



BRIEFING PAPER

Number 07556, 9 December 2016

Land Registry Privatisation

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Inside:

1. Background to Land Registry
2. Reviews of the Land Registry 2000-2011
3. 2014 consultation on Land Registry Service Delivery Company
4. Extension of Land Registry powers
5. 2016 consultation on Land Registry privatisation
6. Reactions to consultation on privatisation
7. Consultation outcome: Land Registry to remain in the public sector
8. Further information



Contents

Summary	3
1. Background to Land Registry	4
1.1 Status and functions	4
1.2 Governance framework	5
1.3 Operating model	5
1.4 Business strategy	6
2. Reviews of the Land Registry 2000-2011	8
3. 2014 consultation on Land Registry Service Delivery Company	10
3.1 Consultation responses	10
3.2 Professor Seifert's report on the Future of our Land Registry	11
3.3 Consultation outcome	12
4. Extension of Land Registry powers	13
4.1 The Infrastructure Act 2015	13
5. 2016 consultation on Land Registry privatisation	15
5.1 The case for privatisation	15
5.2 Options for privatising Land Registry	16
5.3 The Government's preferred operating model	17
5.4 The Queen's Speech 2016	18
6. Reactions to consultation on privatisation	20
6.1 Parliamentary	20
6.2 PCS and FDA Unions	21
6.3 Public opinion	22
6.4 Other stakeholders	22
7. Consultation outcome: Land Registry to remain in the public sector	26
8. Further information	27

Summary

Land Registry Status and Functions

Her Majesty's Land Registry (Land Registry) was created in 1862 and is one of the oldest land registration organisations in the world. It is a non-ministerial department, and an Executive Agency of the Department for Business, Innovation and Skills. Since April 1993, the Land Registry has operated as a 'Trading Fund', which means that it is required to ensure that its income from fees covers all of its expenditure under normal operating conditions.

The main statutory function of the Land Registry is to keep a register of title to freehold and leasehold land throughout England and Wales. On behalf of the Crown, it guarantees title to registered estates and interests in land. Its functions are therefore integral to the effective functioning of the property market. In addition to its core statutory functions, the Land Registry undertakes a number of commercial services. Measures introduced in the *Infrastructure Act 2015* will enable the Land Registry to develop new land and property services, and to take on responsibility for providing a single, digital Local Land Charge register.

2014 Consultation on Land Registry Service Delivery Company

The Land Registry has undergone several reviews over the last 15 years. In 2014 the Coalition Government consulted on a proposal to create a new Land Registry Service Delivery Company, with responsibility for policy being retained by an Office of the Chief Land Registrar in government. It was proposed that this model would "allow a greater focus on service delivery, greater operational flexibility around pay, recruitment and possibly provide other services and a more clearly defined relationship with Government". The majority of responses to the consultation expressed concerns about the proposal, and the Government decided not to change Land Registry's operating model at that time.

2016 Consultation on Land Registry Privatisation

On 24 March 2016, the Government launched a public consultation on moving Land Registry operations to the private sector. The consultation document set out the Government's view that there was no compelling case for keeping the Land Registry in public ownership, and that privatisation would deliver a capital receipt for Government and could support the Land Registry to be run more efficiently and effectively. The Government's preferred Land Registry operating model at that time was privatisation with a contract between government and a private sector operator.

The public consultation closed on 26 May 2016. A number of organisations and individuals expressed concerns about the risks and consequences of privatisation. The Public and Commercial Services Union (PCS), for example, was strongly opposed to the proposal, and identified a range of potential negative impacts on public trust, impartiality, service quality, fees and access to data. A 38 degrees petition to stop the privatisation of the Land Registry gained over 300,000 signatures.

In the Autumn Statement 2016 the Government announced that the Land Registry will remain in the public sector and will focus on becoming a more digital data-driven registration business.

1. Background to Land Registry

1.1 Status and functions

Her Majesty's Land Registry (Land Registry) was created in 1862 and covers England and Wales. It is a non-ministerial department, an Executive Agency of the Department for Business, Innovation and Skills (BIS) and a Trading Fund.¹

Land Registry, created in 1862, is a non-ministerial department, an executive agency and a trading fund.

The Land Register is owned by the Crown and sets out the ownership of land and property in England and Wales. It is a statutory requirement that when there is a change in ownership of land or other property rights, the Land Register must be updated, so that it remains accurate. The Register is the single authoritative record of ownership, and the basis of the state guarantee of ownership and interests in land. It holds over 24 million titles which provide evidence of ownership. 87% of the land mass of England and Wales is currently registered.²

The [Land Registration Act 2002](#) empowers the Land Registry to deal with "the business of registration under this Act"³ and is its primary governing statute. The core statutory function of the Land Registry is to keep and maintain the Land Register. Individuals or organisations who become landowners or own interests in land must apply to the Land Registry to: register unregistered land; register a new owner of a registered property following a sale; and register an interest affecting registered land, such as a mortgage, a lease or a right of way. Once land or property is entered in the Register, the Land Registry records any ownership changes, mortgages or leases that affect it.

Land Registry's main statutory function is to keep a register of title to land throughout England and Wales.

Maintaining the Register is not a purely administrative function. The Land Registry's role is to consider each application and take account of the law in order to decide whether and how to register the application. According to the Land Registry:

Land Registry staff use their knowledge and judgement to determine matters such as who should be registered as the owner of a piece of land, what entries should appear on the Register of Title and how much land should be included in each registration.

Applications routinely throw up difficult legal questions such as whether a customer has obtained a "squatter's title", deciding if there is a right of way over a piece of land, or whether the Land Registry should allow an objection to a registration.⁴

In addition to the Land Register, Land Registry also has responsibility for the Land Charges Register, including the Bankruptcy Register, and the Agricultural Credits Register.

- The Land Charges Register records and gives publicity to interests that affect unregistered land, such as when someone contracts to buy a piece of unregistered land and

¹ Land Registry, [Framework Document 2012](#), November 2012

² Department for Business and Skills, [Consultation on Moving Land Registry Operations to the Private Sector](#), 26 March 2016, p30

³ [The Land Registration Act, Part 10, Section 99](#)

⁴ Land Registry, [Business Strategy Review: Our Vision for Land Registry](#), 10 December 2015

5 Land Registry Privatisation

needs to ensure that the seller does not sell to someone else without their knowledge.

