain flexibility to change in response to developments in the market place, in the provision of conveyancing services and as new risks emerge in relation to property. NewCo will also need to evolve in response to new legislation affecting the registration of land and any recommendations emerging from the government and Law Commission's current reviews of the home-buying process.

The CLC suggests that there should be wide consultation in initial and evolving KPIs for NewCo to ensure that the needs of all users are taken into account.

**3. How could government use this opportunity to improve the quality and accessibility of data produced by Land Registry for all sectors of the economy?**

The Land Registry has begun to deliver more information to the CLC that is very useful to us in our mission to protect consumers of conveyancing and probate services. The team at the Land Registry under CEO Graham Farrant is extremely helpful, open to suggestions and requests and eager to meet our needs as a regulator. It will be vital that this approach is maintained in the future. Private sector investment could be useful to fund further advances in the information available and develop new applications for it to support the property market and make transactions more secure. The government may need to consider how to incentivise the new Land Registry to continue to make progress in this area.

**4. On what basis should government manage the relationship with a privately owned Land Registry to ensure Land Registry meets, as far as is reasonable, the data quality and availability requirements of all stakeholders?**

We believe that the Land Registry Advisory Council offers an excellent model for open accountability to stakeholders. We urge the government to require NewCo to continue a similarly open, frank and constructive engagement with stakeholders.

**5. Do you agree that the suggested safeguards should be included in any model?**

The safeguards suggested seem necessary.

**6. Are there other safeguards that you think should be included?**

It also may be necessary to ensure that resources are not diverted from statutory services to commercial services in a way that would damage the foundations of the Register and reduce its reliability or quality.

The state-backed guarantee of ownership is vital and the consultation document states that the government will share financial risk with NewCo. In light of that shared risk, there is an important question about how claims will be considered and by whom. The CLC believes it would be inappropriate for NewCo to assess claims as there will be a conflict of interest with the profit motive. Government should consider whether the claim assessment function should be carried out either by the team in government that will manage the contract with NewCo or by a new independent authority (or possibly by an existing ombudsman with new powers).

The government may also wish to consider whether the contract could contain break clauses at regular intervals or whether there might be some other provision to allow for the contract to be terminated early in the event of a failure. The government will also need to make plans for continuity of service in such an eventuality.

It will be important to ensure that there is always an alternative available should the new owner's standards fall below an acceptable level and that change is a real and not theoretical possibility. We would expect there to be a clear plan in place at the time of privatisation that sets out how Land Registry operations would carry on in the event of failure of the private sector operator or a decision by government to bring operations back into the public sector.

Finally, the contract may need to stipulate whether NewCo is able to sell on its interest and, if so, what protections or rights the government might have in relation to a new owner.

**7. Do you agree with the preferred option?**

Whichever model is chosen, the key outcome will need to be continued improvement of services and accurate and timely maintenance of the Land Register. Driving continued improvement will be a key role for the oversight function in government.

Rather than create a private sector monopoly from the current public sector agency, perhaps the government could consider a model which allows for competing providers of Land Registry activity, each or all of which could contribute to the maintenance of the Land Register. We understand that such an approach might not generate a capital receipt for government but it may be that it could deliver greater benefits in the public interest through innovative approaches to maintenance of the register and use of the data it contains.

**8. What are your reasons for your answer to question 7?**

Competition between providers could drive faster innovations in response to customer need or market opportunity than might be achieved by a monopoly provider.

**9. Do you think an alternative would be better and why?**

See answer to 8

**10. Are there other key costs and benefits that you think we might have missed?**

We have not been able to identify any other costs or benefits, but any change clearly poses a risk to continuity of a service that underpins the functioning of a vital part of the UK economy.

25<sup>th</sup> May 2016