- The Bankruptcy Register records bankruptcy proceedings.
- The Agricultural Credits Register enables lenders to advance credit on the security of farming stock. It achieves this by recording and giving publicity to agricultural charges.⁵

The functions undertaken by the Land Registry therefore support the property market by providing an assurance to those who have an interest in land and property and a state-backed guarantee to title. If someone suffers loss as a result of a mistake in the Register, they can claim indemnity or compensation from the Land Registry. In this way, a well-functioning system of land registration underpins housing supply, home ownership and economic growth.

Land Registry's functions are integral to the effective functioning of the property market.

In addition to its core statutory functions, the Land Registry undertakes a number of additional non-statutory activities. These include providing consultancy and advice on international land registration systems, property market analysis and database management. A full list of the commercial services it provides is available on the [Land Registry website](#). The Land Registry also makes some datasets available to the public free of charge to support the Government's Open Data agenda.

1.2 Governance framework

The governance framework of Land Registry includes:

- the Secretary of State for BIS;
- the Land Registry Board under an independent non-executive Chair; and
- the Chief Land Registrar who is the Chief Executive and who leads and manages business delivery and is accountable to Parliament.⁶

Detailed roles and accountabilities are set out in Chapter 2 of [The Land Registry Framework Document 2012](#).

1.3 Operating model

Since April 1993, the Land Registry has operated as a 'Trading Fund'. As a Trading Fund, the Land Registry "does not make any call on monies voted by Parliament. By statute, it is required to ensure that its income from fees covers all of its expenditure under normal operating conditions".⁷

As a Trading Fund the Land Registry is required to ensure that its income from fees covers all of its expenditure.

The Land Registry charges fees for registering properties and changes of ownership. Fee levels are set by Parliament on the recommendation of Government. The Land Registry also generates income from its commercial services.

⁵ Department for Business and Skills, [Consultation on Moving Land Registry Operations to the Private Sector](#), 26 March 2016, para 14

⁶ Land Registry, [The Land Registry Framework Document 2012](#), November 2012

⁷ Land Registry, [2013/14 Annual Management Plan](#), p6

In 2014/15 the total Land Registry revenue was £297.1m. The revenue from non-statutory activities accounts is modest – currently around £4.6m per annum.⁸ In recent years the Land Registry's income has exceeded expenditure and it has returned surplus revenue to Government. In 2014/15 the Land Registry paid a total of £119.1m in dividends (ordinary and special) to the Exchequer.⁹

In recent years Land Registry's income has exceeded its expenditure.

According to the Government this surplus revenue does not represent profit:

Land Registry's statutory income has exceeded expenditure in recent years due to higher than forecast volumes of transactions in the housing market – the key driver of its income. This surplus does not represent profit but arises from difficulties in accurately predicting a volatile housing market. Many of Land Registry's costs are fixed regardless of the volume of transactions it handles. When it handles a greater volume than it had predicted, it receives greater income but the costs do not increase by the same amount. It therefore makes an inadvertent surplus.¹⁰

An increase in housing market activity and continuing efficiency savings have enabled reductions in Land Registry fees. Since 2013 the average fee paid for Land Registry services has reduced from £129 to £83 for registration services and from £4 to £3 for information services.¹¹

1.4 Business strategy

The Land Registry has already undertaken several transformations over the last 20 years or so. It has developed new services and new approaches, and has reduced its workforce from around 12,000 in the 1990s to 4114.9 Full Time Equivalents (FTE) in March 2016.¹² It has built up its digital capability and now receives approximately 80% of applications electronically.¹³ The Land Registry currently has a customer satisfaction rating of 95%.¹⁴

Land Registry currently has 4,578 staff based in 14 offices in England and Wales.

The Land Registry's *Business Strategy for 2013 to 2018* sets out the organisation's proposed strategic direction over this period. It identifies the main drivers for change as:

Economic – The broader economic climate is uncertain; driving economic growth is a national priority. The Property market is suppressed through lack of access to credit causing a paradigm shift away from ownership towards renting. Property fraud is increasing in volume and sophistication.

Data – Greater transparency, accessibility and re-use of public sector data provides an excellent opportunity to help stimulate economic growth.

⁸ Department for Business and Skills, [Consultation on Moving Land Registry Operations to the Private Sector](#), March 2016, para 21

⁹ [Written PO 19852 \[Land Registry\] 22 December 2015](#)

¹⁰ Department for Business and Skills, [Consultation on Moving Land Registry Operations to the Private Sector](#), March 2016, para 22

¹¹ Land Registry, *Business Strategy Review: Our Vision for Land Registry*, 10 December 2015, p6

¹² Department for Business and Skills, [Consultation on Moving Land Registry Operations to the Private Sector](#), March 2016, para 25

¹³ HM Land Registry, [Annual Report and Accounts 2014/15](#), HC 119, 7 July 2015

¹⁴ [PQ 19853 \[on Land Registry\]](#), 5 January 2016

7 Land Registry Privatisation

Customer – The customer base is increasingly diverse, cost conscious and e-enabled.

Stakeholder – Pressure on the public purse is demanding increased efficiency, resulting in a drive to digital by default, a need to reduce regulation and to efficiently monitor compliance. The Civil Service Reform Plan sets out the Government’s ambition for the civil service.¹⁵

The Business Strategy outlines how Land Registry plans to respond to these challenges and opportunities. In a Westminster Hall debate on the future of the Land Registry on 25 February 2014, the then Minister of State for the Department of Business, Innovation and Skills, Michael Fallon, summarised the key objectives of the Strategy:

Accordingly, its ambitious new business strategy is focused on a number of areas: the digitisation and re-engineering of its core registration services, which should reduce processing times, risk of error and the costs of those services; playing a wider role in the land and property market, including being able to take on other adjacent registers; and maximising the reuse of property data for the benefit of the wider economy. Reduced processing times, errors and costs, and wider services and better access to public sector data, will all bring significant benefits for customers and make it easier to register land in England and Wales.¹⁶

Land Registry’s business objectives include: digitisation of services; a wider role in the land and property market; and maximising the reuse of property data.

¹⁵ Land Registry, *HM Land Registry Proposed Business Strategy 2013/14 – 2017/18*, November 2012, Executive Summary

¹⁶ [HC Deb 25 February 2014 c89WH](#)

2. Reviews of the Land Registry 2000-2011

A Quinquennial Review of the Land Registry was [launched in 2000](#).¹⁷ On 27 June 2001, the [Local Government Chronicle](#) reported that following publication of the review the then Lord Chancellor, Lord Irvine, had “accepted the conclusions of the review that HM Land Registry should remain in the public sector as a government department, executive agency and trading fund while continuing the significant amount of work in partnership with the private sector that it currently undertakes”.¹⁸

Land Registry has undergone several reviews over the last 15 years.

In October 2009, the Ministry of Justice announced a five-year “accelerated transformation” programme at the Land Registry, intended to cut costs and deliver services effectively.¹⁹ The proposed changes followed from a 10-year ‘blueprint’ document for the Land Registry’s future published in 2006. A public [consultation was launched](#) on the proposals, and consultation responses were published in March 2010 in [Land Registry Accelerated Transformation Programme - Consultation Responses Report](#). The report concluded that two of the five offices originally planned to close would remain open, but that other proposals such as the sale of their Head Office building and plans for increased outsourcing would go ahead unchanged.

The Cabinet Office 2010 review of Arm’s Length Bodies (ALBs) resulted in plans to reduce the number of ALBs. The results of the Government’s review were published on 14 October 2010, [Public bodies reform: proposals for change](#).²⁰ The review concluded that the Land Registry should be “retained and substantially reformed”, adding “retain on the grounds of transparency - but Government will undertake a feasibility study to scope out the opportunities presented by private sector investment”.²¹

Following the 2010 review, Lord McNally, the then Justice Minister, led a feasibility study of the options for greater private sector involvement in the delivery of Land Registry services, which reported to Ministers around spring of 2011.²² The then Lord Chancellor and Secretary of State for Justice, Kenneth Clarke, told the House that “given the Registry’s importance in the housing market, we must give thorough consideration to those findings before making any decisions or announcements about its future direction”.²³

¹⁷ [“Independent review of Her Majesty’s Land Registry”](#), *Local Government Chronicle*, 6 September 2000 [subscription required]

¹⁸ [“Land Registry to remain in the public sector”](#), *Local Government Chronicle*, 27 June 2001 [subscription required]

¹⁹ HC Deb 22 October 2009 c76WS

²⁰ The 2010 Cabinet Office review resulted in the [Public Bodies Act 2011](#), which allowed for the abolition and reform of ALBs.

²¹ Cabinet Office, [Public Bodies Reform – Proposals For Change](#), 14 December 2011, p3

²² Land Registry, [Update on Land Registry Feasibility Study](#), 7 April 2011

²³ [HC Deb 29 March 2011 c151](#)

9 Land Registry Privatisation

In response to the review by Lord McNally, the FDA union released a press notice criticising the Government's plans; "[Union criticises Land Registry's privatisation review](#)", and the PCS union started a campaign against Land Registry closures.

In July 2011 responsibility for the Land Registry transferred from the Ministry of Justice to the Department for Business, Innovation and Skills.

In December 2011, the Cabinet Office published an updated [Public bodies reform: proposals for change](#), which stated the following in respect of the Land Registry: "Retain - Retain on the grounds of independently establishing facts - but Government will undertake a feasibility study to scope out the opportunities".²⁴

In a statement on public bodies reform, on 15 December 2011, the Cabinet Office Minister, Francis Maude, announced that there would be ongoing triennial reviews looking at the status of ALBs identified by departments.²⁵

²⁴ Cabinet Office, [Public Bodies Reform – Proposals For Change](#), 14 December 2011, p3

²⁵ [HC Deb 15 December 2011 cc108WS–109WS](#)

3. 2014 consultation on Land Registry Service Delivery Company

On 23 January 2014, the then Minister of State at the Department for Business, Innovation and Skills (BIS), Michael Fallon, made a written ministerial statement to the House announcing the launch of a “consultation around proposals to help Land Registry deliver more efficient and modern services”, namely to consider the commercial model of the Land Registry.²⁶ The consultation document was entitled [*Introduction of a Land Registry Service Delivery Company*](#).

The Coalition Government consulted on a proposal to create a Land Registry Service Delivery Company.

The Government put forward a proposal to create a new company, to which responsibility for the performance of the service delivery functions would be transferred, and to have a separate Office of the Chief Land Registrar (‘OCLR’) that would be retained in government²⁷. In other words, the intention was to split the delivery and policy functions of the Land Registry. It was proposed that this model would “allow a greater focus on service delivery, greater operational flexibility around pay, recruitment and possibly provide other services and a more clearly defined relationship with Government”.²⁸

On the issue of the possible privatisation of the service delivery company, Mr Fallon confirmed, in a Westminster Hall debate on 25 February 2014, that a decision on ownership and control of a new service delivery company had not been taken:

I emphasise that no decision has yet been taken about the ownership of such a new company, should we move forward with the proposal to create it following the consultation. A number of models are being considered, but the oversight that will be retained by the office of the chief land registrar would ensure that Land Registry companies and the integrity of the register would be protected irrespective of ownership. Models being considered include a wholly owned Government company, a joint venture and a contracting-out model. It is Government policy to assess options for moving assets to the private sector where there is no longer a strong policy reason for continued public ownership or where there is potential for an asset to operate more sensibly and efficiently in the private sector.²⁹

3.1 Consultation responses

The consultation closed on 20 March 2014, and on 15 July 2014 the Government published its [response to the consultation](#).

The consultation received 304 formal responses, as well as views expressed through correspondence to BIS and during the Westminster

²⁶ [HC Deb 23 January 2014 c10WS](#)

²⁷ Department for Business, Innovation and Skills, [Consultation Document – Introduction of a Land Registry Service delivery company](#), January 2014, p13, para 29

²⁸ [HC Deb 23 January 2014 c10WS](#)

²⁹ [HC Deb 25 February 2014 c90WH](#)

Hall Debate in Parliament. Responses were received from interested members of the public, members of the legal profession, Land Registry employees and international companies.

According to the Government's analysis, the consultation responses overwhelmingly acknowledged the valuable work of Land Registry and its staff, as well as the positive perception that respondents had of the service.³⁰ The majority of responses also emphasised the importance of the Land Registry to the property market and the need for any change to ensure public confidence and trust in the Register is maintained.³¹

A majority of consultation responses expressed concern about the proposal to separate the functions of the Land Registry. The analysis highlighted the level of opposition from respondents to some of the key questions posed, for example:

- 91% of respondents did not agree that creating a more delivery-focused organisation at arm's length from Government would enable Land Registry to carry out its operations more efficiently and effectively. 5% agreed and 4% were not sure.
- 88% of respondents did not 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. 4% agreed and 8% were not sure.
- 89% stated they would not be comfortable with non-civil servants processing land registration information, even if they did this within a framework set out by the OCLR in a service contract. 8% stated they would be comfortable, with 4% not sure.³²

The Government noted that respondents' concerns about the proposal stemmed from:

- Uncertainty over the implications for data protection from a change in commercial model;
- Concern over the impact of the profit motive on the operations and priorities of the service delivery company;
- Uncertainty over the responsibilities of the OCLR.³³

In addition, respondents expressed a desire for more information about the rationale for change and the impact on staff under each of the proposed options.³⁴

3.2 Professor Seifert's report on the Future of our Land Registry

The PCS union commissioned Professor Roger Seifert to assess the merits of the business case for changing the Land Registry from a Trading Fund to a Service Delivery Company. The report, [*The Future of*](#)

The majority of consultation responses expressed concern about the proposal to separate Land Registry's policy and delivery functions.

³⁰ Department for Business, Innovation and Skills, [*Government Response – Introduction of a Land Registry service delivery company*](#), July 2014, Executive Summary

³¹ Ibid, para 32

³² Ibid, p15

³³ Ibid, para 33

³⁴ Ibid, para 34

[our Land Registry](#) published in January 2014, was critical of the proposal. It concluded that the case for change was weak, and that the risks of change were underestimated:

It is the area of risk assessment that the proposals fall dangerously short of normal business planning. The risks include those associated with:

- I. Union opposition ... these are high;
- II. The risks of loss of Brand image as a state owned and managed service free from corruption and incompetence, and openly accountable for mistakes. This (down side) risk in most risk management 'bow ties' would be deemed very serious with potential for crippling impact on service users.
- III. The risk of loss of political influence is underplayed.
- IV. The risk of loss of user confidence is higher than suggested.
- V. The risk of costly and prolonged transition is denied.
- VI. The risk of not meeting objectives and the associated risk of not creating new demand through being more pro-active in house building plans and a complete register of land for tax and use purposes is significant.³⁵

3.3 Consultation outcome

The consultation response was accompanied by a written ministerial statement by Mr Fallon confirming the Government's decision not to change the Land Registry's operating model:

Given the importance of the Land Registry to the effective operation of the UK property market, we have concluded that further consideration would be valuable. Therefore, at this time, no decision has been taken to change Land Registry's model.³⁶

However, the consultation response noted that the Government's position was unchanged, namely that:

Government continues to believe that there could be benefits in creating an arm's length service delivery company to transform and modernise the way in which land registration is carried out in the UK, as well as to support new opportunities for the business to play a wider role in the property market. Therefore, we will continue to develop policy and engage with stakeholders. This is consistent with Government policy continually to review publicly owned assets. If there were to be proposals to change Land Registry's commercial model, we will again consult.³⁷

The Library Briefing Paper [Land Registry: \(A\) proposed changes to the commercial model; and \(B\) Infrastructure Bill](#) (January 2015) provides further information on this consultation.

Following consultation, the Coalition Government decided not to change Land Registry's operating model.

³⁵ PCS Union, [The Future of Our Land Registry by Professor Roger Seifert](#), January 2014

³⁶ [HC Deb 14 July 2014 c40WS](#)

³⁷ Department for Business, Innovation and Skills, [Government Response – Introduction of a Land Registry service delivery company](#), July 2014, p7, para 10

4. Extension of Land Registry powers

In January 2014, the Land Registry issued a consultation document entitled [Land Registry: Wider Powers and Local Land Charges](#). The consultation sought views on proposals to:

- extend the Land Registry's powers under the *Land Registration Act 2002* to enable it to provide services relating not only to land registration but also to land and other property; and
- amend the *Local Land Charges Act 1975* to enable Land Registry to hold and maintain the Local Land Charges Register for England and Wales and to provide a more consistent, standardised Local Land Charges search system.

The Chief Land Registrar summarised the rationale behind the proposals as follows:

... widening our powers will mean that Land Registry will be better placed to serve the changing needs of our customers, align with our stakeholder priorities and contribute to economic growth. In relation to Local Land Charges, it is envisaged that our proposals will drive efficiencies in the services available for the public sector and within the use of land and property data in general. This proposal supports the government's Digital by Default Agenda and Transparency Agenda, and will be an important first stage in improving the UK's rating for registering property within the World Bank Report.³⁸

The [Government's response](#) to the consultation was published on 16 June 2014. In total 627 consultation responses were received, expressing a variety of views, many of which did not support the proposals. Nevertheless, the Land Registry announced its intention to proceed:

After careful consideration of all the responses to the consultation, we have concluded that we should proceed with the proposals. We have, however, taken account of all of the comments contained within the responses and amendments have been made to the proposals to reflect these where appropriate.³⁹

4.1 The Infrastructure Act 2015

The Government introduced clauses in the *Infrastructure Bill* to take forward its proposals. The Library Briefing Paper [Land Registry: \(A\) proposed changes to the commercial model; and \(B\) Infrastructure Bill](#) (January 2015) discusses the passage of the *Infrastructure Bill* through Parliament.

The [Infrastructure Act 2015](#) received Royal Assent on 12 February 2015.⁴⁰

Land Registry consulted on proposals to: extend Land Registry's powers; and transfer responsibility for registration of local land charges to Land Registry.

The proposals to extend Land Registry's role and powers were enacted through the *Infrastructure Bill 2015*.

³⁸ Land Registry, [Land Registry, Wider Powers and Local Land Charges: Government Response to the Consultation](#), 16 June 2014, p4

³⁹ Ibid

⁴⁰ ['Infrastructure Act will get Britain building'](#), *HM Government*, 12 February 2016

[Section 34](#) and [Schedule 5](#) of the Act enable the transfer of responsibility for the registration of local land charges from local authorities in England and Wales to the Land Registry.

[Section 35](#) of the Act extends the powers of the Land Registry to provide services relating to land and property, in addition to land registration. This enables the Land Registry to provide (a) consultancy and advisory services about land or other property in England and Wales or elsewhere, and (b) information services and services relating to documents or registers, relating to land or other property in England and Wales.

These sections came into force two months after Royal Assent.

Work is now underway for the Land Registry to take on responsibility for local land charges from individual local authorities. On 9 May 2016 the Land Registry launched a [Local Land Charges Rules Consultation](#).⁴¹ The consultation sought views on the proposed draft Local Land Charges Rules 2017. The rules will provide the framework for how the electronic Local Land Charges Register Service will work. The consultation closed on 11 July 2016, and the Land Registry published a summary of the consultation responses on 4 October 2016.⁴²

The Land Registry expects the Local Land Charges Rules 2017 to come into force on 6 April 2017. However, the rules would only take effect in relation to local authorities in stages, as there would be an incremental roll-out of the Local Land Charges Register Service.

⁴¹ Land Registry, [Consultation: Local Land Charges Rules](#), 9 May 2016

⁴² Land Registry, [Land Registry Consultation on Draft Local Land Charges Rules 2017: Summary of Responses](#), 4 October 2016

5. 2016 consultation on Land Registry privatisation

In the [Spending Review and Autumn Statement 2015](#) the Government committed, subject to a value for money assessment, to “consult on options to move operations of the Land Registry to the private sector from 2017”.⁴³ This was part of a wider aim of the Government to seek up to £5 billion of additional corporate and financial asset sales by March 2020.

Further to this, a question was posed in the House of Lords on 2 February 2016:

To ask Her Majesty’s Government whether they have any plans to privatise the Land Registry.

The Government responded:

... the Chancellor announced the Government’s intent to consult on options to move operations from the Land Registry into the private sector from 2017. The Government are currently looking at the best options to achieve their objectives. No final decisions will be made on the future of the operating model of the Land Registry until a public consultation has been completed.⁴⁴

On 24 March 2016 the Government published a [Consultation on Moving Land Registry Operations to the Private Sector](#). The consultation document:

- set out the Government’s reasons for proposing change;
- explained how a private sector Land Registry would work;
- outlined the Government’s thinking on possible models for the future of Land Registry; and
- sought views on the proposals.

The consultation closed on 26 May 2016.

5.1 The case for privatisation

The consultation document set out the Government’s view at that time that there was no compelling case for keeping the Land Registry in public ownership:

... In Land Registry’s case, the Government believes that, with the right protections in place, there is no need for the core functions of the Land Registry to be delivered by civil servants. Subject to a value for money assessment, the balance lies in favour of a sale, releasing resource that can be used elsewhere for the public benefit. This is the primary driver for change.⁴⁵

In line with its policy on asset sales, the Government announced its intention to consult on options to privatise Land Registry.

The Government launched a consultation on moving Land Registry operations to the private sector on 24 March 2016.

⁴³ HM Treasury, [Spending Review and Autumn Statement 2015](#), CM 9162, November 2015, para 1.302

⁴⁴ [HL Deb 2 February 2016 c1713](#)

⁴⁵ Department for Business and Skills, [Consultation on Moving Land Registry Operations to the Private Sector](#), 26 March 2016, para 27

Moving the operations of the Land Registry into the private sector would deliver a capital receipt for Government, which could be used to fund other public spending or to reduce public debt. Thus, it was argued, such a sale could bring benefits for the economy and the general public.

The Government also considered that a change in ownership could support the Land Registry to be run more efficiently and effectively, resulting in improved services for customers:

A new owner could bring new knowledge and investment into the organisation and could ensure Land Registry accelerates its transformation into a more efficient and effective service delivery organisation with clear contractual obligations and controls to meet appropriate standards. This could enable it to maximise the potential of the information it holds and diversify the services it offers, whether it is for professional customers or private individuals trying to buy or sell property. All these factors could support an improved, faster transformation into the digital world, and deliver an improved service to customers.⁴⁶

The consultation document identified the following specific objectives for a change in the Land Registry's operating model:

1. Maximise upfront proceeds for the Exchequer

An upfront capital receipt from a sale of part or all of Land Registry operations would provide proceeds to the Exchequer which would help reduce the national debt or could be invested elsewhere for the benefit of the taxpayer.

2. Allow classification of the new service delivery organisation to the private sector.

This would allow certain freedoms and incentives appropriate to a private sector organisation to help transform the service.

3. Deliver a modern, digitally-based service that benefits Land Registry customers as well as taxpayers as a whole.⁴⁷

The document also stated that any changes would need to: ensure continuity of an appropriate level of service to support the property market; and, to avoid uncertainty, be deliverable in the short-term (from 2017).

5.2 Options for privatising Land Registry

The Government identified two broad approaches that could achieve its objectives:

- i) Privatisation with a contract between government and private operator (the Government's preferred model); or
- ii) Privatisation with independent economic regulation.

Within these two broad approaches there were a number of potential variations centred around: the length of any arrangement; the degree of risk transfer; whether any ownership should be retained by government

The Government identified two broad approaches for privatising Land Registry.

⁴⁶ Department for Business and Skills, [Consultation on Moving Land Registry Operations to the Private Sector](#), 26 March 2016, para 31

⁴⁷ *Ibid*, para 41

(or passed to the workforce); and whether delivery should be split between multiple parties.⁴⁸

The document noted that all of the models had the following common features in order to retain current protections for customers and the wider economy:

- Ownership of the Register would remain with government;
- Land Registry operations as a whole would transfer to the private sector as NewCo;
- Existing protections to customers would be retained as explained above, including the state-backed guarantee and the fee to the customer being set by Parliament on the basis of a fee order made by the Secretary of State;
- A group of individuals with an understanding of land registration would remain in government to ensure NewCo delivers against its commitments;
- There would be defined conditions under which government would have the right and capability to intervene, and either take services back into government or find an alternative service provider to ensure continued service for the customer; and
- New primary legislation would be required for implementation.⁴⁹

Under the Government's proposals, ownership of the Land Register would remain with government, and existing protections to customers would be retained.

Primary legislation would be required to privatise Land Registry.

The [consultation document](#) provided a detailed explanation of the various options for moving the Land Registry's operations to the private sector. It also noted that a number of further options had been discounted as they would not meet the Government's objectives, in particular: outsourcing; a Government-owned company; and the status quo.

The Government provided the following rationale for rejecting the option of keeping the Land Registry in public ownership:

Land Registry would still experience substantial change under this model to ensure that it modernises for the benefit of customers. However, keeping the Land Registry as a whole in government fails to meet Government objectives of reclassification from the public sector and would not deliver the desired culture change and incentivisation to drive transformation. Furthermore, it would not meet the clear requirement of maximizing capital receipt. In addition transformation would take longer and may not bring as much benefit for customers.⁵⁰

The Government's consultation paper did not include the option of keeping Land Registry in public ownership.

5.3 The Government's preferred operating model

The Government's preferred operating model, as set out in the [consultation document](#), was for privatisation with a contract between government and private operator:

⁴⁸ Ibid, para 67

⁴⁹ Department for Business and Skills, [Consultation on Moving Land Registry Operations to the Private Sector](#), 26 March 2016, p19

⁵⁰ Ibid, para 89

Under this model, all the core statutory functions would be transferred out of government. Whilst the Registers will remain with government, the rights to use the information held within the Registers; the existing employees; and agreed tangible assets of Land Registry would be transferred to a private sector operator (NewCo) in which the investor would buy shares (leading to a receipt for Government). Government could choose to retain some level of ownership of NewCo, and/or to pass some ownership to the workforce.⁵¹

The Government's preferred Land Registry operating model was for privatisation with a contract between government and private contractor.

Substantially all of the economic benefits and risks of ownership would be transferred to the private sector in this model.⁵²

The contract between government and a private sector operator would be expected to cover: output specification and a performance management framework; payment terms and profile; the length of the contract; termination and step-in rights; an ability for government to share in gains made post sale; and a framework for monitoring and audit.⁵³

A group of individuals within government, with appropriate management experience and understanding of land registration, would retain responsibility for managing the contract and the ongoing relationship with the private operator.⁵⁴

A team within government would retain responsibility for managing the contract with a private operator.

The consultation document concluded that the preferred operating model would bring a range of benefits to government, customers and the wider public:

In particular we believe that the preferred option set out above, would bring significant benefits to Land Registry and in time, the wider economy by increasing the potential of the business and its data. We believe that a transaction of this type is deliverable in 2017, thereby reducing impact of delay and uncertainty to the workforce. By doing this on this timetable, the change would minimize the disruption to the business. A move of Land Registry operations into the private sector would enable the organisation to have optimal opportunities, freedoms and incentives to transform and improve. The model proposed would retain the necessary surety government and customers need so that there would continue to be an accurate Register in government ownership. Through the transformation it would deliver an improved, modern, digital and impartial service to customers. Finally, it would raise revenue for Government that can be used to reduce the unsustainable level of public debt or be used to fund other public spending which is a key objective.⁵⁵

5.4 The Queen's Speech 2016

The [Queen's Speech 2016](#) at the State Opening of Parliament on 18 May 2016 set out the Government's intention to introduce a *Neighbourhood Planning and Infrastructure Bill*. The Government's

⁵¹ Department for Business and Skills, [Consultation on Moving Land Registry Operations to the Private Sector](#), 26 March 2016, para 68

⁵² Ibid, para 71

⁵³ Ibid, para 72

⁵⁴ Ibid, para 74

⁵⁵ Ibid, para 93

briefing notes on the Queen's Speech 2016 stated that the Bill would include provisions to enable the privatisation of the Land Registry:

The new legislation would enable the privatisation of Land Registry, which would support the delivery of a modern, digitally-based land registration service that will benefit the Land Registry's customers, such as people buying or selling their home.

It could also return a capital receipt to the Exchequer to help reduce national debt.

Nevertheless, in a [House of Commons Backbench Business Committee debate on the Land Registry on 30 June 2016](#), the Parliamentary Under-Secretary of State for Life Sciences confirmed that a decision had not yet been taken on the future of the Land Registry:

I confirm that the Government have merely consulted in the last few weeks and months on this question; for the avoidance of any doubt, I also confirm that no decision has been taken and that Ministers are listening carefully to the views that have been expressed. As a Government we have a serious responsibility to ensure that we constantly keep under review the arrangements we have in place for the delivery of services such as these.⁵⁶

The [Neighbourhood Planning Bill 2016-17](#) was presented to Parliament on 7 September 2016. It did not include any provisions relating to privatisation of the Land Registry.

⁵⁶ [HC Deb 30 June 2016 c525](#)

6. Reactions to consultation on privatisation

The Government's [Consultation on Moving Land Registry Operations to the Private Sector](#) closed on 26 May 2016. A number of organisations and individuals expressed concerns about the Government's privatisation proposal.

The public consultation on moving Land Registry operations to the private sector closed on 26 May 2016.

6.1 Parliamentary

The Labour Party is strongly opposed to privatisation of the Land Registry. Angela Eagle, Labour's Shadow Business Secretary, responding to the Government's proposal to privatise, stated:

This short-term privatisation will have long-term consequences; it could undermine confidence in Land Registry data, jeopardise the service to homebuyers, and erode conditions for their staff. The Government are privatising the profits of the Land Registry – which made a surplus of £100 million in 2012/13 – whilst retaining the risk.

The Tory Government claim privatisation would enable the Land Registry to become 'even more efficient and effective.' Yet when they last attempted privatisation in 2014, just five per cent of respondents to the consultation thought it would boost efficiency and effectiveness.

This announcement was slipped out late on the last day before recess in another desperate attempt to avoid scrutiny. Labour will fight this unnecessary, un-evidenced and unwanted privatisation.⁵⁷

An Early Day Motion on [Land Registry Privatisation \(EDM 160\)](#) tabled on 7 June 2016 received 82 signatures (as at 22 September 2016). The motion was:

A number of organisations and individuals have expressed concerns about the Government's proposal to privatise Land Registry.

That this House expresses grave concern at the proposed privatisation of the Land Registry; expresses further concern that any privatisation will have serious consequences for transparency and accountability in the UK property market and hinder efforts to crackdown on corruption and money entering the UK property market via offshore jurisdictions; expresses concern that all the potential bidders for the privatised Land Registry have been found to be linked to offshore tax havens; notes that the Government has acknowledged that property can provide a convenient vehicle for hiding the proceeds of crimes; notes that the Prime Minister stated in July 2015 that there is no place for dirty money in Britain; further notes that the Land Registry has made a surplus in 19 of the last 20 years and paid back £120 million to the public purse in 2015; laments the Government's decision to seek short-term profit at the expense of public interest; and therefore calls on the Government to reconsider its proposed privatisation of the Land Registry.⁵⁸

⁵⁷ ['Land Registry - this short-term privatisation will have long-term consequences - Angela Eagle'](#), *Labour Press*, 24 March 2016

⁵⁸ [EDM 160 Land Registry Privatisation, 7 June 2016](#)

According to [The Guardian](#), 65 MPs wrote to Sajid Javid, Secretary of State for Business, Innovation and Skills, expressing concern that the proposed privatisation of the Land Registry would reduce the transparency of property ownership and leave the property market open to abuse. The letter stated:

We need a government that is determined to take serious steps to make it harder for shady offshore entities to buy up property in this country and also make it harder for them to shield themselves from scrutiny and investigation. The privatisation of the Land Registry would achieve the opposite.⁵⁹

6.2 PCS and FDA Unions

The Public and Commercial Services Union (PCS), which represents the majority of staff at the Land Registry, is strongly opposed to any privatisation. In its detailed [response to the consultation](#) the union contended that the proposal was purely political and rejected the case for moving Land Registry to the private sector:

The current consultation sees a different motive to 2014. Whilst there is still an ambiguous case for development of services, the (specified, at least) overwhelming goal is to sell HM Land Registry to contribute to national debt reduction and/or to help finance the Chancellor's announced infrastructure spending. This has absolutely nothing to do with what is right for the future of HM Land Registry but is a purely political exercise. The risks involved in the proposals are real and significant.

...

PCS rejects the proposal that HM Land Registry should cease to be a trading fund and move to the private sector, as part of any of the proposed models outlined in the consultation. We contest the notion that there is not a compelling case for keeping HM Land Registry in public ownership. The Land Register forms part of the critical infrastructure of England and Wales. Its completion, integrity and the economy's confidence in it, is reliant on the independence of the organisation that delivers the day to day running of HM Land Registry and its services.⁶⁰

The PCS response outlined a large number of risks it had identified with the privatisation proposal, including potential negative impacts on trust, impartiality, service quality, fees, and access to data.

The FDA Union, which represents lawyers and managers in the Land Registry, also expressed opposition to privatisation:

The FDA remains of the view that this consultation is fundamentally flawed, unsubstantiated by evidence and therefore an inappropriate basis from which to derive conclusions requiring radical changes to Land Registry's operations. We believe these proposals will have a significant and detrimental impact on our

The PCS Union is strongly opposed to the privatisation of Land Registry.

⁵⁹ ['Scores of MPs demand Land Registry privatisation be called off'](#), *The Guardian*, 3 June 2016

⁶⁰ PCS, [Consultation on moving Land Registry operations to the private sector – PCS response](#), 11 April 2016, paras 8 and 21

members and to Land Registry and the quality and cost of the service delivered to the public.⁶¹

6.3 Public opinion

A 38 degrees petition to [Stop the privatisation of the Land Registry](#) had 318,722 signatures (as at 20 September 2016). The petition stated:

If private companies get their hands on the Land Registry they'll have one thing on their minds - profits. This could mean a hike in price for all of us, or a fall in standards because of cost-cutting measures.

The Land Registry is a public service that is self funding and is not a drain on public finance. There's no need to sell it off to the highest bidder.⁶²

A poll of public attitudes to the sale of state owned assets was conducted on behalf of [We Own It](#) in December 2015. The poll found that 70% of those interviewed opposed the sell-off of the Land Registry compared to 16% who supported its sale.⁶³

6.4 Other stakeholders

A wide range of organisations and individuals expressed concerns about the proposed privatisation of the Land Registry, in particular that it could risk the integrity and impartiality of the land registration service and have a negative impact on access to Land Registry data. Some stakeholder concerns are outlined below.

Competition and Markets Authority (CMA)

In its response to the consultation on moving Land Registry operations to the private sector the CMA stated its view that consumers and the economy would be best served by a model that promotes wide access to Land Registry data at cost-reflective prices, thereby encouraging use and commercial exploitation of the data by individuals and businesses. However, the CMA was concerned that the Government's preferred privatisation option would be unlikely to deliver this outcome:

In particular, we are concerned that:

- there is a significant risk that a vertically-integrated, privatised business ('NewCo') engaged in both the supply of monopoly data and the supply of commercial products (which use the monopoly data as an input) would not maintain or improve access to the monopoly data; and
- despite price-regulation on its monopoly activities, NewCo may degrade the terms of access to its monopoly data in order to weaken competition to its own commercial products.

⁶¹ ['Land Registry privatisation consultation is 'fundamentally flawed' and 'unsubstantiated by evidence', says FDA'](#), FDA Union [accessed 20 June 2016]

⁶² 38 Degrees website, [Stop the Privatisation of the Land Registry](#) [accessed 14 April 2016]

⁶³ ['Overwhelming opposition to George Osborne's plans to privatise state assets, poll finds'](#), *The Independent*, 11 December 2015

While these risks are not unique to privately-owned monopolies, our view is that they may be sharpened by the introduction of a profit motive.⁶⁴

The Open Data Institute

The Open Data Institute, an independent, non-profit company focused on improving data innovation, criticised the Government's proposed Land Registry operating model on the basis that it would weaken the UK's data infrastructure:

The Land Registry's impact on our society and economy is wide and far-reaching. Whilst its core services underpin the property market, the data that the Land Registry holds and publishes is used in many more sectors. The data allows people to build services that help people, businesses and governments to make better decisions.

The consultation is flawed in its lack of information about these uses and lack of understanding of the risks inherent in creating a private sector NewCo that would hold a monopoly over this data and will be competing with its own customers in producing services that use it.⁶⁵

The UK Open Government Network (OGN)

The OGN expressed concern that privatisation would have a detrimental impact on transparency, civic participation and accountability. Their response to the consultation on moving Land Registry operations to the private sector made the following points:

1. We consider that the economy would be best served through the Land Registry publishing its data in an open format, and are concerned that privatisation would at best freeze access to Land Registry data at current levels, and at worst introduce new barriers and restrictions to data use and reuse.
2. We are concerned that privatisation of the Land Registry would prevent access to the data needed to conduct large scale investigations into the ownership and use of land, hampering anti-corruption efforts.
3. We consider that the government's neighbourhood planning and community rights agenda would be better served if local communities had enhanced access to data and information about local land ownership and use, and are concerned that privatisation would make this less likely.
4. We consider that the public and government's interests of having an accurate record of land use and ownership would be better served through keeping the core statutory functions of the Land Registry within government, protecting and promoting land registers as core data assets.

⁶⁴ Competition and Markets Authority, [Response to the Department for Business, Innovation and Skills \(BIS\) consultation on moving Land Registry operations to the private sector](#), 23 May 2016, p.2

⁶⁵ Open Data institute, [Consultation response on moving Land Registry operations to the private sector](#), 26 May 2016

5. We are concerned about the potential impact of privatisation on the actual and perceived impartiality and accountability of the Land Registry.⁶⁶

The Law Society

The Law Society expressed concern that Land Registry privatisation could risk jeopardising the security, transparency, accountability and impartiality of registration services, and considered that safeguards needed to be put in place to address these risks. In its response to the consultation on moving Land Registry operations to the private sector the Law Society concluded:

The Law Society is not convinced from the information supplied to date that sufficiently robust safeguards along these lines could be imposed and successfully enforced if the Land Registry's operations were sold off. Without solid assurances on these issues, the Land Registry should remain in public ownership.⁶⁷

The British Property Federation

The British Property Federation (BPF), which represents those who own and invest in commercial property, warned that any perceived threat to the security of property title in the UK could deter investors.⁶⁸

The Conveyancing Association,

The Conveyancing Association (CA), a trade body for the conveyancing industry, stated its opposition to the Government's proposals to move the Land Registry to the private sector. In its consultation response the CA highlighted the reasons why members were not in favour of the privatisation, including a belief that privatisation would not be in the best interests of clients, the conveyancing profession or the Land Registry itself.⁶⁹

The Homeowners Alliance

The Homeowners Alliance, a membership organisation representing homeowners, reportedly expressed concern:

Selling off the Land Registry would be a short-sighted move by the Government. It will ultimately drive up the cost of buying and selling homes and make an already-messy process even more fraught. Finding information on property ownership will be more difficult.⁷⁰

Former Chief Land Registrar

John Manthorpe, a former Chief Land Registrar, criticised the proposed Land Registry privatisation:

⁶⁶ ['Land Registry privatisation threatens open government – OGN responds to government consultation'](#), *UK Open Government Network*, 26 May 2016

⁶⁷ The Law Society, [BIS consultation on moving Land Registry operations to the private sector - Law Society response](#), 31 May 2016

⁶⁸ ['Property industry warns against rushing in to Land Registry privatisation'](#), *British Property Federation*, 26 May 2016

⁶⁹ ['Conveyancing Association announces opposition to Land Registry privatisation'](#), *The Conveyancing Association*, 16 May 2016

⁷⁰ ['Advent eyes £1bn takeover of state-owned Land Registry'](#), *The Daily Telegraph*, 16 March 2016

25 Land Registry Privatisation

The ever-changing legal relationship of land and people is constantly and instantly reflected in a public place, through the registry. What would otherwise be hidden is synthesised into a common, guaranteed and public record open to all. Security, confidence, transparency, choice – all these become possible. Individually, land rights protect the interests of the registered owner; together they constitute the underwritten record of the collective wealth of the country. Across the world, a trusted system of land registration is central to social stability and economic success.

The registry's independence from commercial or specialised interests is essential to the trust and reliance placed on its activities. It would not be possible for actual or perceived impartiality to be maintained, or public confidence sustained, if a private company were to assume responsibility for the maintenance of a public register.⁷¹

⁷¹ ['Privatising the Land Registry would be misguided and wrong'](#), *The Guardian*, John Manthorpe, 4 April 2016

7. Consultation outcome: Land Registry to remain in the public sector

In the [Autumn Statement 2016](#) the Government announced that the Land Registry would remain in the public sector:

Following consultation the government has decided that HM Land Registry should focus on becoming a more digital data-driven registration business, and to do this will remain in the public sector. Modernisation will maximise the value of HM Land Registry to the economy, and should be completed without a need for significant Exchequer investment.⁷²

To date (9 December 2016) no further information has been published.

⁷² HM Treasury, [Autumn Statement 2016](#), CM 9362, 23 November 2016, para. 1.66

8. Further information

The House of Commons Briefing Paper [Privatisation](#) (November 2014) provides an overview of this economic policy including an examination of motives for and methods of privatisation, and the complexities of assessing the success or failure of privatisation policy.

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